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WHAT: Free public briefings (approximately 3 hours) to present:

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, July 19, 2005
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
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Friday, June 24, 2005

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

[Docket No. FV05–915–2 IFR]

Avocados Grown in South Florida; Changes in Container and Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule changes the container and reporting requirements currently prescribed under the marketing order for avocados grown in South Florida. The marketing order regulates the handling of avocados grown in South Florida and is administered locally by the Avocado Administrative Committee (Committee). This rule prohibits the handling of fresh market avocados in 20 bushel plastic field bins to destinations inside the production area. This rule also requires handlers to provide, at the time of inspection, information regarding the number of avocados packed per container (count per container). These changes are expected to help reduce packing costs and facilitate the distribution of useful marketing information.

DATES: Effective June 25, 2005; comments received by August 23, 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: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884; telephone: (863) 324–3375; Fax: (863) 325–8793; 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. 121 and Marketing Order No. 915, both as amended (7 CFR part 915), regulating the handling of avocados grown in South Florida, 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.

This rule prohibits the handling of fresh market avocados in 20 bushel plastic field bins to destinations inside the production area. This rule also requires handlers to provide, at the time of inspection, information regarding the avocado count per container, which will, in turn, provide the Committee and the industry with information regarding the sizes of avocados packed. These changes are expected to decrease packing costs by reducing the annual loss of field bins and provide handlers with additional marketing information. The Committee unanimously recommended these changes at meetings held on September 8, 2004, and November 10, 2004.

Section 915.51(4) of the order provides authority for establishing container requirements for the handling of avocados. Section 915.51(6) of the order provides that any or all requirements effective pursuant to § 915.51(4) shall be different for the handling of avocados within the production area and outside the production area. Section 915.305 of the order's rules and regulations specifies the avocado container requirements.

Section 915.60 of the order provides authority for the Committee to require handlers to file reports and provide other information as may be necessary for the Committee to perform its duties. Section 915.150 specifies the requisite reporting requirements.

This rule amends § 915.305 by adding a prohibition to the handling of fresh market avocados in 20 bushel plastic field bins to all destinations within the regulated production area. This rule also amends § 915.150 by adding a requirement that handlers provide

additional pack information at the time of inspection.

Currently, there are no specific container net weight or dimension requirements for avocados handled to destinations within the production area. However, shipments of avocados within the production area must meet maturity requirements and be inspected.

Prior to this action, 20 bushel plastic field bins (bins) were commonly being used for the purpose of moving avocados into the current of commerce within the production area (handling). Following the successful inspection of avocados packed in bins, the inspector would place a cardboard cover over the top of the bin and seal it with official Federal-State Inspection Service tape. The bins could then be transported and sold at the various markets throughout the production area. It should be noted that current container regulations do not authorize the use of field bins for shipments of avocados from within the production area to any point outside of the production area.

At the September 8, 2004, meeting, Committee members raised the issue that, each year, a large number of bins are apparently misappropriated during the avocado season. Committee consensus is that the ongoing loss of the bins has been costly to the industry, with the average cost of a bin about $150 each. By Committee estimates, over 700 bins were lost during the previous season at a cost of over $100,000 to the bins' owners.

In the harvesting of avocados, field bins have the primary function of transporting avocados from grove to packing facility. These bins are usually owned by individual packinghouses, or handlers, and are either delivered to, or picked up at, the packing facility by the harvester. Handlers have found that, much too often, field bins are not returned to the proper packinghouse, but are instead apparently misappropriated and used for other purposes. Because of their durability, many of the bins are acquired and reused by small cash handlers to pack and transport fruit in the production area. Often these bins are then abandoned at various market locations throughout the production area.

Once the bins are transported to different market locations throughout the production area, they become very difficult to recover. The avocado groves and packinghouses are situated around the Homestead, Florida area. However, the production area stretches into Central Florida. Consequently, bins often end up in locations over 100 miles away in cities such as Tampa and Orlando. Once the avocados have been marketed, the bins are purportedly used for many different purposes and may be dispersed even further from the originating packinghouse. Handlers are thus provided very little chance of recovering them for their own use.

The Committee believes that once bins are no longer authorized for use as containers for inspection, transportation, and sale of fresh avocados to markets within the production area, the movement of these containers will be limited, thus helping to reduce the number of lost bins. Cash handlers—generally handlers without packing facilities that tend to buy bulk avocados directly from the growers—will have to use different containers to pack and transport avocados within the production area. Committee members suggested that one such option could be a commonly available 20 bushel field bin constructed of cardboard rather than plastic, but at a much lower cost of about $10 each.

The Committee believes this change will help to restrict the use of the expensive plastic field bins to their originally intended purpose as a method of conveyance of avocados from grove to packinghouse. Prohibiting the use of these bins for the purpose of handling fresh market avocados will help prevent them from being transported to locations far from the originating packinghouse. This, in turn, will result in the majority of the bins remaining in the local area where they are much more easily recovered. Reducing the number of lost bins represents a significant potential cost savings for the industry. Therefore, the Committee voted unanimously to put this regulation in place.

This rule also revises the reporting requirements under the order. Handlers are currently reporting to the inspector at the time of inspection the number of ¼ bushel, ½ bushel, and ⅘ bushel containers packed. This rule will not only require that handlers continue to provide the number and sizes of containers packed, but in addition, will require handlers to provide information regarding the number of avocados packed per type of container, or ''count per container.'' Knowing the actual number of avocados packed per container, in addition to the number and size of containers packed, the Committee and the industry will be armed with information regarding the various sizes of avocados being packed, as well as the quantity of different sizes being marketed. For example, a handler might report to the inspector on duty that the current lot being inspected has 500 ¼ bushel containers, 6 count each. This type of information would provide the Committee with information regarding the quantity of large avocados being packed.

Prior to this change, no data was collected that provided information on the various sizes of avocados being packed. During the Committee's discussion of this issue, handlers agreed that although they were getting information regarding the number of bushels packed, it would be valuable to have information regarding the volume of small, medium, and large avocados packed for market. The Committee believes the availability of such information will help both grower and handler when making harvesting and packing decisions.

Committee members agreed having information to help determine if any sizes are overrepresented or underrepresented in the marketplace would be valuable when planning and making marketing decisions. There is a close correlation between size and price. An oversupply of one size of fruit can negatively impact the price for that size and all sizes. By reporting count per container, the industry will be better able to gauge available markets by knowing the volume of what sizes are available.

An avocado will never reach full maturity unless it is severed from the tree. Consequently, harvest can be delayed without affecting the flavor or the quality of the fruit. This fact, in combination with information on sizes, allows the industry to make harvesting and marketing decisions based on available markets.

Without good information regarding the sizes available in the market, the market pipelines for certain sizes can become full, driving prices down. Having access to this information will help the industry better balance supply with demand. By knowing which sizes are in short supply, the industry can determine which sizes need to be harvested. Such information may help reduce periods of oversupply and the effect oversupply has on price, providing the industry with another tool to more efficiently market avocados and maximize industry returns.

Previously, at the time of inspection, handlers have been commonly reporting container size and quantity to the inspector, who then includes this information on the inspection certificates. Inspection certificates are then provided to the Committee, which compiles the information into reports that are in turn provided to the avocado industry. Committee members believe this procedure has been working effectively, and that having handlers report the count per container in the

same fashion will be equally effective. In most cases, this is information the handler already has available, and thus needs only to supply it to the inspector at the time of inspection. As with the current report, the Committee will compile the data received and report it to the industry on a composite basis to aid growers and handlers in planning their individual operations and in making marketing decisions during the season.

This change will provide the industry with an indication of the volume of small, medium, and large sized avocados being shipped to the fresh market. With this change, handlers believe they will have more information on which to base their harvesting and marketing decisions. Consequently, the Committee voted unanimously to make this change.

Section 8e of the Act provides that when certain domestically produced commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. As this rule changes the container and reporting requirements under the domestic handling regulations, no corresponding changes to the import regulations are required.

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 approximately 150 producers of avocados in the production area and approximately 35 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,000,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service and Committee data, the average price for Florida avocados during the 2003–04 season was around $22.22 per 55-pound bushel container, and total shipments were near 660,000 55-pound bushel equivalents. Approximately 11 percent of all handlers handled 76 percent of Florida avocado shipments. Using the average price and shipment information provided by the Committee, nearly all avocado handlers could be considered small businesses under the SBA definition. In addition, based on avocado production, grower prices, and the total number of Florida avocado growers, the average annual grower revenue is approximately $98,000. Thus, the majority of Florida avocado producers may also be classified as small entities.

This rule changes the container and reporting requirements currently prescribed under the order. This rule prohibits the handling of fresh market avocados in 20 bushel plastic field bins to destinations within the production area. This rule also requires handlers to provide information regarding the avocado count per container, which in turn provides the Committee and the avocado industry with an indication of the sizes of avocados being packed. These changes are expected to decrease packing costs by reducing losses of field bins and to provide handlers with additional information on which to base their harvesting and marketing decisions. The Committee unanimously recommended these changes at meetings held on September 8, 2004, and November 10, 2004. This rule modifies the container and reporting requirements specified in §§ 915.305 and 915.150 respectively. The authorities for these actions are provided for in §§ 915.51 and 915.60.

It is not anticipated that this rule will generate any increased costs for handlers or producers. The Committee recommended the change in the container requirements in an effort to reduce the costs stemming from the misappropriation of bins. According to estimates, more than 700 bins were lost last season, at a cost to the industry of around $100,000. The primary purpose of these field bins is to provide bulk conveyance of harvested avocados from the groves to the packinghouses. However, a segment of the industry has been using them to pack and transport avocados to markets within the production area. Handlers have found that bins have been misappropriated, used for the handling of avocados for sale within the production area, and not subsequently returned to the rightful owner. With a prohibition on the use of the plastic bins in the handling of avocados to points within the production area, the Committee hopes to break this cycle and move those who prefer this size container to a lower cost alternative. While an alternative cardboard container that holds an equivalent volume costs only about $10, an individual plastic bin costs around $150. This change should result in a cost savings.

By requiring handlers to supply information on the count per container at the time of inspection, the industry will have access to additional shipment information. There is little or no cost associated with this action, as most handlers have this information readily available and will be supplying it along with information already provided. However, the industry will be able to use this data when making harvesting and marketing decisions. As previously noted, there currently is no reliable information widely available regarding the sizes of avocados in the channels of commerce. Without good information regarding the sizes available in the market, handlers have no way to tell whether a certain size is overly available or in short supply. Having access to this information will help the industry more efficiently balance supply with demand, thus reducing periods of oversupply and price variations, while providing the industry with another tool to better market its fruit, serve customers, and maximize returns.

This rule will have a positive impact on affected entities. The changes were recommended to reduce costs and improve available industry information. The reduction in costs associated with lost bins is expected to benefit all handlers regardless of size. The availability of more timely and accurate industry information will also benefit both large and small handling operations. Consequently, the opportunities and benefits of this rule are expected to be equally available to all.

An alternative to the actions recommended by the Committee was considered prior to making the final recommendations. The alternative considered was requesting the count per container from handlers on a voluntary basis. However, by requiring the information under authority of the order, all handlers will be required to participate, which will mean more accurate reporting and information. Therefore, this alternative was rejected.

This rule will require small and large avocado handlers to provide some additional information at the time of inspection. However, handlers have access to this information and are already providing other information at the time of inspection. This action

requires no additional forms. The information will be recorded by the inspector on the inspection certificate.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS has received OMB approval for the information collection requirements for this marketing order program. These requirements are approved under the Fruit Crops collection package, OMB No. 0581–0189 OMB. The reporting modifications made by this rule are small and will have no impact on the overall total burden hours approved by OMB.

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's meetings were widely publicized throughout the avocado industry and all interested persons were invited to attend and participate in Committee deliberations. Like all Committee meetings, the September 8, 2004, and November 10, 2004, meetings were public meetings and all entities, both large and small, were able 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.

This rule invites comments on changes to the container and reporting requirements currently prescribed under the Florida avocado marketing order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendations, and other information, it is found that this 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) The Committee unanimously recommended these changes at public meetings and interested parties had an opportunity to provide input; (2) growers and handlers are aware of these changes; (3) the Florida avocado shipping season started May 16, 2005; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

■ 1. The authority citation for 7 CFR part 915 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 915.150 is amended by adding paragraph (e) to read as follows:

§ 915.150 Reports.

* * * * *

(e) At the time of inspection, each handler shall provide to the Federal-State Inspection Service the quantity and size of containers being packed and inspected for the fresh avocado market. In addition, each handler shall provide the number of avocados packed per container (count per container).

■ 3. Section 915.305 is amended by adding paragraph (c) to read as follows:

§ 915.305 Florida Avocado Container Regulation 5.

* * * * *

(c) No handler shall handle any avocados for the fresh market in 20 bushel plastic field bins to destinations inside the production area.

Dated: June 20, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–12616 Filed 6–21–05; 3:37 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21053; Directorate Identifier 2005–NM–053–AD; Amendment 39–14161; AD 2005–13–24]

RIN 2120–AA64

Airworthiness Directives; AvCraft Dornier Model 328–100 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all AvCraft Dornier Model 328–100 airplanes. This AD requires modifying the electrical wiring of the fuel pumps; installing insulation at the hand flow control and shut-off valves, and other components of the environmental control system; and installing markings at fuel wiring harnesses. This AD also requires revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate new inspections of the fuel tank system. This AD is prompted by the results of fuel system reviews conducted by the airplane manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD becomes effective July 29, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of July 29, 2005.

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

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–2005–21053; the directorate identifier for this docket is 2005–NM–053–AD.

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

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for all AvCraft Dornier Model 328–100 airplanes. That action, published in the **Federal Register** on April 26, 2005 (70 FR 21344), proposed to require modifying the electrical wiring of the fuel pumps; installing insulation at the hand flow control and shut-off valves, and other components of the environmental control system; and installing markings at fuel wiring harnesses. That action also proposed to require revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate new inspections of the fuel tank system.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been submitted on the proposed AD or on the determination of the cost to the public.

Explanation of Changes to Applicability and Reference Service Bulletin

We have revised the applicability of the proposed AD to identify model designations as published in the most recent type certificate data sheet for the affected models. We also have revised the airplane manufacturer's name of the referenced service bulletin, Dornier Service Bulletin SB–328–00–445, dated August 23, 2004, to ''AvCraft.''

Conclusion

We have carefully reviewed the available data 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

This AD will affect about 6 airplanes of U.S. registry. The required actions will take about 70 work hours per airplane, at an average labor rate of $65 per work hour. Required parts will cost about $14,118 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is $112,008, or $18,668 per airplane.

Authority for this Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–13–24 AvCraft Aerospace GmbH (Formerly Fairchild Dornier GmbH): Amendment 39–14161. Docket No. FAA–2005–21053; Directorate Identifier 2005–NM–053–AD.

Effective Date

(a) This AD becomes effective July 29, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all AvCraft Dornier Model 328–100 airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by the results of fuel system reviews conducted by the airplane manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss 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.

Modification and Installations

(f) Within 12 months after the effective date of this AD, do the actions in Table 1 of this AD in accordance with the Accomplishment Instructions of AvCraft Service Bulletin SB–328–00–445, dated August 23, 2004.

TABLE 1.—REQUIREMENTS

Do the following actions—	By accomplishing all the actions specified in—
(1) Modify the electrical wiring of the left-hand and right-hand fuel pumps	Paragraph 2.B(1) of the service bulletin.
(2) Install insulation at the left-hand and right-hand flow control and shut-off valves, and other components of the environmental control system.	Paragraph 2.B(2) of the service bulletin.
(3) Install markings at fuel wiring harnesses	Paragraph 2.B(3) of the service bulletin.

Revision to Airworthiness Limitations

(g) Within 12 months after the effective date of this AD, revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness by inserting a copy of Dornier Temporary Revision ALD–080, dated October 15, 2003, into the Dornier 328 Airworthiness Limitations Document. Thereafter, except as provided in paragraph (h) of this AD, no alternative inspection intervals may be approved for this fuel tank system.

Alternative Methods of Compliance (AMOCs)

(h) 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

(i) German airworthiness directive D–2005–001, dated January 26, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use the service information specified in Table 2 of this AD 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. To get copies of the service information, contact AvCraft Aerospace GmbH, P.O. Box 1103, D–82230 Wessling, Germany. 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 the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Service information	Date
AvCraft Service Bulletin SB–328–00–445, including Price Information Sheet	August 23, 2004.
Dornier Temporary Revision ALD–080	October 15, 2003.

Issued in Renton, Washington, on June 15, 2005.

Kevin Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12304 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–332–AD; Amendment 39–14158; AD 2005–13–21]

RIN 2120–AA64

Airworthiness Directives; Cessna Model 650 Airplanes

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

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Cessna Model 650 airplanes, that requires inspecting to determine the part number of the actuator control unit (ACU) and replacing the ACU with a new, improved ACU if necessary. This AD also requires revising the Limitations section of the airplane flight manual. The actions specified by this AD are intended to prevent uncommanded movement of the horizontal stabilizer, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective July 29, 2005.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 29, 2005.

ADDRESSES: The service information referenced in this AD may be obtained from Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Robert P. Busto, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4157; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Cessna Model 650 airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on April 22, 2005 (70 FR 20844). That action proposed to require inspecting to determine the part number of the actuator control unit (ACU) and replacing the ACU with a new, improved ACU if necessary. That action also proposed to require revising the Limitations section of the airplane flight manual.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. We did not receive any comments on the proposed AD.

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 357 airplanes of the affected design in the worldwide fleet. The FAA estimates that 285 airplanes of U.S. registry will be affected by this AD.

We estimate that it will take approximately 2 work hours per airplane to replace the ACU, and that the average labor rate is $65 per work hour. Required parts will cost approximately $3,000 per airplane, if the ACU is exchanged. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $892,050, or $3,130 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by

other administrative actions. The manufacturer may cover the cost of replacement parts associated with this proposed AD, subject to warranty conditions. As a result, the costs attributable to the proposed AD may be less than stated above.

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 Impact

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding the following new airworthiness directive:

2005–13–21 Cessna Aircraft Company: Amendment 39–14158. Docket 2002–NM–332–AD.

Applicability: All Model 650 airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded movement of the horizontal stabilizer, which could result in reduced controllability of the airplane, accomplish the following:

Inspection and Replacement if Necessary

(a) Within 12 months after the effective date of this AD, inspect to determine the part number (P/N) of the actuator control unit (ACU), in accordance with the Accomplishment Instructions of Cessna Service Bulletin SB 650–27–53, dated March 11, 2004. If an ACU having P/N 9914197–7 is installed on the airplane, then no further action is required by this paragraph. If an ACU having P/N 9914197–3 or P/N 9914197–4 is installed on the airplane, replace the existing ACU with a new, improved ACU having P/N 9914197–7, in accordance with the service bulletin. Although the service bulletin specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Airplane Flight Manual (AFM) Revision

(b) Within 1 month after the effective date of this AD or concurrently with the replacement required by paragraph (a) of this AD, whichever is first: Revise the Limitations and Normal Procedures sections of the AFM by inserting into the AFM a copy of all the applicable Cessna temporary revisions (TRs) listed in Table 1 of this AD.

Note 1: When a statement identical to that in the applicable TR(s) listed in Table 1 of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of the applicable TR may be removed from the AFM.

TABLE 1.—AFM REVISION

Applicable model 650 airplanes	Cessna TR(s)
Citation III, S/Ns 0001 through 0199 inclusive, and 0203 through 0206 inclusive; equipped with Honeywell SPZ–8000 integrated avionics system.	65C3FM TC–R02–01, dated May 12, 2004; and 65C3FM TC–R02–06, dated August 11, 2004.
Citation III, S/Ns 0001 through 0199 inclusive, and 0203 through 0206 inclusive; not equipped with Honeywell SPZ–8000 integrated avionics system.	65C3FM TC–R02–01, dated May 12, 2004; and 65C3FM TC–R02–07, dated August 11, 2004.
Citation VI, S/Ns 0200 through 0202 inclusive, and 0207 and subsequent	65C6FM TC–R04–01, dated May 12, 2004; and 65C6FM TC–R04–06, dated August 11, 2004.
Citation VII, S/Ns 7001 and subsequent	65C7FM TC–R10–01, dated May 12, 2004.
Citation VII, S/Ns 7001 and subsequent, equipped with Honeywell SPZ–8000 integrated avionics system.	65C7FM TC–R10–07, dated August 11, 2004.

Parts Installation

(c) As of the effective date of this AD, no person may install an ACU having P/N 9914197–3 or –4, on any airplane.

Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, Wichita Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions must be done in accordance with the service information listed in Table 2 of this AD. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of this service information, contact Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277. To inspect copies of this service information, go to the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or to the FAA, Wichita Aircraft

Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or 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.*

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Cessna Service Information	Date
Service Bulletin SB 650–27–53	March 11, 2004.
Temporary Revision 65C3FM TC–R02–01	May 12, 2004.
Temporary Revision 65C3FM TC–R02–06	August 11, 2004.
Temporary Revision 65C3FM TC–R02–07	August 11, 2004.
Temporary Revision 65C6FM TC–R04–01	May 12, 2004.
Temporary Revision 65C6FM TC–R04–06	August 11, 2004.
Temporary Revision 65C7FM TC–R10–01	May 12, 2004.
Temporary Revision 65C7FM TC–R10–07	August 11, 2004.

Effective Date

(f) This amendment becomes effective on July 29, 2005.

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

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12306 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18784; Directorate Identifier 2004–NM–59–AD; Amendment 39–14157; AD 2005–13–20]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400, –400D, –400F; 767–200, –300, –300F; and 777–200 and –300 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 747–400, –400D, –400F; 767–200, –300, –300F; and 777–200 and –300 series airplanes. This AD requires installing a jumper wire between the wiring of the fire extinguisher switch and the fuel shutoff switch for each engine, and other specified actions. This AD is prompted by a certain combination of conditions, which could cause the fuel spar shutoff valves to remain partially open. We are issuing this AD to prevent a latent open circuit that could leave the fuel spar shutoff valve in a partially open position when the engine fire switch is activated, which could result in fuel from the engine feeding an uncontrolled fire in the engine or the strut.

DATES: This AD becomes effective July 29, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of July 29, 2005.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

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–2004–18784; the directorate identifier for this docket is 2004–NM–59–AD.

FOR FURTHER INFORMATION CONTACT: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6501; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for certain Boeing Model 747–400, –400D, –400F; 767–200, –300, –300F; and 777–200 and –300 series airplanes. That action, published in the **Federal Register** on August 6, 2004 (69 FR 47802), proposed to require installing a jumper wire between the wiring of the fire extinguisher switch and the fuel shutoff switch for each engine, and other specified actions.

Comments

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

Supportive Comment

One commenter states that they have accomplished the necessary airplane modifications on all affected Model 777–200 series airplanes in their fleet. In addition, the commenter states that no additional work is necessary to comply with Boeing Service Bulletin 777–28–0025, Revision 1, dated March 17, 2005. The commenter did not state any finding of service problems or errors in either the service bulletins or the AD, nor has the commenter suggested any change to the AD. We infer that the commenter has no objections to the AD.

Request to Revise Service Bulletin References

One commenter requests that we coordinate the release of this AD with the pending revisions to Boeing Special Attention Service Bulletins 747–28–2238, dated October 18, 2001; and 777–28–0025, dated January 10, 2002. The commenter states that several information notices describe changes to the work instructions that will be incorporated into pending service bulletin revisions. If this AD is released calling for the un-revised service bulletins, each airline would need to request an alternative method of compliance (AMOC) to allow the incorporation of the revised work instructions. We infer that the commenter wants the AD to reference the revised service bulletins.

We agree with the commenter's request to reference the revised service bulletins. We have reviewed Boeing Service Bulletins 747–28–2238, Revision 1; and 777–28–0025, Revision 1; both dated March 17, 2005. The revisions incorporate the changes described in the information notices. Paragraph (f) of this AD has been revised to refer to Revision 1 of Boeing Service Bulletins 747–28–2238 and 777–28–0025. Paragraph (g) of the

proposed AD already gives credit for actions done before the effective date of this AD in accordance with the original issues of these service bulletins, so no change is needed to the final rule in this regard.

Request To Allow Standard Parts

One commenter requests that the AD be revised to allow the use of standard materials in accordance with Chapter 20 of the Boeing Standard Wiring Practices Manual in place of the specific Boeing part number called out in the applicable Boeing service bulletins. While no justification is provided, the commenter contends that the use of such standard materials would maintain an equivalent level of safety for the modification.

We do not agree with the commenter's request to use the standard materials since it is not clear what materials would be substituted or how the materials are equivalent in safety. The final rule has not been changed in this regard. However, if operators care to provide technical justification, they may request approval of an AMOC from the FAA in accordance with paragraph (h) of this AD.

Clarification of Revision to Paragraph (g) of This AD

We have removed reference to Boeing Special Attention Service Bulletin 767–28–0066, Revision 1, dated May 29, 2003, from paragraph (g) of this AD. The reference is the same as that in paragraph (f) of this AD. Paragraph (e) of this AD already gives credit for work done before the effective date of the AD.

Conclusion

We have carefully reviewed the available data, including the comments that have been submitted, and determined that air safety and the public interest require adopting the AD with the 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

This AD will affect about 1,882 airplanes worldwide. We estimate that 579 airplanes of U.S. registry will be affected by this AD. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action model series	Work hours	Average labor rate per hour	Parts	Cost per airplane
Installation 747–400, –400D, –400F	4	65	1,450	1,710
Test 747–400, –400D, 400F	2	65	(*)	130
Installation 767–200, –300, –300F	4	65	(*)	760
Test 767–200, –300, –300F	2	65	(*)	130
Installation	4	65	220	480
Test 777–200, –300	2	65	(*)	130

*None.

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 adding the following new airworthiness directive (AD):

2005–13–20 Boeing: Amendment 39–14157. Docket No. FAA–2004–18784; Directorate Identifier 2004–NM–59–AD.

Effective Date

(a) This AD becomes effective July 29, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–400, –400D, and –400F series airplanes, line numbers 1 through 1276 inclusive; Model 767–200, –300, and –300F series airplanes, line numbers 1 through 850 inclusive; and Model 777–200 and –300 series airplanes, line numbers 1 through 360 inclusive; certificated in any category.

Unsafe Condition

(d) This AD was prompted by a certain combination of conditions, which could cause the fuel spar shutoff valves to remain

partially open. We are issuing this AD to prevent a latent open circuit that could leave the fuel spar shutoff valve in a partially open position when the engine fire switch is activated, which could result in fuel from the engine feeding an uncontrolled fire in the engine or the strut.

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.

Installation of Jumper Wire

(f) Within 60 months after the effective date of this AD: Install a jumper wire between the wiring of the fire extinguisher switch and the fuel shutoff switch for each engine, and do all other specified actions in the Accomplishment Instructions of Boeing Service Bulletin 747–28–2238, Revision 1, dated March 17, 2005 (for Model 747–400, –400D, and –400F series airplanes); Boeing Special Attention Service Bulletin 767–28–0066, Revision 1, dated May 29, 2003 (for Model 767–200, –300, and –300F series airplanes); or Boeing Service Bulletin 777–28–0025, Revision 1, dated March 17, 2005 (for Model 777–200 and –300 series airplanes); as applicable.

Credit for Actions Accomplished Previously

(g) Accomplishment of the actions required by paragraph (f) of this AD before the effective date of this AD, in accordance with Boeing Special Attention Service Bulletin 747–28–2238, dated October 18, 2001; or 777–28–0025, dated January 10, 2002; as applicable; is considered acceptable for compliance with the corresponding action in paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(h) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(i) You must use the service information listed in Table 1 of this AD 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. To get copies of the service information, go to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. 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 the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Service bulletin	Revision level	Date
Boeing Service Bulletin 747–28–2238	1	March 17, 2005.
Boeing Service Bulletin 777–28–0025	1	March 17, 2005.
Boeing Special Attention Service Bulletin 767–28–0066	1	May 29, 2003.

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

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12311 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20166; Directorate Identifier 2004–NM–175–AD; Amendment 39–14135; AD 2005–12–19]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A319, A320, and A321 series airplanes. This AD requires replacing the cargo ventilation extraction duct at frame 65 with a new duct, and relocating the temperature sensor in the aft cargo compartment. This AD is prompted by a report indicating that, during a test of the fire extinguishing system, air leakage around the temperature sensor for the aft cargo compartment reduced the concentration of fire extinguishing agent to below the level required to suppress a fire. We are issuing this AD to prevent air leakage around the temperature sensor for the aft cargo compartment, which, in the event of a fire in the aft cargo compartment, could result in an insufficient concentration of fire extinguishing agent, and consequent inability of the fire extinguishing system to suppress the fire.

DATES: This AD becomes effective July 29, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of July 29, 2005.

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

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–2005–20166; the directorate identifier for this docket is 2004–NM–175–AD.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for certain Airbus Model A319, A320, and A321 series airplanes. That action, published in the **Federal Register** on January 31, 2005 (70 FR 4789), proposed to require replacing the cargo ventilation extraction duct at frame 65 with a new duct, and relocating the temperature sensor in the aft cargo compartment.

Comments

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

Request To Reference Revised Service Information

The commenter requests that we change the proposed AD to refer to Airbus Service Bulletin A320–21–1141, Revision 01, dated December 17, 2004. The proposed AD refers to Airbus Service Bulletin A320–21–1141, dated April 7, 2004, as the acceptable source of service information for the accomplishment of the proposed actions.

We agree with the commenter's request. The procedures in Revision 01 of the referenced service bulletin are essentially the same as those in the original issue. Accordingly, we have revised paragraph (f) of this AD to refer to Revision 01 of the service bulletin as the appropriate source of service information for accomplishing the required actions. We have also added a new paragraph (g) (and re-identified subsequent paragraphs accordingly) to state that modifications accomplished before the effective date of this AD per the original issue of the service bulletin are acceptable for compliance with this AD.

Request To Reference Related Service Information

The commenter notes that Airbus Service Bulletin A320–52–1124, Revision 01, dated December 17, 2004, is mentioned in the referenced French airworthiness directive and the referenced service information. The commenter states that Service Bulletin A320–52–1124 is also considered necessary to accomplish the restriction of airflow through the aft cargo compartment. The commenter adds that since airworthiness directives are issued to address safety concerns, and not portions of a safety concern, both modifications should be mandated in this proposed AD. The commenter states that combining these requirements into one AD also provides the added benefit of a central reference point in the case that an operator may need to make a future determination on whether the safety concern was fully addressed on an airplane or fleet of airplanes. The commenter adds that issuing separate ADs for the same safety concern seems to complicate the process.

We acknowledge the commenter's request; however, Service Bulletin A320–52–1124 was referenced in another rulemaking action, which was issued on February 22, 2005 (Docket No. FAA–2005–20453; Directorate Identifier 2004–NM–270–AD). That proposed AD was issued in response to French airworthiness directive F–2004–172, dated October 27, 2004. That proposed AD would require replacing the water drain valves in the forward and aft cargo doors with new valves. The proposed compliance time is 6 months. In light of the fact that the compliance times are different, and the actions were addressed in two separate French airworthiness directives, the rulemaking actions will not be combined. No change to the AD is made in this regard.

Request To Change Compliance Time

The commenter states that it agrees with the need to accomplish the proposed changes to meet airworthiness standards; however, it has not seen any data that lend this issue a high degree of urgency. The commenter recommends that the compliance time specified in the proposed AD be changed to the next heavy maintenance visit or S-check, instead of the 24-month compliance time. The commenter adds that this change would reduce the economic impact to operators, such as the commenter, who would be forced to take airplanes out of revenue service in order to meet the 24-month window.

We do not agree with the commenter. In developing an appropriate compliance time for this action, we considered the safety implications, operators' normal maintenance schedules, and the compliance time recommended by the airplane manufacturer for the timely accomplishment of the required actions. The compliance time of 24 months after the effective date of this AD is based on airplane utilization overall, and is consistent with the compliance time specified in the French airworthiness directive. In addition, the operator provided no data to indicate that a compliance time extension will ensure safety. In consideration of these items, we have determined that compliance within 24 months after the effective date of this AD will provide an acceptable level of safety and is an appropriate interval of time wherein the required actions can be accomplished during scheduled maintenance intervals for the majority of affected operators. However, according to the provisions of paragraph (h) of this AD, we may approve a request to adjust the compliance time if the request includes data that justify that a different compliance time would provide an acceptable level of safety. No change to the AD is made in this regard.

Request To Change Costs of Compliance Section

The commenter disagrees with the labor estimates specified in the proposed AD. The commenter states that the FAA has reduced the estimates in the original issue of the referenced service bulletin by approximately one-third. The commenter adds that the airplane manufacturer typically underestimates, rather than overestimates, manpower requirements for repair and modification service bulletins. The commenter recommends that the FAA consider the average estimate of 51.3 work hours, as specified in the referenced service bulletin, to be a minimum labor cost; however, 75 work hours per airplane is a better estimate for accomplishing the actions specified in the referenced service information.

We do not agree that it is necessary to change the work hours in this AD. This number represents the time necessary to perform only the actions actually required by the AD. The actions in this final rule reflect only the direct costs of the specific required actions based on the best data available from the manufacturer. The cost analysis in AD rulemaking actions typically does not include incidental costs such as the time required to gain access and close up, time necessary for planning, or time necessitated by other administrative actions. Those incidental costs, which may vary significantly among operators, are almost impossible to calculate. The compliance time in this AD should allow ample time for operators to do the required actions at the same time as scheduled major airplane inspection and maintenance activities, which would reduce the additional time and costs associated with special scheduling. No change to the AD is made in this regard.

Conclusion

We have carefully reviewed the available data, including the comments that have been submitted, and determined that air safety and the public interest require adopting the AD with the change described previously. This change 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 AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Replacement of duct/relocation of temperature sensor in aft cargo compartment.	34	$65	Between $7,000 and $11,640.	Between $9,210 and $13,850.	643	Between $5,922,030 and $8,905,550.

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 adding the following new airworthiness directive (AD):

2005–12–19 Airbus: Amendment 39–14135. Docket No. FAA–2005–20166; Directorate Identifier 2004-NM–175-AD.

Effective Date

(a) This AD becomes effective July 29, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A319, A320, and A321 series airplanes, certificated in any category; as identified in Table 1 of this AD.

TABLE 1.—APPLICABILITY

Airbus model	Having the following Airbus modification installed in production—	Or the following Airbus service bulletin incorporated in service—	But not having the following Airbus modification installed in production—
A319 series airplanes	24486	A320–21–1140	32616
A320 series airplanes	20084	A320–21–1048	32616
A321 series airplanes	22596	(1)	32616

[1] Not applicable.

Unsafe Condition

(d) This AD was prompted by a report that, during a test of the fire extinguishing system, air leakage around the temperature sensor for the aft cargo compartment reduced the concentration of fire extinguishing agent to below the level required to suppress a fire. We are issuing this AD to prevent air leakage around the temperature sensor for the aft cargo compartment, which, in the event of a fire in the aft cargo compartment, could result in an insufficient concentration of fire extinguishing agent, and consequent inability of the fire extinguishing system to suppress the fire.

Compliance

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

Relocation of Aft Cargo Compartment Temperature Sensor

(f) Within 24 months after the effective date of this AD: Replace the ventilation extraction duct with a new duct and relocate the aft cargo compartment temperature sensor by accomplishing all of the actions specified in the Accomplishment Instructions of Airbus Service Bulletin A320–21–1141, Revision 01, dated December 17, 2004.

Credit for Actions Done per Previous Issue of Service Bulletin

(g) Modifications accomplished before the effective date of this AD in accordance with Airbus Service Bulletin A320–21–1141, dated April 7, 2004, are acceptable for compliance with paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(h) 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

(i) French airworthiness directive F–2004–123, dated July 21, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use Airbus Service Bulletin A320–21–1141, Revision 01, dated December 17, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get 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 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 June 14, 2005.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12312 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19867; Directorate Identifier 2004–NM–58–AD; Amendment 39–14151; AD 2005–13–14]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all McDonnell Douglas Model MD–90–30 airplanes. This AD requires replacing existing dual anti-skid control manifolds (DACM) with new, improved or reworked and reidentified DACMs; inspecting the inlet filters and other components of the DACMs for damage; replacing any damaged DACM components with new or serviceable components; and flushing/cleaning the braking system prior to replacing the inlet filters. This AD is prompted by reports of multiple incidents of blown tires on landing while using maximum autobrake. We are issuing this AD to prevent metallic fibers from the first stage filter of the servo valves inside the DACM from becoming lodged in the first stage nozzle of the servo valve, which could lead to tire failure during high speed/high energy braking and possible subsequent runway departure.

DATES: This AD becomes effective July 29, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of July 29, 2005.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024).

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–2004–19867; the directorate identifier for this docket is 2004–NM–58–AD.

FOR FURTHER INFORMATION CONTACT: Cheyenne Del Carmen, Aerospace Engineer, Cabin Safety, Mechanical & Environmental Branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5338; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for all McDonnell Douglas Model MD–90–30 airplanes. That action, published in the **Federal Register** on December 16, 2004 (69 FR 75277), proposed to require replacing existing dual anti-skid control manifolds (DACM) with new, improved or reworked and reidentified DACMs; inspecting the inlet filters and other components of the DACMs for damage; replacing any damaged DACM components with new or serviceable components; and flushing/cleaning the braking system prior to replacing the inlet filters.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been submitted on the proposed AD or on the determination of the cost to the public.

Explanation of Change in the Service Information Citations

We have changed the name of the manufacturer shown in the service bulletins cited in the final rule to conform to the Office of the Federal Register requirements for materials incorporated by reference in ADs.

Conclusion

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

Costs of Compliance

This AD will affect about 115 airplanes worldwide and 24 airplanes of U.S. registry. The required actions will take about 8 work hours per airplane, at an average labor rate of $65 per work hour. Required parts will cost between $8,000 and $240,780 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is between $204,480 and $5,791,200, or between $8,520 and $241,300 per airplane.

Authority for This Rulemaking

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

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

for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–13–14 McDonnell Douglas: Amendment 39–14151. Docket No. FAA–2004–19867; Directorate Identifier 2004–NM–58–AD.

Effective Date

(a) This AD becomes effective July 29, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all McDonnell Douglas Model MD–90–30 airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports of multiple incidents of blown tires on landing while using maximum autobrake. We are issuing this AD to prevent metallic fibers from the first stage filter of the servo valves inside the dual anti-skid control manifolds (DACM) from becoming lodged in the first stage nozzle of the servo valve, which could lead to tire failure during high speed/high energy braking and possible subsequent runway departure.

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.

Replacement of DACMs

(f) Within 18 months after the effective date of this AD, replace existing DACMs with new, improved or reworked and reidentified DACMs, part number 6006079–2, by doing all actions in accordance with the Accomplishment Instructions of Boeing Service Bulletin MD90–32–056, dated October 7, 2003.

Note 1: Boeing Service Bulletin MD90–32–056 refers to Aircraft Braking Systems Corporation (ABSC) Service Bulletin MD–90 6006079–32–02, dated August 7, 2003, as an additional source of service information for installing new, improved or reworked and reidentified DACMs.

Concurrent Service Bulletin

(g) Prior to or concurrently with the accomplishment of paragraph (f) of this AD, perform paragraphs (g)(1) and (g)(2) of this AD in accordance with the Accomplishment Instructions of Boeing Service Bulletin MD90–32–043, Revision 01, dated November 9, 2000.

(1) Perform a detailed inspection of the metered pressure inlet filters and other components of the DACM for damage. Replace any damaged DACM components with new or serviceable components, and flush/clean the braking system, as applicable.

(2) Replace the metered pressure inlet filters of the DACM assembly with new filters.

Note 2: Boeing Service Bulletin MD90–32–043, Revision 01, refers to ABSC Service Bulletin MD90–32–12, dated January 12, 2000, as an additional source of service information for inspecting the components of the DACM assembly for uncleanliness, structural damage or excessive wear that may render the DACM inoperable, and for replacing those components with new or serviceable components, if necessary.

Note 3: 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.''

Prior Inspection/Replacement of Inlet Filters

(h) Inspecting and replacing DACM inlet filters and flushing/cleaning braking systems before the effective date of this AD in accordance with Boeing Service Bulletin MD90–32–043, dated April 10, 2000, is considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, Los Angeles Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(j) You must use Boeing Service Bulletin MD90–32–056, dated October 7, 2003; and Boeing Service Bulletin MD90–32–043, Revision 01, dated November 9, 2000; 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. To get copies of the service information, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). 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 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 June 13, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12313 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21624; Directorate Identifier 2005–NE–17–AD; Amendment 39–14162; AD 2005–13–25]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Arriel 2B Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Turbomeca S.A. Arriel 2B turboshaft engines with Modification TU62A incorporated. This AD results from several reports of the hydromechanical unit (HMU) acceleration controller axle sticking. This AD requires initial and repetitive inspections, cleaning, lubrication, and checks for proper operation of the HMU acceleration controller axle. We are issuing this AD to prevent loss of control of engine fuel flow in manual control mode or mixed control mode, leading to engine overspeed and in-flight engine shutdown, or uncommanded in-flight engine shutdown.

DATES: Effective July 11, 2005. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of July 11, 2005.

We must receive any comments on this AD by August 23, 2005.

ADDRESSES: Use one of the following addresses to comment 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 20590–0001.
- 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.

Contact Turbomeca S.A., 40220 Tarnos, France; telephone 33 05 59 74 40 00, fax 33 05 59 74 45 15, for the service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7175; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition might exist on Turbomeca S.A. Arriel 2B turboshaft engines with Modification TU62A incorporated. The DGAC advises that several reports of the HMU acceleration controller axle sticking have been received that resulted in engine overspeed and in-flight engine shutdown, or uncommanded in-flight engine shutdown. These events can occur when the fuel system is either in manual control mode or mixed control mode. They are most likely to occur during an HMU failure simulation or during autorotation training. HMU acceleration controller axle sticking can result in an excessive decrease in engine speed when the manual control is used to reduce fuel flow. It can also result in an excessive increase in engine speed when moving the control back to the flight notch. We are issuing this AD to prevent loss of control of engine fuel flow in the manual control mode or mixed control mode, leading to engine overspeed and in-flight engine shutdown, or uncommanded in-flight engine shutdown.

Relevant Service Information

We have reviewed and approved the technical contents of Turbomeca Alert Mandatory Service Bulletin (ASB) No. A292 73 2814, Update No. 1, dated January 11, 2005. That ASB describes procedures for inspecting, lubricating, and checking for proper operation of the HMU acceleration controller axle. The DGAC classified this service bulletin as mandatory and issued AD F–2004–139, dated August 18, 2004, in order to ensure the airworthiness of these Arriel 2B turboshaft engines in France.

Bilateral Airworthiness Agreement

This Turbomeca Arriel 2B turboshaft engine model is manufactured in France. It is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Under this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. We have examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other Turbomeca Arriel 2B turboshaft engines of the same type design. We are issuing this AD to prevent loss of control of engine fuel flow in the manual control mode or mixed control mode, leading to engine overspeed and in-flight engine shutdown, or uncommanded in-flight engine shutdown. This AD requires initial and repetitive inspections, cleaning, lubrication, and checks for proper operation of the HMU acceleration controller axle. You must use the service information described previously to perform the actions required by this AD.

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable. We also found that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. FAA–2005–21624; Directorate Identifier 2005–NE–17–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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 the DMS Web site, anyone can find and read the comments in any of our dockets. The Web site includes the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Examining the AD Docket

You may examine the docket that contains the AD, any comments received, and any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available

in the AD docket shortly after the DMS receives them.

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 summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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:

2005–13–25 Turbomeca S.A.: Amendment 39–14162. Docket No. FAA–2005–21624; Directorate Identifier 2005–NE–17–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 11, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Turbomeca S.A. Arriel 2B turboshaft engines with Modification TU62A incorporated. These engines are installed on, but not limited to, Eurocopter AS350B3 helicopters.

Unsafe Condition

(d) This AD results from several reports of the hydromechanical unit (HMU) acceleration controller axle sticking. We are issuing this AD to prevent loss of control of engine fuel flow in the manual control mode or mixed control mode, leading to engine overspeed and in-flight engine shutdown, or uncommanded in-flight engine shutdown.

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.

(f) Within 20 operating hours after the effective date of this AD, inspect, clean, lubricate, and check for proper operation of the HMU acceleration controller axle. Use paragraph 2 of Instructions to be Incorporated of Turbomeca Alert Mandatory Service Bulletin No. A292 73 2814, Update No. 1, dated January 11, 2005, to do these actions.

(g) Thereafter, repeat the actions specified in paragraph (f) of this AD within every 210 operating hours.

Alternative Methods of Compliance

(h) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(i) DGAC airworthiness directive F–2004–139, dated August 18, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use Turbomeca Alert Mandatory Service Bulletin (ASB) No. A292 73 2814, Update No. 1, dated January 11, 2005, to perform the actions required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Turbomeca S.A., 40220 Tarnos, France; telephone 33 05 59 74 40 00, fax 33 05 59 74 45 15, for a copy of this service information. You may review copies at the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001, on the internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Burlington, Massachusetts, on June 16, 2005.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 05–12415 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20512; Directorate Identifier 2004–SW–35–AD; Amendment 39–14160; AD 2005–13–23]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC 155B, EC155B1, SA–365N, SA–365N1, AS–365N2, and AS 365 N3 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC 155B, SA–365N and N1, AS–365N2, and AS 365 N3 helicopters. That AD currently requires inspecting the hydraulic brake hose (hose) for crazing, pinching, distortion, or leaks at the torque link hinge and replacing the hose, if necessary. That AD also requires inspecting the hose and the emergency flotation gear pipe to ensure adequate clearance, and adjusting the landing gear leg, if necessary. This amendment requires the same actions as the existing AD and adds another model helicopter to the applicability. This amendment is prompted by notification by the manufacturer and the European Authority that another affected model helicopter, the Model EC155B1, may have the same unsafe condition and should be added to the existing AD. The actions specified by this AD are intended to prevent failure of a hose,

resulting in failure of hydraulic pressure to the brakes on the affected landing gear wheel, and subsequent loss of control of the helicopter during a run-on landing.

DATES: Effective July 29, 2005.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 29, 2005.

ADDRESSES: You may get the service information identified in this AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

Examining the Docket

You may examine the docket that contains this AD, any comments, and other information on the Internet at *http://dms.dot.gov,* or at the Docket Management System (DMS), U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Uday Garadi, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0110, telephone (817) 222–5123, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by superseding AD 2003–18–03, Amendment 39–13294 (68 FR 52832, September 8, 2003), for the specified model helicopters was published in the **Federal Register** on March 8, 2005 (70 FR 11166). The action proposed to add the Eurocopter Model EC155B1 helicopters to the applicability and continue to require, within the next 10 hours time-in-service (TIS), inspecting the hose for crazing, pinching, distortion, or leaks at the torque link hinge and replacing the hose before further flight, if necessary. Also proposed was continuing to require, at the next 100-hour TIS inspection, inspecting the hose and the emergency flotation gear pipe to ensure adequate clearance, and adjusting the landing gear leg, if necessary.

The Direction Générale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified us that an unsafe condition may exist on Eurocopter Model EC 155 B1 helicopters as well as the other affected model helicopters that are included in AD 2003–18–03. The DGAC has advised in their AD No. F–2004–099, dated July 7, 2004, that a report of a wheel brake hose compression due to interference with a clamp that attaches the emergency flotation gear pipe led to the issue of AD No. 2002–475–007, which defined measures applicable to EC 155 version B aircraft. DGAC AD No. 2002–475–007 was cancelled by its Revision 1, and the DGAC issued AD No. F–2004–099, dated July 7, 2004, which supersedes and covers the requirements of AD 2002–475–007, extends its affectivity to EC 155 version B1 aircraft, and refers to revised service information, with no change to the technical content. The DGAC issued that AD after Eurocopter issued Alert Service Bulletin No. 32A004, Revision 1, dated June 16, 2004. The revised service bulletin added the Eurocopter Model EC155B1 to it's applicability but didn't change any technical content.

Eurocopter has also replaced Alert Telex No. 32.00.09, dated July 31, 2002, with Alert Service Bulletin No. 32.00.09, dated October 27, 2003 that contained no technical changes. The service bulletin applies to Eurocopter Model AS365N, N1, N2, and N3 helicopters. The DGAC classified this service bulletin as mandatory and issued AD No. F–2002–474–058 R1, dated March 3, 2004. This superseding AD contains references to both of these revised documents.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept us informed of the situation described above. We have examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or on our determination of the cost to the public. We have determined that air safety and the public interest require the adoption of the rule as proposed.

We estimate that this AD will affect 48 helicopters of U.S. registry. It will take approximately 5 work hours per helicopter to accomplish each inspection and 5 work hours to replace any parts, as necessary. The average labor rate is $65 per work hour. Required parts will cost approximately $459 for the hose; if replacing the hose on two sides is required, the cost is approximately $918. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $1,568 per helicopter, or $56,448 for the entire fleet, assuming 75 percent of the fleet (36 helicopters) is equipped with emergency flotation gear, that one inspection is done, and that the hose on two sides is replaced on those 36 helicopters).

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 an economic evaluation of the estimated costs to comply with this AD. See the DMS to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by removing Amendment 39–13294 (68 FR 52832, September 8, 2003), and by adding a new airworthiness directive (AD), Amendment 39–14160, to read as follows:

2005–13–23 Eurocopter France: Amendment 39–14160. Docket No. FAA–2005–20512; Directorate Identifier 2004–SW–35–AD. Supersedes AD 2003–18–03, Amendment 39–13294, Docket No. 2002–SW–53–AD.

Applicability: Model EC 155B, EC155B1, SA–365N, SA–365N1, AS–365N2, and AS 365 N3 helicopters, with emergency flotation gear installed, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a hydraulic brake hose (hose), resulting in failure of hydraulic pressure to the brakes on the affected landing gear wheel and subsequent loss of control of the helicopter during a run-on landing, accomplish the following:

(a) Within 10 hours time-in-service (TIS), inspect the hose for crazing, pinching, distortion, or leaks as illustrated in Area A of Figure 1 of Eurocopter Alert Service Bulletin No. 32.00.09, dated October 27, 2003 (ASB No. 32.00.09), for Model SA–365N and N1, AS–365N2, and AS 365 N3 helicopters, and Eurocopter Alert Service Bulletin No. 32A004, Revision 1, dated June 16, 2004 (ASB No. 32A004R1), for Model EC 155B and EC155B1 helicopters.

(b) If crazing, pinching, distortion, or leaks exist, replace the hose with an airworthy hose before further flight.

(c) At the next 100-hour TIS inspection, inspect the hose and the emergency flotation gear pipe to ensure adequate clearance and adjust the landing gear leg, if necessary, in accordance with the Operational Procedure, paragraph 2.B.2., of ASB No. 32.00.09 or ASB No. 32A004R1, as applicable.

(d) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

(e) The inspections and adjustments shall be done in accordance with the specified portions of Eurocopter Alert Service Bulletin No. 32.00.09, dated October 27, 2003, or Eurocopter Alert Service Bulletin No. 32A004, Revision 1, dated June 16, 2004, as applicable. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(f) This amendment becomes effective on July 29, 2005.

Note: The subject of this AD is addressed in Direction Générale De L'Aviation Civile (France) AD No. F–2002–474–058 R1, dated March 3, 2004 and AD No. F–2004–099, dated July 7, 2004.

Issued in Fort Worth, Texas, on June 10, 2005.

S. Frances Cox,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 05–12418 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21589; Directorate Identifier 2004–SW–44–AD; Amendment 39–14154; AD 2005–13–17]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model AB412 Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the Agusta S.p.A. (Agusta) Model AB412 Series helicopters. This action requires inspecting each affected tail rotor blade (blade) forward tip weight retention block (tip block) and the aft tip closure (tip closure) for adhesive bond voids, and removing any blade with an excessive void from service. This AD also requires modifying certain blades by installing shear pins and tip closure rivets on all affected blades. This amendment is prompted by reports of in-flight loss of tip blocks and tip closures resulting in minor to substantial damage. The actions specified in this AD are intended to prevent loss of the tip block or tip closure, loss of a blade, and subsequent loss of control of the helicopter.

DATES: Effective July 11, 2005.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 11, 2005.

Comments for inclusion in the Rules Docket must be received on or before August 23, 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; or
- 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.

You may get the service information identified in this AD from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595.

Examining the Docket

You may examine the docket that contains the AD, any comments, and other information on the Internet at *http://dms.dot.gov*, or in person at the Docket Management System (DMS) Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the 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: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD for Agusta Model AB412 Series helicopters. This action requires inspecting the tip block and the tip closure for adhesive bond voids and removing any blade with an excessive void from service. This action also requires modifying certain blades by installing shear pins and tip closure rivets in the tip area of all affected blades. This amendment is prompted by reports of in-flight loss of tip blocks and tip closures resulting in minor to

substantial damage. This condition, if not detected, could result in loss of a tip block or tip closure, loss of a blade, and subsequent loss of control of the helicopter.

Ente Nazionale per l'Aviazione Civile (ENAC), the airworthiness authority for Italy, notified the FAA that an unsafe condition may exist on Agusta Model AB 205A1, AB212, and AB412 helicopters. ENAC advises modifying the blade tip block and tip closure retention.

Agusta has issued Bollettino Tecnico No. 412–88, Revision A, dated August 17, 2004 (BT 412–88, Revision A), which specifies inspecting and modifying blade, part number (P/N) 212–010–750–ALL, tip block and tip closure retention by providing additional fasteners in the tip area to prevent future loss of either the tip block or tip closure. Recent investigations into the in-flight loss of a blade, P/N 212–010–750–105, tip block, revealed that the countersunk screws retaining the tip block were installed incorrectly resulting in inadequate tip block retention. Additionally, reports have been submitted of the loss of the tail rotor tip cap closure possibly due to an inadequate bond in this area. ENAC classified this service information as mandatory and issued AD 2004–351, dated September 3, 2004, to ensure the continued airworthiness of these helicopters in Italy.

These helicopter models are manufactured in Italy and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, ENAC has kept the FAA informed of the situation described above. The FAA has examined the findings of ENAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

This unsafe condition is likely to exist or develop on other helicopters of the same type designs if they become registered in the United States. Therefore, this AD is being issued to prevent loss of the tip block or tip closure, loss of a blade, and subsequent loss of control of the helicopter. This AD requires, within 100 hours time-in-service (TIS):

- Inspecting the tip block and tip closure for voids and, before further flight, removing any blade that has voids in excess of the Component Repair and Overhaul Manual Limitations.
- Inspecting the tip block attachment countersink screws in four locations to determine if the head of each countersunk screw is flush with the surface of the abrasion strip and the skin. If any of the screws are set below the surface of the abrasion strip and the skin or are covered with filler material, before further flight, install shear pins.
- Installing tip closure rivets on all affected blades.

Accomplish the actions in accordance with the service bulletin described previously.

None of the Agusta Model AB412 Series helicopters affected by this action are on the U.S. Register. All helicopters included in the applicability of this rule are currently operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject helicopters are imported and placed on the U.S. Register in the future.

Should an affected helicopter be imported and placed on the U.S. Register in the future, it would take approximately 3 work hours to accomplish the required actions at an average labor rate of $65 per work hour. Required parts would cost $25. Based on these figures, the cost impact of this AD would be $220 per helicopter.

Since this AD action does not affect any helicopter that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after 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 written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21589; Directorate Identifier 2004–SW–44–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, you can find and read the comments to any of our dockets, including the name of the individual who sent the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

Regulatory Findings

We have determined that notice and prior public comment are unnecessary in promulgating this regulation; therefore, it can be issued immediately to correct an unsafe condition in aircraft since none of these model helicopters are registered in the United States. We have also determined that this regulation is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the AD docket.

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2005–13–17 Agusta. S.p.A.: Amendment 39–14154. Docket No. FAA–2005–21589; Directorate Identifier 2004–SW–44–AD.

Applicability: Model AB412 Series helicopters, with a tail rotor blade (blade), part number (P/N) 212–010–750–All, having a serial number (S/N) with a prefix of ''A'' or ''A–FS'' and number 11530 through 13618, except numbers 13595 through 13602, installed, certificated in any category.

Compliance: Within 100 hours time-in-service, unless accomplished previously.

To prevent loss of the forward tip weight retention block (tip block) or aft tip closure (tip closure), loss of a blade, and subsequent loss of control of the helicopter, accomplish the following:

(a) Inspect the tip block and tip closure for voids. Before further flight, remove any blade with a void in excess of that allowed by the Component Repair and Overhaul Manual limitations.

(b) Inspect the tip block attachment countersink screws in four locations to determine if the head of each countersunk screw is flush with the surface of the abrasion strip and the skin. The location of these four screws is depicted on Figure 2 of Agusta Bollettino Tecnico No. 412–88, Revision A, dated August 17, 2004 (BT 412–88, Revision A). If any of these screws are set below the surface of the abrasion strip or are covered with filler material, before further flight, install shear pins by following the Accomplishment Instructions, Part A, Tip Block: Shear Pin Installation, paragraphs 1 through 3, of BT 412–88, Revision A.

(c) Install the tip closure rivets on all affected blades by following the Accomplishment Instructions, Part B, Aft Tip Closure: Rivet Installation, paragraphs 1 through 6, of BT 412–88, Revision A.

(d) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, FAA, for information about previously approved alternative methods of compliance.

(e) The inspections and modification must be done by following the specified portions of Agusta Bollettino Tecnico No. 412–88, Revision A, dated August 17, 2004. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(f) This amendment becomes effective on July 11, 2005.

Note: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) AD 2004–351, dated September 3, 2004.

Issued in Fort Worth, Texas, on June 8, 2005.

S. Frances Cox,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 05–12419 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19567; Directorate Identifier 2004–NM–118–AD; Amendment 39–14152; AD 2005–13–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, –200C, –300, –400, –500, –600, –700, –700C, –800, and –900 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 737–200, –200C, –300, –400, –500, –600, –700, –700C, –800, and –900 series airplanes. This AD requires a one-time detailed inspection for discrepancies of the secondary fuel vapor barrier of the wing center section, and related investigative/corrective actions if necessary. This AD is prompted by reports that the secondary fuel vapor barrier was not applied correctly to, or was missing from, certain areas of the wing center section. We are issuing this AD to prevent fuel or fuel vapors from leaking into the cargo or passenger compartments and coming into contact with a possible ignition source, which could result in fire or explosion.

DATES: This AD becomes effective July 29, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of July 29, 2005.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124 2207.

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 Docket No. FAA–2004–19567; the directorate identifier for this docket is 2004–NM–118–AD.

FOR FURTHER INFORMATION CONTACT: Doug Pegors, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6504; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR Part 39 with an AD for certain Boeing Model 737–200, –200C, –300, –400, –500, –600, –700, –700C, –800, and –900 series airplanes. That action, published in the **Federal Register** on November 10, 2004 (69 FR 65099), proposed to require a one-time detailed inspection for discrepancies of the secondary fuel vapor barrier of the wing center section, and related investigative/corrective actions if necessary.

Comments

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

Agreement With Proposed AD

One commenter, an operator, agrees with the proposed AD.

Request for Alternative Procedure

One commenter, an operator, requests that a note be added to paragraph (g) of the AD to allow the use of Boeing 737 Nondestructive Testing (NDT) Manual, Part 6, Section 53–30–27, paragraph 3, for determining vapor barrier thickness. The commenter contends that using this method for determining vapor barrier thickness provides an inspection procedure equivalent to that called out in Boeing Special Attention Service Bulletin 737–57–1261, dated February 27, 2003, and will allow operators to avoid any need for special tooling.

We do not agree. We have reviewed the specified section of the NDT manual and found that it does not adequately

describe an inspection procedure that is equivalent to that described in the service bulletin. However, we infer from the comment that the operator is proposing the use of an alternate tool for measuring coating thickness. Boeing Special Attention Service Bulletin 737–57–1261, dated February 27, 2003, page 40, paragraph F., note (a), states that the isoscope with the probe listed in paragraph F. is only one example of a nonconductive coating thickness gage (NCCTG) that may be used and that any NCCTG is acceptable as long as it has a thickness range from 0.001 to 0.045 inch. We have confirmed with the manufacturer that the service bulletin clearly states the requirements for the tooling required to measure the thickness of the vapor barrier and no additional guidance is required. We have not changed the final rule in this regard.

Request for Extended Compliance Time

One commenter, an operator, requests that the compliance time be extended from 48 to 72 months. The commenter states that, assuming an effective date for the AD of January 2005, it has 15 aircraft that will not be scheduled for C check maintenance within the proposed 48-month compliance time. The commenter believes that this out-of-phase maintenance would result in financial hardship; therefore, the commenter would like to see the compliance time extended as requested.

We do not agree. In developing an appropriate compliance time for this action, we considered the urgency associated with the subject unsafe condition and the practical aspect of accomplishing the required modification within a period of time that corresponds to the normal scheduled maintenance for most affected operators. However, under the provisions of paragraph (i) of the final rule, we may approve requests for adjustments to the compliance time if data are submitted with the requests to substantiate that such adjustments would provide acceptable levels of safety. We have not changed the final rule in this regard.

Conclusion

We have carefully reviewed the available data, including the comments that have been submitted, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

This AD will affect about 1,521 airplanes of U.S. registry. There are about 3,861 airplanes of the affected design in the worldwide fleet. We estimate the average labor rate to be $65 per work hour. We estimate that it will take the number of work hours shown in the following table to accomplish the actions for each airplane. Parts and materials are standard and are to be supplied by the operator. Based on these figures, the cost impact of the AD is estimated to range between $325 and $910 per airplane.

ESTIMATED WORK HOURS

Affected airplanes as listed in	Airplane group	Work hours
Boeing Special Attention Service Bulletin 737–57–1250, Revision 1, dated September 4, 2003	1	14
	2	12
	3	5
Boeing Special Attention Service Bulletin 737–57–1261, dated February 27, 2003	1	14
	2	7

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 adding the following new airworthiness directive (AD):

2005–13–15 Boeing: Amendment 39–14152. Docket No. FAA–2004–19567; Directorate Identifier 2004–NM–118–AD.

Effective Date

(a) This AD becomes effective July 29, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes listed in Table 1 of this AD, certificated in any category:

TABLE 1.—APPLICABILITY

Model	Line numbers
737–200, –200C, –300, –400, and –500 series airplanes	311 through 3132 inclusive.
737–600, –700, –700C, –800, and –900 series airplanes	1 through 1088 inclusive and 1090 through 1134 inclusive.

Unsafe Condition

(d) This AD is prompted by reports that the secondary fuel vapor barrier was not applied correctly to, or was missing from, certain areas of the wing center section. We are issuing this AD to prevent fuel or fuel vapors from leaking into the cargo or passenger compartments and coming into contact with a possible ignition source, which could result in fire or explosion.

Compliance

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

Service Bulletin References

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the following service bulletins, as applicable:

(1) For Model 737–200, –200C, –300, –400, and –500 series airplanes: Boeing Special Attention Service Bulletin 737–57–1261, dated February 27, 2003; and

(2) For Model 737–600, –700, –700C, –800, and –900 series airplanes: Boeing Special Attention Service Bulletin 737–57–1250, Revision 1, dated September 4, 2003.

Inspection

(g) Within 48 months after the effective date of this AD, do a one-time detailed inspection for discrepancies of the secondary fuel vapor barrier of the wing center section; and if discrepancies exist, before further flight, do any applicable related investigative/corrective actions in accordance with the Accomplishment Instructions of the applicable service bulletin.

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

Actions Accomplished per Previous Issue of Service Bulletin

(h) Actions accomplished before the effective date of this AD in accordance with Boeing Special Attention Service Bulletin 737–57–1250, dated February 7, 2002, are considered acceptable for compliance with the corresponding actions specified in paragraph (g) of this AD.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(j) You must use Boeing Special Attention Service Bulletin 737–57–1261, dated February 27, 2003; or Boeing Special Attention Service Bulletin 737–57–1250, Revision 1, dated September 4, 2003; 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. 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.

For information on the availability of this material at the National Archives and Records Administration (NARA), call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on June 10, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12315 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20567; Airspace Docket No. 05–AAL–05]

Revision of Class E Airspace; Shishmaref, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Shishmaref, AK to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAPs). This Rule results in new Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Shishmaref, AK.

DATES: Effective 0901 UTC, September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

History

On Monday, April 18, 2005, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to add to the Class E airspace upward from 700 ft. and 1,200 ft. above the surface at Shishmaref, AK (70 FR 20095). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing two new SIAPs for the Shishmaref Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 23, original; and (2) RNAV (GPS) RWY 5, original. Additional Class E controlled airspace extending upward from 700 ft. and 1,200 feet above the surface in the Shishmaref Airport area is established by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9M, *Airspace Designations and Reporting Points*, dated August 30,

2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This revision to 14 CFR part 71 revises Class E airspace at Shishmaref, Alaska. Additional Class E airspace is being created to accommodate aircraft executing two new SIAPs and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Shishmaref Airport, Shishmaref, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Shishmaref Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Shishmaref, AK [Revised]

Shishmaref Airport, AK
(Lat. 66°14′58″ N., long. 166°05′22″ W.)
Shishmaref NDB
(Lat. 66°15′29″ N., long. 166°03′09″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Shishmaref Airport and within 4 miles southeast and 8 miles northwest of the 245° bearing from the Shishmaref NDB extending from the NDB to 16 miles southwest and within 4 miles southeast and 8 miles northeast of the NDB 061° bearing from the Shishmaref NDB extending from the NDB to 16 miles northeast of the NDB, and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of 66°09′58″ N 166°30′03″ W and within a 30-mile radius of 66°19′55″ N 165°40′32″ W.

* * * * *

Issued in Anchorage, AK, on June 16, 2005.

Michael A. Tarr,

Acting Director, Alaska Flight Services Area Office.

[FR Doc. 05–12568 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20557; Airspace Docket No. 05–AAL–10]

Establishment of Class E Airspace; Kaltag, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Kaltag, AK to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAPs) and two new departure procedures. This rule results in new Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Kaltag, AK.

DATES: Effective 0901 UTC, September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Monday, April 18, 2005, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create new Class E airspace upward from 700 ft. and 1,200 ft. above the surface at Kaltag, AK (70 FR 20087). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing two new Standard Instrument Approach Procedures and two new departure procedures for the Kaltag Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 3, original; and (2) RNAV (GPS) RWY 21, original. The new departure procedures are (1) IPOXE ONE Departure and (2) KACLE ONE Departure. New Class E controlled airspace extending upward from 700 feet and 1,200 feet above the surface in the Kaltag Airport area is established by this action. The coordinates for the Kaltag Airport were listed incorrectly in the proposal and are corrected in the Final Rule. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been

received; thus the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9M, *Airspace Designations and Reporting Points*, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This revision to 14 CFR part 71 establishes Class E airspace at Kaltag, Alaska. This additional Class E airspace was created to accommodate aircraft executing two new SIAP's and two new departure procedures and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Kaltag Airport, Kaltag, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Kaltag Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Kaltag, AK [New]

Kaltag Airport, AK
(Lat. 64°19′33″ N., long. 158°44′39″ W.)

That airspace extending upward from 700 feet above the surface within a 7.6-mile radius of the Kaltag Airport, and that airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 65°00′00″ N., long. 159°00′00″ W to lat. 64°20′00″ N., long. 160°15′00″ W., to lat. 64°00′00″ N., long. 160°15′00″ W to lat. 64°00′00″ N., long. 159°00′00″ W. to point of beginning.

* * * * *

Issued in Anchorage, AK, on June 16, 2005.

Michael A. Tarr,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 05–12567 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20555; Airspace Docket No. 05–AAL–08]

Revision of Class E Airspace; Emmonak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Emmonak, AK to provide adequate controlled airspace to contain aircraft executing amended Standard Instrument Approach Procedures (SIAPs). This rule results in new Class E airspace upward from 700 feet (ft.) above the surface at Emmonak, AK.

DATES: Effective 0901 UTC, September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov*. Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Monday, April 18, 2005, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to add to the Class E airspace upward from 700 ft. above the surface at Emmonak, AK (70 FR 20085). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing amended SIAPs for the Emmonak Airport. The amended approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway 16, Amendment 1 (Amdt.) 1; (2) RNAV (GPS) RWY 34, Amdt. 1; Very High Frequency Omni-range (VOR) RWY 16, Amdt. 1; and VOR RWY 34, Amdt. 1. Additional Class E controlled airspace extending upward from 700 ft. above the surface in the Emmonak Airport area is established by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as

700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9M, *Airspace Designations and Reporting Points*, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This revision to 14 CFR part 71 revises Class E airspace at Emmonak, Alaska. Additional Class E airspace is being created to accommodate aircraft executing amended SIAPs and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Emmonak Airport, Emmonak, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Emmonak Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Emmonak, AK [Revised]

Emmonak Airport, AK
(Lat. 62°47′0758″ N., long. 164°29′28″ W.)
Emmonak VOR/DME
(Lat. 62°47′00″ N., long. 164°29′16″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Emmonak Airport and within 4 miles east and 8 miles west of the 356° radial of the Emmonak VOR/DME extending from the VOR/DME to 16 miles north and within 4 miles east and 8 miles west of the VOR/DME 185° radial extending from the VOR/DME to 16 miles south.

* * * * *

Issued in Anchorage, AK, on June 16, 2005.

Michael A. Tarr,

Acting Director, Alaska Flight Services Area Office.

[FR Doc. 05–12566 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20568; Airspace Docket No. 05–AAL–11]

Establishment of Class E Airspace; Coldfoot, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Coldfoot, AK to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAPs) and a new departure procedure. This rule results in new Class E airspace upward from 700 feet (ft.) above the surface at Coldfoot, AK.

DATES: Effective: 0901 UTC, September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Monday, April 18, 2005, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create new Class E airspace upward from 700 ft. above the surface at Coldfoot, AK (70 FR 20088). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing two new Standard Instrument Approach Procedures and a new departure procedure for the Coldfoot Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 1, original; and (2) RNAV (GPS)–A, original. The new departure procedure is the Bettles One Departure. New Class E controlled airspace extending upward from 700 feet above the surface in the Coldfoot Airport area is established by this action. An error in the airspace description was discovered in the proposal. The extension to the 6.7-mile radius of the airport was incorrectly listed as the 042° bearing from the airport. The correct bearing is the 222° bearing from the airport. The error is corrected in the final rule. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received; thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9M, *Airspace Designations and Reporting Points,* dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14

CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This revision to 14 CFR part 71 establishes Class E airspace at Coldfoot, Alaska. This additional Class E airspace was created to accommodate aircraft executing new instrument procedures and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Coldfoot Airport, Coldfoot, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Coldfoot Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Coldfoot, AK [New]

Coldfoot Airport, AK
(Lat. 67°15′08″ N., long. 150°12′14″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Coldfoot Airport, and within 2.3 miles each side of the 222° bearing from the airport extending from the 6.7-mile radius to 11.1 miles southwest of the airport.

* * * * *

Issued in Anchorage, AK, on June 16, 2005.

Michael A. Tarr,

Acting Area Director, Alaska Flight Services Area Office.

[FR Doc. 05–12565 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20450; Airspace Docket No. 05–AAL–07]

Establishment of Class E Airspace; Chalkyitsik, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Chalkyitsik, AK to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAPs). This rule results in new Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Chalkyitsik, AK.

DATES: Effective 0901 UTC, September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Monday, April 18, 2005, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create new Class E airspace upward from 700 ft. and 1,200 ft. above the surface at Chalkyitsik, AK (70 FR 20090). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing two new Standard Instrument Approach Procedures for the Chalkyitsik Airport. The new approaches are Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 3, original; and (2) RNAV (GPS) RWY 21, original. New Class E controlled airspace extending upward from 700 feet and 1,200 feet above the surface in the Chalkyitsik Airport area is established by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received; thus the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9M, *Airspace Designations and Reporting Points*, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This revision to 14 CFR part 71 establishes Class E airspace at Chalkyitsik, Alaska. This additional Class E airspace was created to accommodate aircraft executing two new SIAP's and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for

IFR operations at Chalkyitsik Airport, Chalkyitsik, Alaska.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Chalkyitsik Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Chalkyitsik, AK [New]

Chalkyitsik Airport, AK
(Lat. 66°38′42″ N., long. 143°44′20″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Chalkyitsik Airport, and that airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 66°25′00″ N., long. 144°00′00″ W. to lat. 66°25′00″ N., long. 143°00′00″ W., to lat. 67°00′00″ N., long. 143°00′00″ W. to lat. 67°00′00″ N., long. 144°00′00″ W. to point of beginning.

* * * * *

Issued in Anchorage, AK, on June 16, 2005.

Michael A. Tarr,

Acting Area Director, Alaska Flight Services Area Office.

[FR Doc. 05–12564 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20556; Airspace Docket No. 05–AAL–09]

Establishment of Class E Airspace; Bob Baker Memorial Airport, Kiana, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Bob Baker Memorial Airport, Kiana, AK, to provide adequate controlled airspace to contain aircraft executing two new Standard Instrument Approach Procedures (SIAPs) and a departure procedure. This rule results in new Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Bob Baker Memorial Airport, Kiana, AK.

EFFECTIVE DATE: 0901 UTC, September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Monday, April 18, 2005, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create new Class E airspace upward from 700 ft. and 1,200 ft. above the surface at Kiana, AK (70 FR 20091). The airport name used in the proposal was incorrectly listed as Kiana, AK Airport. The correct name is Bob Baker Memorial Airport, Kiana, AK. This error is corrected in the Final Rule. The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing two new Standard Instrument Approach Procedures and a Departure Procedure for the Bob Baker Memorial Airport. The new approaches are Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 6, original; and (2) RNAV (GPS) RWY 24, original. The new departure procedure is the Selawik ONE Departure. New Class E controlled airspace extending upward from 700 feet and 1,200 feet above the surface in the Bob Baker Memorial Airport area is established by this action. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received; thus the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9M, *Airspace Designations and Reporting Points,* dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This revision to 14 CFR part 71 establishes Class E airspace at Bob Baker Memorial Airport, Kiana, AK. This additional Class E airspace was created to accommodate aircraft executing two new SIAPs and a new departure procedure and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Bob Baker Memorial Airport, Kiana, AK.

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

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Bob Baker Memorial Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Kiana, AK [New]

Bob Baker Memorial Airport, Kiana, AK
(Lat. 66°58′33″ N., long. 160°26′12″ W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Bob Baker Memorial Airport, and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of 66°56′28″ N 161°02′38″ W and a 30-mile radius of 67°00′41″ N 159°46′18″ W excluding that airspace within Ambler, Selawik and Nome Class E airspace.

* * * * *

Issued in Anchorage, AK, on June 16, 2005.

Michael A. Tarr,

Acting Director, Alaska Flight Services Area Office.

[FR Doc. 05–12563 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulation Nos. 4 and 16]

RIN 0960—AF86

Continuation of Benefit Payments to Certain Individuals Who Are Participating in a Program of Vocational Rehabilitation Services, Employment Services, or Other Support Services

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are publishing final rules that amend the rules for the continuation of disability benefit payments under titles II and XVI of the Social Security Act (the Act) to certain individuals who recover medically while participating in an appropriate vocational rehabilitation (VR) program with a State vocational rehabilitation agency. We are amending these rules to conform with statutory amendments that extend eligibility for these continued benefit payments to certain individuals who recover medically while participating in an appropriate program of services. These include individuals participating in the Ticket to Work and Self-Sufficiency Program or another program of vocational rehabilitation services, employment services, or other support services approved by the Commissioner of Social Security. We are also extending eligibility for these continued benefit payments to students age 18 through 21 who recover medically, or whose disability is determined to have ended as a result of an age-18 redetermination, while participating in an individualized education program developed under the Individuals with Disabilities Education Act with an appropriate provider of services. Providers of services we may approve include a public or private organization with expertise in the delivery or coordination of vocational rehabilitation services, employment services, or other support services; or a public, private or parochial school that provides or coordinates a program of vocational rehabilitation services, employment services, or other support services carried out under an individualized program or plan.

DATES: *Effective Date:* These rules are effective July 25, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Hoover, Policy Analyst, Office of Program Development and Research, Social Security Administration, 128 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, e-mail to *regulations@ssa.gov*, or telephone (410) 965–5651 or TTY 1–800–325–0778 for information about these regulations. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet Web site, Social Security Online, at *http://www.socialsecurity.gov.*

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.* It is also available on the Internet site for the Social Security Administration (*i.e.*, Social Security Online): *http://policy.ssa.gov/pnpublic.nsf/LawsRegs.*

SUPPLEMENTARY INFORMATION:

Statutory Background

The Social Security Disability Amendments of 1980

The Social Security Disability Amendments of 1980 (the 1980 Amendments), Public Law 96–265, amended titles II and XVI of the Act to provide for the continuation of payment of disability benefits under the Social Security or SSI program to certain

individuals whose disability medically ceases while the individual is engaged in a program of vocational rehabilitation. Section 301 of the 1980 Amendments added sections 225(b) and 1631(a)(6) of the Act to provide that the payment of benefits based on disability shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement or eligibility is based, has or may have ceased, if:

- The individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and
- The Commissioner of Social Security determines that completion of the program, or its continuation for a specified period of time, will increase the likelihood that the individual may be permanently removed from the disability benefit rolls.

The purpose of these benefit continuation provisions is to encourage individuals to continue participating in the approved vocational rehabilitation program in which they are engaged at the time their disability ceases in ''those exceptional cases where the administration is able to determine that continuation in a vocational rehabilitation program will increase the likelihood of the individual's being permanently removed from the disability rolls.'' S. Rep. No. 408, 96th Cong., 1st Sess. 50 (1979).

Our regulations implementing the provisions of the Act added by section 301 of the 1980 Amendments provide that we may continue an individual's benefits (and, when the individual receives benefits as a disabled worker, the benefits of his or her dependents) after the individual's impairment is no longer disabling if:

- The individual's disability did not end before December 1980, the effective date of the provisions of the Act added by section 301 of the 1980 Amendments;
- The individual is participating in an appropriate program of vocational rehabilitation, that is, one that has been approved under a State plan approved under title I of the Rehabilitation Act of 1973 and that meets the requirements outlined in 34 CFR part 361 for a rehabilitation program;
- The individual began the program before his or her disability ended; and
- We have determined that the individual's completion of the program, or his or her continuation in the program for a specified period of time, will significantly increase the likelihood that the individual will not have to return to the disability benefit rolls.

Our regulations provide that these continued benefits generally will be stopped with the month the individual completes the program, stops participating in the program for any reason, or we determine that the individual's continuing participation in the program will no longer significantly increase the likelihood that the individual will be permanently removed from the disability benefit rolls.

The Omnibus Budget Reconciliation Act of 1987

Section 9112 of the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987), Public Law 100–203, amended section 1631(a)(6) of the Act to extend eligibility for continued benefits under that section to individuals who receive SSI benefits based on blindness and whose blindness ends while they are participating in an approved State vocational rehabilitation program. This amendment was effective April 1, 1988. We implemented this amendment through the issuance of operating instructions reflecting the extension of eligibility for continued benefits under section 1631(a)(6) of the Act to individuals receiving SSI blindness benefits. In addition, when we added §§ 416.2201(b) and 416.2212 to our regulations governing payments under the vocational rehabilitation cost reimbursement program, we included rules to reflect the expanded scope of the benefit continuation provision under section 1631(a)(6) of the Act resulting from the amendment made by section 9112 of OBRA 1987.

The Omnibus Budget Reconciliation Act of 1990

Section 5113 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990), Public Law 101–508, amended sections 225(b) and 1631(a)(6) of the Act to permit the continuation of benefit payments on account of an individual's participation in a non-State vocational rehabilitation program. Section 5113 amended sections 225(b) and 1631(a)(6) of the Act to allow the continuation of payment of Social Security disability benefits or SSI disability or blindness benefits to an individual whose disability or blindness ends while he or she is participating in a program of vocational rehabilitation services approved by us. These amendments extended to Social Security disability beneficiaries and SSI disability or blindness beneficiaries who medically recover while participating in an approved non-State vocational rehabilitation program the same benefit continuation rights applicable to individuals participating in an approved State vocational rehabilitation program. The amendments made by section 5113 of OBRA 1990 were effective for benefits payable for months beginning on or after November 1, 1991, and applied to individuals whose disability or blindness ended on or after that date. We implemented these amendments through the issuance of operating instructions reflecting the extension of eligibility for continued benefits under sections 225(b) and 1631(a)(6) of the Act to individuals who medically recover while participating in an approved non-State vocational rehabilitation program.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–193, amended section 1614(a)(3) of the Act to require redeterminations of the eligibility for SSI benefits based on disability of individuals who attain age 18 (age-18 redeterminations). The law requires us to redetermine the eligibility of individuals who attain age 18 and who were eligible for SSI benefits based on disability for the month before the month in which they attained age 18. In these disability redeterminations, the law requires us to use the rules for determining initial eligibility for adults (individuals age 18 or older) filing new applications for benefits. The medical improvement review standard used in continuing disability reviews does not apply to these disability redeterminations.

In § 416.987(b) of our regulations, we explain the rules for adult applicants that we use in redetermining the eligibility of an individual who has attained age 18. If we find that the individual is not disabled, we will find that his or her disability has ended, as explained in § 416.987(e). For an individual whose disability has ended as a result of an age-18 redetermination using the rules described in § 416.987(b), and who is participating in a program of vocational rehabilitation services when disability ends, our operating guides provide that we will consider the individual for eligibility for continued benefits under section 1631(a)(6) of the Act. For benefits to continue, the individual must be participating in an approved program of vocational rehabilitation services. In addition, the completion or continuation of the program must satisfy the test of increasing the likelihood of the individual's permanent removal from the benefit rolls. The individual must meet all of the other requirements of SSI eligibility.

The Ticket to Work and Work Incentives Improvement Act of 1999

On December 17, 1999, the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106–170, became law. Section 101(a) of this law added a new section 1148 of the Act to establish the Ticket to Work and Self-Sufficiency Program (Ticket to Work program). The purpose of the Ticket to Work program is to expand the universe of service providers available to beneficiaries with disabilities who are seeking employment services, vocational rehabilitation services, or other support services to assist them in obtaining, regaining, and maintaining self-supporting employment.

Under the Ticket to Work program, the Commissioner of Social Security may issue a ticket to Social Security disability beneficiaries and disabled or blind SSI beneficiaries for participation in the program. Each beneficiary has the option of using his or her ticket to obtain services from a provider known as an employment network or from a State vocational rehabilitation agency. The beneficiary will choose the employment network or State vocational rehabilitation agency, and the employment network or State vocational rehabilitation agency will provide services. Employment networks will also be able to choose whom they serve.

We published final regulations implementing the Ticket to Work program in the **Federal Register** on December 28, 2001 (66 FR 67370). The regulations were effective on January 28, 2002. Under the regulations, service providers who provide vocational rehabilitation services, employment services, or other support services can qualify as employment networks and serve beneficiaries under the Ticket to Work program. The expansion of options available to beneficiaries to obtain these services is intended to enhance the choices of beneficiaries in getting the services they need to obtain, regain and/or maintain employment.

Section 101(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 amended sections 225(b)(1) and 1631(a)(6)(A) of the Act by deleting ''a program of vocational rehabilitation services'' and inserting in its place ''a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services.'' The amended provisions of these sections now expressly authorize the continuation of benefit payments under section 225(b) or 1631(a)(6) of the Act to an individual whose disability or blindness ceases when the individual is participating in a program consisting of the Ticket to Work program under section 1148 of the Act or another program of vocational rehabilitation services, employment services, or other support services approved by the Commissioner of Social Security. The amendments did not change the requirement in sections 225(b)(2) and 1631(a)(6)(B) of the Act that, for an individual to qualify, the Commissioner of Social Security must determine that the completion of the program, or its continuation for a specified period of time, will increase the likelihood that the individual may be permanently removed from the disability or blindness benefit rolls.

The Individuals With Disabilities Education Act (IDEA)

Part B of IDEA, as amended (20 U.S.C. 1400 *et seq.*), establishes a program for assistance to States to provide special education and related services to children with disabilities. Part B of IDEA is administered by the U.S. Department of Education.

The concept of a ''disability'' under IDEA is distinct from the definition of disability under title II or title XVI of the Social Security Act. A person may have a disability for the purposes of part B of IDEA, but not meet or no longer meet the definition of disability under the title II or title XVI programs. In this preamble, when we use the term ''individual with a disability,'' ''student with a disability,'' or a similar term with reference to IDEA, we intend the term to have the same meaning as the term ''child with a disability'' as defined in section 602(3) of IDEA, as amended (20 U.S.C. 1401(3)).

In order for a State to receive assistance under part B of IDEA, an individualized education program (IEP) must be developed, reviewed and revised for each child with a disability. The IEP must be developed, reviewed and, if appropriate, revised by a team including, among others, the student, if appropriate, and his or her parents, a special education teacher, the student's regular education teacher, if the child is or may be participating in the regular education environment, and other individuals who have knowledge or special expertise concerning the child. For each student with a disability beginning at age 16 (or younger if determined appropriate by the IEP team), the IEP must include a statement of needed transition services for the student that promotes movement from school to post-school activities. Based on the individual student's needs, transition services might include postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

In the NPRM, we cited language from Public Law 105–17, the IDEA Amendments of 1997, enacted on June 4, 1997. Congress made changes to IDEA in Public Law 108–446 enacted on December 3, 2004. Effective July 1, 2005, the IDEA's provision regarding transition services in an IEP will provide that ''beginning not later than the first IEP to be in effect when the child is 16, and updated annually'' the child's IEP must include ''appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training education, employment, and where appropriate, independent living skills; * * * the transition services (including courses of study) needed to assist the child in reaching those goals; and * * * beginning not later than 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m).

Other Background

The National Longitudinal Transition Study

The National Longitudinal Transition Study (NLTS) was mandated by the U.S. Congress in 1983, and describes the experiences and outcomes of youth with disabilities nationally during secondary school and early adulthood. It was conducted from 1987 through 1993 by SRI International under contract number 300–87–0054 with the Office of Special Education Programs, Department of Education. (The electronic file of this document is available at *http://www.sri.com/policy/cehs/publications/dispub/nlts/nltssum.html.*) The NLTS provides evidence of the importance of supporting students with disabilities to stay in school. The study showed that:

- Students with disabilities who stay in school have better post-school outcomes than their peers who dropped out of school.
- Students with disabilities who stayed in school were more likely to enroll in postsecondary vocational or academic programs.
- There was a consistently positive relationship between staying in school and employment success.

In addition, the NLTS documented the importance of vocational education

and work experience programs in school:

- Students with disabilities who took occupationally oriented vocational education were significantly less likely to drop out of school than students who did not.
- Students with disabilities who participated in work experience programs missed significantly less school and were less likely to fail a course or drop out of high school.
- For the majority of students with disabilities (those with learning, speech or emotional disabilities or mild mental retardation) vocational education in high school was related to a higher probability of finding competitive jobs and higher earnings.
- For students with orthopedic or health impairments, participation in high school work experience programs translated into a higher likelihood of employment and higher earnings after high school.

The NLTS also documented that the post-school paths of youths with disabilities reflected their transition goals. Twelfth-graders who had a transition goal related to competitive employment or to postsecondary education were more likely to find jobs or go on to postsecondary schools than students who did not have such a goal.

The NLTS suggests that any efforts that encourage students with disabilities to stay in school and complete their educational and vocational training are important to improving post-school outcomes for students with disabilities. It indicates that students with disabilities drop out of school at a higher rate than students in the general population (38 percent vs. 25 percent).

The New Freedom Initiative

On February 1, 2001, President George W. Bush announced his New Freedom Initiative to promote the full participation of people with disabilities in all areas of society by increasing access to assistive and universally designed technologies, expanding educational and employment opportunities, and promoting full access to community life. Because a solid education is critical to ensuring that individuals with disabilities have an equal chance to succeed, the New Freedom Initiative includes goals of expanding access to quality education for youths with disabilities, ensuring that they receive support to transition from school to employment, and improving the high school graduation rates of students with disabilities. These final rules fully support the education and employment goals embodied in the New Freedom Initiative.

Changes to the Regulations

These final rules update our regulations to reflect amendments to sections 225(b) and 1631(a)(6) of the Act. They also make certain other changes to our regulations regarding eligibility for continued benefit payments under these sections of the Act.

On August 1, 2003, we published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (68 FR 45180) and provided a 60-day period for interested parties to comment. We received comments from 201 commenters. We summarize the significant comments we received on the proposed rules and provide our responses to those comments later in this preamble under ''Public Comments on the Notice of Proposed Rulemaking.'' As we explain below, in these final regulations, we are making certain changes from the proposed rules in response to public comments.

Subsequent to the publication of the NPRM, one of the sections that we proposed to amend (and that we are now amending in these final regulations) was redesignated as a result of a separate publication of a final rule affecting the regulations under the SSI program. Specifically, on September 11, 2003, we published a final rule in the **Federal Register** (68 FR 53506), relating to access to information held by financial institutions, that redesignated § 416.1321, ''*Suspensions; general,*'' as § 416.1320, and added a new § 416.1321, ''*Suspension for not giving us permission to contact financial institutions,*'' effective October 14, 2003. As a result of this change, the section identified in the NPRM as § 416.1321 is now § 416.1320. Reflecting this change, the final regulations that we are publishing today amend § 416.1320. Therefore, in explaining the changes to this section in this preamble, we identify the section affected as § 416.1320, rather than § 416.1321 as provided in the NPRM.

Extension of Eligibility for Continued Benefit Payments to Individuals Who Receive SSI Benefits Based on Blindness

We are revising §§ 416.1320(d), 416.1331(a) and (b), 416.1338(a) and (b), and 416.1402(j) to reflect the OBRA 1987 amendment that extended the scope of section 1631(a)(6) of the Act to cover individuals receiving SSI benefits based on blindness. We are revising these sections to indicate that an individual whose eligibility for SSI benefits is based on blindness and whose blindness ends due to medical recovery while he or she is participating in a program of vocational rehabilitation services, employment services, or other support services may be eligible for continued benefits under section 1631(a)(6) of the Act. We also are reflecting this expanded scope of the statute in new § 416.1338(e), that we discuss later in this preamble.

Individuals Whose Disability Is Determined To Have Ended as a Result of an Age-18 Redetermination of SSI Eligibility

We are revising the introductory text of § 416.1338(a) to indicate that individuals who receive SSI benefits based on disability and whose disability is determined to have ended under the rules in § 416.987(b) and (e)(1) in an age-18 redetermination may have their benefit payments continued under section 1631(a)(6) of the Act if the individual meets all other requirements for continued benefits.

Students Participating in an Individualized Education Program or Similar Individualized Program or Plan

The NLTS demonstrated that there was a consistently positive relationship between staying in school and employment success, and it suggested that any efforts that encourage students with disabilities to stay in school and complete their educational and vocational training are important to improving post-school outcomes for students with disabilities. The NLTS also documented the importance of vocational education and work experience programs in school.

We are, therefore, amending our rules to encourage young people with disabilities to stay in school and complete their educational and vocational training, and to encourage the families of students with disabilities to support them in preparing for employment and self-sufficiency. This is consistent with the goals of the President's New Freedom Initiative to expand access to quality education for youth with disabilities, ensure that they receive support to transition from school to employment, and improve the high school graduation rates of students with disabilities. Specifically, we are providing that, if a student age 18 through 21 is receiving services under an IEP or similar individualized program or plan, and if the student's disability ceases as a result of a continuing disability review or an age-18 disability redetermination, we will consider that the student's completion of or continuation in the IEP will increase the likelihood that he or she will not have to return to the disability or blindness benefit rolls.

We are providing benefit continuation for students whose disability is determined to have ended as a result of an age-18 redetermination and who are receiving services under IEPs in order to encourage young people with disabilities to stay in school and complete their educational and vocational training, and to encourage their families to support them in preparing for employment and self-sufficiency. We are providing benefit continuation on this basis for students with disabilities through age 21, since each State can receive a grant of assistance under IDEA for serving individuals with disabilities through age 21.

We are revising § 416.1338(a) to indicate that individuals who receive SSI benefits based on disability and whose disability is determined to have ended under the rules in § 416.987(b) and (e)(1) as a result of an age-18 redetermination may have their benefit payments continued under section 1631(a)(6) of the Act if the individual meets all other requirements for continued benefits. Young people whose disability has ended as a result of a redetermination of their eligibility at age 18 may have no improvement in their medical condition; they are found not disabled because they do not meet the initial disability standard that we apply to adult applicants. Therefore, we are adding rules to provide that we will consider completion of or continuation by a student age 18 through 21 in such a program to be analogous to the individualized determination that completion of or continuation in other approved programs of vocational rehabilitation services will improve an individual's level of education or work experience so that he or she would be more likely to be able to do other work that exists in the national economy, despite a possible future reduction in his or her residual functional capacity. On this basis, under the rules we are adding as §§ 404.328(b) and 416.1338(e)(2), we will determine that participation in such a program will increase the likelihood that an individual age 18 through 21 who is engaged in such a program at the time his or her disability ceases will not have to return to the disability rolls.

Individuals Participating in the Ticket to Work Program or Another Program of Vocational Rehabilitation Services, Employment Services, or Other Support Services Approved by Us

We are revising and updating our regulations regarding the type of program in that an individual must be participating in order to qualify for continued benefits. The regulations that we are revising by these final rules were based on the original provisions of sections 225(b) and 1631(a)(6) of the Act, and indicated that an individual whose impairment is no longer disabling may be considered for eligibility for continued benefits if he or she is participating in a vocational rehabilitation program provided by a State vocational rehabilitation agency. The amendments to sections 225(b)(1) and 1631(a)(6)(A) of the Act, made by OBRA 1990, extended consideration for continued benefits under sections 225(b) and 1631(a)(6) of the Act to individuals in approved non-State vocational rehabilitation programs.

We implemented the amendments made by OBRA 1990 by publishing operating instructions in 1992. These instructions identified an approved non-State vocational rehabilitation program as any non-State vocational rehabilitation service provider who meets one of the following criteria:

- Is licensed, certified, accredited, or registered, as appropriate, to provide vocational rehabilitation services in the State in which it provides services; or
- Is an agency of the Federal government (*e.g.*, the Department of Veterans Affairs); or
- Is a provider approved to provide services under a Social Security Administration research or demonstration project.

The amendments to sections 225(b)(1) and 1631(a)(6)(A) of the Act, made by section 101(b) of Public Law 106–170, further expanded the type of program in which an individual must be participating to qualify for continued benefits. These sections of the Act now provide that an individual may be considered for eligibility for continued benefits if she or he is participating in a program consisting of the Ticket to Work program or another program of vocational rehabilitation services, employment services, or other support services approved by the Commissioner of Social Security.

We are revising §§ 404.316(c)(1), 404.337(c)(1), 404.352(d)(1), 404.902(s), 404.1586(g)(1), 404.1596(c)(4), 404.1597(a), 416.1320(d)(1), 416.1331(a) and (b), 416.1338(a), and 416.1402(j) to take account of the amendments to sections 225(b)(1) and 1631(a)(6)(A) of the Act. In the revisions to these sections of the regulations, we are using the term ''an appropriate program of vocational rehabilitation services, employment services, or other support services'' to refer to the program in which an individual must be participating in order to be considered for eligibility for continued benefits under sections 225(b) and 1631(a)(6) of the Act, as amended.

We are also amending our regulations by adding new §§ 404.327(a) and 416.1338(c) to explain the term ''an appropriate program of vocational rehabilitation services, employment services, or other support services.'' We explain that an appropriate program of vocational rehabilitation services, employment services, or other support services means one of the following:

- A program that is carried out under an individual work plan with an employment network under the Ticket to Work program;
- A program that is carried out under an individualized plan for employment with a State vocational rehabilitation agency operating under a State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720–751);
- A program that is carried out under an individualized plan for employment with an organization administering a Vocational Rehabilitation Services Project for American Indians with Disabilities authorized under section 121 of part C of title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 741);
- A program of vocational rehabilitation services, employment services, or other support services that is carried out under a similar, individualized written employment plan with an agency of the Federal government (*e.g.*, the Department of Veterans Affairs), a one-stop delivery system or specialized one-stop center described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)), or another provider of services approved by us;
- A program of vocational rehabilitation services, employment services, or other support services that is carried out under a similar, individualized written employment plan and provided by or coordinated by a public, private, or parochial school; or
- For a student age 18 through 21, an individualized education program (IEP) developed under policies and procedures approved by the Secretary of Education for assistance to States for the education of individuals with disabilities under the Individuals with Disabilities Education Act (IDEA), as amended (20 U.S.C. 1400 *et seq.*).

We also are including an appropriate cross-reference to § 404.327(a) or § 416.1338(c) in the sections of the regulations that state the basic requirement that the individual must be participating in an appropriate program.

In the NPRM, we included the provisions relating to a program of

services from an organization administering a Vocational Rehabilitation Services Project for American Indians with Disabilities in proposed §§ 404.327(a)(3) and 416.1338(c)(3). In these final rules, we deleted these proposed sections and incorporated the provisions in §§ 404.327(a)(2) and 416.1338(c)(2). We clarify in these rules that a program of services from an organization administering such a project must be carried out under an individualized plan for employment, which is the same requirement that applies to a program of services from a State vocational rehabilitation agency. Because of this change, we renumbered the provisions that were set out in the NPRM as proposed §§ 404.327(a)(4) and (5) and 416.1338(c)(4) and (5). In the final rules, these provisions are now §§ 404.327(a)(3) and (4) and 416.1338(c)(3) and (4), respectively.

The proposed rules also provided that a program of vocational rehabilitation services, employment services, or other support services that is carried out under an individualized written employment plan similar to an individualized plan for employment would qualify as an appropriate program, if it is carried out with a provider of services approved by us. Based on public comments we received on the NPRM, we are making changes in the provisions in §§ 404.327(a)(3) and 416.1338(c)(3) of the final rules. The final rules provide that a program of such services that is carried out under an individualized written employment plan similar to an individualized plan for employment will qualify as an appropriate program if it is carried out with an agency of the Federal government (*e.g.*, the Department of Veterans Affairs), a one-stop delivery system or specialized one-stop center described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)), or another provider of services approved by us. We also include in §§ 404.327(a)(3) and 416.1338(c)(3) of the final rules examples of service providers that we may approve under these sections. We explain that providers we may approve include, but are not limited to—

- A public or private organization with expertise in the delivery or coordination of vocational rehabilitation services, employment services, or other support services ; or
- A public, private or parochial school that provides or coordinates a program of vocational rehabilitation services, employment services, or other support services carried out under an individualized program or plan.

Definition of ''Participating'' in a Program

We are amending our regulations to add new §§ 404.327(b) and 416.1338(d) to explain when an individual will be considered to be ''participating'' in the program. Sections 225(b) and 1631(a)(6) of the Act and the regulations that we are revising by these final rules did not define the term ''participating.''

Our operating instructions have used the term ''actively involved'' in a vocational rehabilitation program and have defined active participation in a State vocational rehabilitation program as placement in one of four State vocational rehabilitation agency status codes: vocational rehabilitation plan developed and approved; counseling and guidance; physical restoration; and training, including vocational and college training. No other State vocational rehabilitation agency status codes are considered ''active participation'' for purposes of continued benefit payments. Other providers of vocational rehabilitation services, employment services, or other support services do not use these codes and several State vocational rehabilitation agencies no longer use them.

Our operating instructions on demonstrating participation in a non-State vocational rehabilitation program have required that we obtain information regarding the individual's status, including whether the individual is actively receiving services such as counseling and guidance, physical restoration, or academic, business, vocational, or other training. We have used this information to determine on a case-by-case basis whether the individual's status in the non-State program is equivalent to the State vocational rehabilitation status codes used to determine participation.

In the new §§ 404.327(b) and 416.1338(d), we explain the criteria we will now use to determine whether an individual is ''participating'' in the program for purposes of continued benefit payments. We explain that if an individual is in an appropriate program (as described in §§ 404.327(a) and 416.1338(c)), we will consider the individual to be participating in the program if the individual is taking part in the activities and services outlined in his or her plan. If the individual is age 18 through 21 and receiving services under an IEP developed under policies and procedures approved by the Secretary of Education for assistance to States for the education of individuals with disabilities under the Individuals with Disabilities Education Act, we will consider the individual to be participating in the program if he or she is taking part in the activities and services outlined in the IEP.

In response to public comments, we have provided in §§ 404.327(b)(3) and 416.1338(d)(3) that an individual will be considered to be participating in his or her program during interruptions in his or her program, provided that such interruptions are temporary. We explain that, for an interruption to be considered temporary, the individual must resume taking part in the activities and services outlined in his or her individual work plan, individualized plan for employment, similar individualized written employment plan, or individualized education program, as the case may be, no more than three months after the month the interruption occurred.

Determining Increased Likelihood of Permanent Removal From the Disability Benefit Rolls

We are amending our regulations to add new §§ 404.328 and 416.1338(e) to explain how we will determine whether an individual's completion of or continuation in an appropriate program of vocational rehabilitation services, employment services, or other support services will increase the likelihood that the individual will not have to return to the disability benefit rolls. Sections 225(b) and 1631(a)(6) of the Act provide for continued benefits to persons who are no longer disabled due to medical recovery and who are participating in an appropriate program only if we can determine that completion or continuation of the program ''will increase the likelihood'' that the individual will remain permanently off the disability benefit rolls. As the individual is not disabled and, by definition, is able to engage in substantial gainful activity without the need for the program, there is already a ''likelihood'' that the individual will stay off the disability benefit rolls. Benefits may be continued to the individual only if completion or continuation of the program will ''increase'' this likelihood. For this reason, new §§ 404.328 and 416.1338(e) explain that we will determine that the completion of the program, or its continuation for a specified period of time, will increase the likelihood that the individual will not have to return to the disability benefit rolls if we find that the individual's completion of or continuation in the program will provide the individual with:

- Work experience so that the individual would more likely be able to do past relevant work despite a possible future reduction in his or her residual

functional capacity (*i.e.*, the work must last long enough for the individual to learn to do it, be substantial gainful activity, and have physical and mental requirements that the individual could meet even if his or her residual functional capacity were significantly reduced); or

• An improvement in any of the vocational factors of education or skilled or semi-skilled work experience so that he or she would more likely be able to adjust to other work that exists in the national economy, despite a possible future reduction in his or her residual functional capacity.

We are also providing a rule in §§ 404.328 and 416.1338(e) for students age 18 through 21 who are participating in an IEP developed under policies and procedures approved by the Secretary of Education for assistance to States for the education of individuals with disabilities under the IDEA, as amended (20 U.S.C. 1400 *et seq.*). Under the final rules, we will find that these students' completion of or continuation in the program will increase the likelihood that they will not have to return to the disability or blindness benefit rolls.

Additionally, we are providing a rule in §§ 404.328 and 416.1338(e) to address that if an individual is receiving post IEP transition services, we will determine that the transition services will increase the likelihood that he or she will not have to return to the disability or blindness rolls if those services meet the requirements in §§ 404.328(a) and 416.1338(e)(1).

As a result of our revisions regarding how we will make a likelihood determination, we have eliminated the examples previously provided in §§ 404.316(c)(1)(iv) and 416.1338(a)(4) regarding making a ''likelihood'' decision because these examples do not directly illustrate the revised rules. Additionally, in our revisions to §§ 404.316(c), 404.337(c), 404.352(d), 404.902(s), 404.1586(g), 404.1596(c), 404.1597(a), 416.1320(d), 416.1331(b), 416.1338(a), and 416.1402(j), we have removed the modifier ''significantly'' from the phrase ''significantly increase the likelihood'' in these provisions to make the regulations conform more closely to the language of sections 225(b)(2) and 1631(a)(6)(B) of the Act.

Summary of Revisions to the Regulations on Continuation of Social Security Disability and SSI Disability or Blindness Benefits

We are revising §§ 404.316(c)(1), 404.337(c)(1), 404.352(d)(1), 404.1586(g)(1), 404.1596(c)(4), 416.1320(d) and 416.1338(a) to indicate that an individual's benefits may be continued after his or her impairment is no longer disabling (or, for SSI blindness benefits, after his or her blindness ends due to medical recovery) if:

• The individual is participating in an appropriate program of vocational rehabilitation services, employment services, or other support services, as described in new § 404.327(a) and (b) or in new § 416.1338(c) and (d);

• The individual began participating in the program before the date his or her disability or blindness ended; and

• We have determined under new § 404.328 or new § 416.1338(e) that the individual's completion of the program, or continuation in the program for a specified period of time, will increase the likelihood that the individual will not have to return to the disability or blindness benefit rolls.

In the revision of § 416.1338(a), we also explain that an individual whose disability is determined to have ended as a result of an age-18 redetermination may continue to receive SSI benefits if the requirements described above are met.

We are revising §§ 404.316(c)(2), 404.337(c)(2), 404.352(d)(2), 404.1586(g)(2) and 416.1338(b) to indicate that we will stop an individual's benefits with the earliest of these months:

• The month in which the individual completes the program;

• The month in which the individual stops participating in the program for any reason; or

• The month in which we determine under § 404.328 or § 416.1338(e) that continued participation will no longer increase the likelihood that the individual will not have to return to the disability or blindness benefit rolls.

We are revising the *Exception* in §§ 404.316(c)(2), 404.337(c)(2), 404.352(d)(2), and 404.1586(g)(2) by inserting the phrase ''provided that you meet all other requirements for entitlement to and payment of benefits through such month'' following the word ''ends.''

We are adding new §§ 404.327, 404.328 and 416.1338(c), (d) and (e) to our regulations. In the new §§ 404.327(a) and 416.1338(c), we explain what we mean by ''an appropriate program of vocational rehabilitation services, employment services, or other support services.'' In new §§ 404.327(b) and 416.1338(d), we explain when we will consider an individual to be ''participating'' in the program.

We are adding new §§ 404.328 and 416.1338(e) to explain when we will find that an individual's completion of or continuation in an appropriate program of vocational rehabilitation services, employment services, or other support services will increase the likelihood that the individual will not have to return to the disability or blindness benefit rolls.

We are revising § 404.902(s) by removing reference to ''an appropriate vocational rehabilitation program'' and inserting in its place ''an appropriate program of vocational rehabilitation services, employment services, or other support services.'' We are making this same change in the heading of § 404.1586(g).

We are revising § 404.1597(a) to eliminate the references to November 1980 and December 1980; to remove reference to ''an appropriate vocational rehabilitation program'' and insert in its place ''an appropriate program of vocational rehabilitation services, employment services, or other support services'; and to indicate that the individual must have started participating in the program before the date his or her disability ended.

We are revising § 416.1331(a) and (b). We are combining the discussion of the rules in the first and third sentences of the previous § 416.1331(a) into a single sentence to indicate that the last month for which we can pay SSI benefits based on disability or blindness is the second month after the month in which the individual's disability or blindness ends. We explain that § 416.1338 provides an exception to this rule for certain individuals who are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services. We also are adding to § 416.1331(a) appropriate cross-references to the sections of the SSI regulations that explain when disability or blindness ends. In addition, we are removing from § 416.1331(a) the cross-reference to § 416.261 that discusses special SSI benefits for working individuals who have a disabling impairment or impairments. We consider inclusion of this cross-reference in § 416.1331 to be inappropriate since § 416.1331 is concerned with the termination of SSI benefits in cases in which an individual's disability or blindness has ended.

We are revising § 416.1331(b) by removing reference to ''an appropriate vocational rehabilitation program'' and inserting in its place ''an appropriate program of vocational rehabilitation services, employment services, or other support services.'' In addition, we are revising § 416.1331(b) by inserting the term ''or blind'' following the term

''disabled'' and inserting the term ''or blindness'' following the term ''disability.''

In addition to the other revisions to § 416.1338, previously discussed, we are revising the section heading to read: ''If you are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services.''

We are revising § 416.1402(j) by removing ''an appropriate vocational rehabilitation program'' and inserting in its place ''an appropriate program of vocational rehabilitation services, employment services, or other support services,'' and by adding references to ''blindness'' and ''blind.''

Other Changes

We are also making technical changes to cross-references in § 416.987(b) to reflect our current rules. The first and third sentences of § 416.987(b) refer to specific paragraphs in § 416.920, the regulation that provides our rules for the sequential evaluation process we use for making initial determinations in adult claims. In 2003, we added a new paragraph (d) to § 416.920 and redesignated the remaining paragraphs of the section. Therefore, we must change our references in § 416.987(b) from § 416.920(f) to § 416.920(g).

Public Comments on the Notice of Proposed Rulemaking

When we published the NPRM in the **Federal Register** on August 1, 2003 (68 FR 45180), we provided interested parties 60 days to submit comments. We received comments from 201 commenters, including national, State and community-based agencies and private organizations serving people with disabilities, parents of beneficiaries, and other individuals. We carefully considered the comments we received on the proposed rules in publishing these final regulations. The comments we received and our responses to the comments are set forth below. Although we condensed, summarized, or paraphrased the comments, we believe that we have expressed the views accurately and have responded to all of the significant issues raised.

In addition, several of the comments were about subjects that were outside the scope of this rulemaking. Except as noted, we have not summarized and responded to these comments below.

Comments and Responses

In general, most of the commenters supported our proposal to amend the rules to extend benefits to young people age 18 through 21 with disabilities who are participating in IEPs when their disabilities medically improve, or when they are determined not to meet the requirements for disability as adults, noting that society would profit from this investment in young people. Many commenters also supported our proposal to extend eligibility for continuation of disability benefits to individuals participating in other programs of vocational rehabilitation services, employment services, or other support services. Additionally, many commenters supported our proposal to remove the modifier ''significantly'' from the phrase ''significantly increase the likelihood'' to make the regulations conform more closely to the language in the Act.

Comment: Most of the commenters supported our proposal to amend the rules to extend benefits to young people age 18 through 21 with disabilities who are receiving services under an IEP developed under the IDEA. However, many of the commenters recommended extending this rule to all young people age 18 through 21 with disabilities who are attending public, private, or parochial schools who may not be receiving services under IDEA, noting that the new regulation should protect any young person who is losing his or her SSI disability benefit at age 18 and is enrolled in a school or an appropriate employment or vocational program.

Response: While many young people with disabilities are placed in private schools by public agencies and may be receiving services under an IEP under IDEA when their disability ends as a result of a continuing disability review or an age-18 redetermination, other young people with disabilities attending public, private or parochial schools may not be participating in an IEP when their disability ends. Our proposed rules and these final rules do not preclude these individuals from being eligible under the general rules for continuation of disability benefits to individuals participating in other programs that qualify as an appropriate program of vocational rehabilitation services, employment services, or other support services and that we determine will increase the likelihood that the individual will not have to return to the disability benefit rolls. The final rules in §§ 404.327(a)(3) and 416.1338(c)(3) define an appropriate program to include, among others, a program of vocational rehabilitation services, employment services, or other support services that is carried out under an individualized written employment plan similar to an individualized plan for employment—which is the plan used by State vocational rehabilitation agencies—with a provider of services approved by us. Under these rules, we may approve as a provider of services a public, private or parochial school having such a program. To make this clear, we are including provisions in final §§ 404.327(a)(3) and 416.1338(c)(3) to explain that a provider of services that we may approve under these sections may include, among others, a public, private or parochial school that provides or coordinates vocational rehabilitation services, employment services, or other support services.

Comment: Many commenters recommended applying the new regulations retroactively to young adults who have already lost their SSI and Medicaid benefits as a result of age-18 redeterminations, and who have been participating in vocational rehabilitation programs. They noted that SSA has been legally obligated to apply the provision for continuation of benefit payments in these cases since 1996, when Congress amended the law to require age-18 redeterminations.

Many commenters also recommended that we apply the new rules for persons in an IEP retroactively to young adults who have already lost their SSI and Medicaid benefits, have an IEP, and are not yet 22 years old.

Response: We have been applying the benefit continuation provision to recipients of SSI benefits whose disability was determined to have ended in an age-18 redetermination, but who were participating in a vocational rehabilitation program, under our operating guides since 1997, shortly after the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193) required these redeterminations. From that time, we have had operating instructions in place that have interpreted section 1631(a)(6) of the Act to apply to SSI recipients participating in appropriate vocational rehabilitation programs whose disability ends as a result of an age-18 redetermination. These final rules incorporate into our regulations this interpretation of the Act. The final rules do not represent a change from this interpretation of the Act.

We are not adopting the commenters' second recommendation. These final regulations establish new rules for individuals age 18 through 21 who are participating in an IEP when their disabilities end as a result of a continuing disability review or an age-18 redetermination. As is our usual practice when we promulgate new regulations, we apply the regulations to cases that are pending in our administrative review process,

including cases that are on remand from a Federal court. We do not reopen previous determinations or decisions that have become final, and that were correct under the policy then in use, to apply a new policy retroactively. Consistent with our usual practice when we amend our regulations, we will apply the new rules in determinations or decisions about continuation of benefit payments that we make on or after the effective date of these final regulations.

Comment: Many commenters recommended revising our proposed rules to extend benefits to individuals who complete an IEP but then continue on to another type of program of vocational rehabilitation services, employment services, or other support services. They indicated that in some instances such individuals are eligible for services under an IEP and subsequently under a vocational rehabilitation plan. They stated that there is no neat line that can be drawn between participating in a transitional program under an IEP and a continuation of that program under the auspices of the State vocational rehabilitation program. They also noted that the State VR agency is often required to coordinate with officials responsible for the public education of students with disabilities in order ''to facilitate the transition of students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services under the responsibility of the State vocational rehabilitation agency.'' They suggested that the rule should encourage transition from special education to State vocational rehabilitation programs when that transition is appropriate—particularly for those cases where the special education student is also a client of the State vocational rehabilitation agency prior to exiting special education. The commenters recommended that we consider school and vocational rehabilitation as part of a larger whole and that benefits should be continued under this rule for special education students who transition from their high school special education program into a rehabilitation program under the auspices of the State vocational rehabilitation agency.

Response: We did not adopt this recommendation. Our rules do not exclude a post-IEP transition plan from qualifying as an appropriate program of vocational rehabilitation service, employment services, or other support services. However, an IEP by itself comprises a unique and comprehensive plan of both education and employment services designed to provide the individual with the skills and training likely to keep him or her off the benefit rolls. Therefore, we have added language that completion or continuation in an IEP will increase the likelihood that you will not have to return to the disability or blindness benefit rolls. If an individual is receiving post IEP transition services, we will determine that the transition services will increase the likelihood that he or she will not have to return to the disability or blindness rolls if those services meet the requirements in §§ 404.328(a) and 416.1338(e)(1).

Comment: One commenter recommended that we redefine what would be considered ''youth,'' for example to age 25, provided that the individual was involved in either a vocational rehabilitation program or school (including post-secondary education). The commenter noted that this would allow for young people to have the supports they need to get a good start on having a career, making them less likely to be dependent on disability benefits for the majority of their adulthoods. He noted that very few people before the age of 25 have a firm grasp on careers and people with significant disabilities are often behind because of the barriers they face. For example, people with significant disabilities who are going to college may need to spend an extra year at school if they can't handle as many courses per semester.

Response: We did not use the term ''youth'' in our proposed rules, and we are not using the term in these final rules. The final rules provide for the continuation of benefit payments to students who are participating in an IEP when their disability ends and who are age 18 through age 21. We are providing benefit continuation for those students participating in an IEP through age 21, since each State can receive a grant of assistance from the Department of Education under IDEA to serve students with disabilities under IEP's through age 21.

The rules for continuation of benefits to individuals participating in an appropriate program of vocational rehabilitation services, employment services, or other support services are not limited to individuals in a particular age group, other than the rules for individuals participating in an IEP.

Comment: One commenter recommended suspending continuing disability reviews while an individual is participating in an approved and appropriate program of schooling or employment preparation, to bring these rules for continued benefit payments for individuals who are participating in such a program into full alignment with the provision for suspending medical reviews for beneficiaries who are using a ticket under the Ticket to Work program.

Response: This recommendation is outside the scope of these rules and would require a statutory change. Section 221(i) of the Act requires that we conduct continuing disability reviews if a person has been determined to be under a disability. Section 1148(i) of the Act provides an exception to this requirement. That section specifically provides that ''During any period for which an individual is using, as defined by the Commissioner, a ticket to work and self-sufficiency issued under this section, the Commissioner (and any applicable State agency) may not initiate a continuing disability review or other review under section 221 of whether the individual is or is not under a disability or a review under title XVI similar to any such review under section 221.'' The Act does not similarly provide for suspending continuing disability reviews for a beneficiary participating in any other approved and appropriate program of schooling or employment preparation.

Comment: A number of commenters noted that our current operating instructions provide that ''once the VR program participation stops for more than 30 days, benefits will be ceased and cannot be resumed.'' They note further that this procedure will not adequately address the reality of programs designed for children and young adults with disabilities, because ''the nature of many impairments may result in times when it is not possible for the young adult to participate in the IEP for a temporary period. There also may be gaps in activity available under the IEP or a similar plan, for example, if a program is not in session during the summer months, but will resume again in the fall, or if there is a modest gap in time between one program and the next program that the person is scheduled to participate in under an IEP.''

Response: We agree with the commenters that our rules should account for short interruptions in an individual's participation. We have modified our definition of ''participating'' in the final rules. We have added §§ 404.327(b)(3) and 416.1338(d)(3) to indicate that an individual will be considered to be participating in his or her program under § 404.327(b)(1) or (2) or § 416.1338(d)(1) or (2) during interruptions in the program, provided that such interruptions are temporary.

We explain that for an interruption to be considered temporary, the individual must resume taking part in the activities and services outlined in his or her individual work plan, individualized plan for employment, similar individualized written employment plan, or individualized education program, as the case may be, no more than three months after the month the interruption occurred.

Comment: One commenter requested that we describe good cause criteria for a break in participation in education or appropriate programs of vocational rehabilitation. The commenter noted that the proposed rules stated that we will stop benefits with the month the individual stops participating in the program for any reason and indicated that this could cause individuals to lose benefit continuation protection because of temporary exacerbations in their medical condition, personal emergencies, etc.

Response: As we explain in our previous response to comments regarding interruptions in participation, we have modified our definition of ''participating'' to account for temporary interruptions in a person's program, provided that the individual resumes taking part in the activities and services outlined in his or her plan or program, as appropriate, no more than three months after the month the interruption occurred.

Comment: A number of commenters stated that our current operating procedures provide that, for cases involving potential eligibility for benefits under section 225(b) or 1631(a)(6) of the Act, the State disability determination services (DDS) will send the case folder to SSA's Office of Disability Operations (ODO) to determine the issue of benefit continuation after releasing the notice of benefit termination to the claimant, and that ODO makes the determination before returning the case folder to the Social Security office for any necessary action to continue benefits. They express their concern that this means that there will generally be a gap in SSI benefits (and Medicaid) for people who could benefit from these rules, since the State DDS initiates the termination notice before we determine whether benefit continuation will apply. The commenters noted that unless this timing is changed for the young adult cases, it will defeat the purpose of sections 225(b) and 1631(a)(6) of the Act and undermine the effort to better coordinate the SSI, Medicaid, and educational systems.

Another commenter recommended that we determine continuing eligibility under this provision before we notify an individual of his or her benefit termination as a result of an age-18 redetermination. The commenter suggested that this would ensure continuity of benefits and program participation for these young people by ensuring that a determination of their continued eligibility for SSI benefits will be made before notifying them of a termination of their benefits as a result of an age-18 redetermination.

Response: If we have information indicating an individual's potential eligibility for continued benefit payments, our operating procedures will not result in a gap in the payment of Social Security or SSI benefits to an individual eligible for continued benefit payments. Benefits are not terminated until after we have determined that an individual is not entitled to continued benefit payments because he or she is not participating in an appropriate program of vocational rehabilitation services, employment services or other support services, or because completion or continuation of this program will not increase the likelihood that the individual may be permanently removed from the disability rolls. If we find that the beneficiary is entitled to continued benefit payments and all other eligibility requirements are met, benefit payments will continue without a gap.

Comment: One commenter recommended that we defer making a continuing disability determination for an individual who is participating in a program through an employment network under the Ticket to Work program or through a State vocational rehabilitation agency until after we make a determination regarding continuing benefit payments because of such participation.

Response: We did not adopt this recommendation. Individuals are eligible for continued benefit payments under section 225(b) and/or section 1631(a)(6) of the Act only if we have determined that they are no longer medically disabled. It would impose an unnecessary administrative burden on us to make a determination on the continuation of benefits before we determine whether the individual is still medically under a disability.

Comment: Several commenters urged us to suspend age-18 redeterminations for SSI recipients who are participating in a special education program until these final regulations are published. They also recommended that we apply this new policy to all cases that are in the adjudicative ''pipeline.'' These commenters indicated that halting terminations and applying the new policy to pending cases will benefit individuals turning 18 who, under the previous rules, might be unable to qualify for continued benefit payments since they are often still in school and do not have a vocational rehabilitation plan.

One commenter stated that in furtherance of the rehabilitation goals evidenced by the proposed regulations and the Ticket to Work and Work Incentives Improvement Act of 1999, we should apply the new rules on the continuation of benefit payment to all termination cases that are in the adjudicative process.

Response: The Act requires us to perform a disability redetermination for every individual who is eligible for SSI for the month before the month in which he or she attains age 18. We have no authority to change this requirement through our regulations.

We will apply these new rules to all continuing disability review and age-18 redetermination cases that are pending in our administrative review process as of the effective date of these final rules for any individuals who meet the eligibility requirements under these final rules.

Comment: Other commenters noted their understanding that persons receiving services from a variety of State and Federal agencies might qualify under § 404.327, including but not limited to, a person with a Plan to Achieve Self-Support (PASS), a person receiving services from the Department of Veterans Affairs, a person receiving services from a One Stop funded through the Department of Labor, or a person receiving services to achieve employment from a State developmental disabilities or mental health agency. They recommended that we clarify § 404.327(a) to state that these services are appropriate programs of vocational rehabilitation services, employment services, or other support services that are carried out under a similar individualized, written employment plan with another provider of services approved by us.

Response: We have adopted this recommendation in part. The PASS provision is an employment support that allows an SSI recipient who is disabled or blind to set aside income or resources, or both, for a specified time for use in achieving a work goal (see §§ 416.1180 to 416.1182 and §§ 416.1225 to 416.1227 of our existing regulations), so that we do not count them as income and resources for SSI purposes. Under the PASS provision, we do not count a disabled or blind recipient's income that he or she uses or sets aside to use to fulfill a PASS, or

resources identified as necessary to fulfill a PASS, in determining the recipient's continuing eligibility for or amount of SSI benefits. The PASS provision is available for an SSI recipient who is currently disabled or blind, while the provision for continued benefits under section 1631(a)(6) of the Act applies to a person who is no longer disabled or blind. For this reason, a PASS will not qualify as an appropriate program of vocational rehabilitation services, employment services, or other support services for the purpose of the benefit continuation provision.

We are modifying the provisions in the final rules to indicate that agencies of the Federal government and one-stop delivery systems or specialized one-stop centers under the Workforce Investment Act of 1998 are approved providers of services. In §§ 404.327(a)(3) and 416.1338(c)(3) of the final rules, we provide that a program of vocational rehabilitation services, employment services, or other support services that is carried out under an individualized written employment plan similar to an individualized plan for employment will qualify as an appropriate program if it is carried out with an agency of the Federal government (*e.g.*, the Department of Veterans Affairs), a one-stop delivery system or specialized one-stop center described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)), or another provider of services approved by us. We also include in §§ 404.327(a)(3) and 416.1338(c)(3) of the final rules examples of service providers that we may approve under these sections. We explain that providers we may approve include, but are not limited to—

- A public or private organization with expertise in the delivery or coordination of vocational rehabilitation services, employment services, or other support services; or
- A public, private or parochial school that provides or coordinates a program of vocational rehabilitation services, employment services, or other support services carried out under an individualized program or plan.

Comment: One commenter noted that he was opposed to extending these benefit continuation rules to include individuals who are still in school with an IEP if they are not actively enrolled in a VR plan or the Ticket to Work program. He observed that the Social Security Act, by continuing benefits to certain individuals who recover medically while participating in a VR program, provides an incentive for individuals to enroll in a program of VR services prior to age 18. Under this incentive, the individual may continue to receive benefit payments even if the individual's disability is determined to have ended as the result of a continuing disability review or an age-18 redetermination. The commenter states that this incentive would be removed if the regulations are changed to include individuals under an IEP, because not all IEPs include a feasible vocational goal that will lead to employment as defined in the Rehabilitation Act. He noted that individuals have the opportunity to enroll in a VR plan at age 16, or earlier, providing students with the ability to build a transition with a VR service provider, to access vocational evaluation or a situational assessment in time to receive recommendations to pursue high school courses required for vocational training or higher education.

Response: We do not agree that extending continued benefit payment protection to individuals enrolled in an IEP will remove an incentive for individuals to enroll in a program of VR services, employment services, or other support services directed toward an employment goal prior to age 18 or will prevent such individuals from receiving necessary services to obtain the skills and education to achieve an employment goal. Rather, extending the continued benefit payment protection to individuals age 18 to 21 enrolled in an IEP, will provide such individuals with additional choices in selecting a provider of services, and will encourage students participating in an IEP to continue or complete the program, thus assisting them in efforts to obtain the necessary skills and education needed for employment and self-sufficiency. Our rules do not exclude services received through a subsequent post-IEP transition plan from qualifying as an appropriate program of vocational rehabilitation service, employment services, or other support services.

Comment: One commenter stated that the proposed changes in the SSA regulations that affect a VR consumer's receipt of benefits are too stringent, leave too much room for error, and could lead to discretionary purging of consumers from the benefit rolls. The commenter cited our existing operating instructions and stated that we have a narrow definition of a consumer's active participation and successful completion of a VR program. The commenter noted that our operating instructions use the term ''actively involved'' in a vocational rehabilitation program and define active participation in a State vocational rehabilitation program as placement in one of four State vocational rehabilitation status codes.

Response: We disagree with the commenter. We added new §§ 404.327(b) and 416.1338(d) to explain how we will determine when an individual is considered to be participating in the program. As the commenter noted, our operating instructions have relied on the use of State agency codes to determine ''active'' participation. However, under these final rules, we will consider the individual to be participating in the program if the individual is taking part in the activities and services outlined in his or her individual work plan, individualized plan for employment, similar individualized written employment plan, or individualized education program regardless of the individual's status or stage in the program. These final rules will be reflected in revised operating instructions.

Comment: Several commenters recommended that we consider a variety of ways and actions to publicize the new rules regarding benefit continuation to ensure that the public, field offices, disability examiners, adjudicators, and other interested and concerned parties are aware of the new rules, especially as the rules apply to age-18 redeterminations and special issues for that age group. Commenters suggested that we should aggressively publicize and promote the benefit continuation rules through instructional materials such as administrative messages, operating procedures and other instructional material to assure that beneficiaries subject to age-18 redeterminations and continuing disability reviews are aware of the continued benefit protection provisions because of participation in an appropriate program of vocational rehabilitation services, employment services or other support services.

Response: These recommendations concern our administrative actions rather than regulatory action, and are therefore outside the scope of the rules. However, we will undertake a variety of steps to ensure effective implementation of these final rules, including some of the actions and procedures suggested by the commenters to publicize these rules.

Comment: A number of commenters noted that, to maximize the benefit of this benefit continuation provision in improving the long-term outcomes for young people with disabilities, it is essential that the families of these individuals and the individuals themselves receive notice of these protections not only at the time of a redetermination at age 18, but much earlier. They note that, if we were to provide this information to the family at

regular intervals—such as annually, beginning on the child's 14th birthday—this information could help families better understand how the SSI, Medicaid, and educational systems can be coordinated to assist their child, even if the child might otherwise lose SSI at age 18. This could help to underscore the importance of developing realistic but ambitious IEPs and would be consistent with the transition start-up age in IDEA. They recommend that the final regulation be modified to provide that we will provide regular and periodic notice of these protections to parents of children receiving SSI and to the children themselves on an annual basis beginning at age 14 (or later if the child first becomes eligible for SSI after that date).

Response: We did not adopt this recommendation. It would not be feasible for us to send out individual notices to all beneficiaries on the disability benefit rolls to advise of the possibility of benefit continuation following a possible future determination of medical improvement or a determination that they do not meet the adult definition of disability at age 18. However, as we note in our response to the previous comment, we will undertake a number of actions to publicize these rules.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these final rules meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were subject to OMB review.

Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities because they would primarily affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Federalism

We have reviewed these final rules under the threshold criteria of Executive Order 13132, ''Federalism,'' and determined that they will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 says that no persons are required to respond to a collection of information unless it displays a valid OMB control number. In accordance with the PRA, SSA is providing notice that OMB has approved the information collection requirements contained in §§ 404.316(c), 404.327, 404.328, 404.337(c), 404.352(d), 404.1586(g), 404.1596, 404.1597(a), 416.1320(d), 416.1331(a) and (b), and 416.1338 of these final rules. The OMB Control Number for this collection is 0960–0282, expiring March 31, 2006.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security, Vocational rehabilitation.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Vocational rehabilitation.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ For the reasons set out in the preamble, we are amending parts 404 and 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart D—[Amended]

■ 1. The authority citation for subpart D of part 404 continues to read as follows:

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

■ 2. Section 404.316 is amended by revising paragraph (c) to read as follows:

§ 404.316 When entitlement to disability benefits begins and ends.

* * * * *

(c)(1) Your benefits, and those of your dependents, may be continued after your impairment is no longer disabling if—

(i) You are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services, as described in § 404.327(a) and (b);

(ii) You began participating in the program before the date your disability ended; and

(iii) We have determined under § 404.328 that your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability benefit rolls.

(2) We generally will stop your benefits with the earliest of these months—

(i) The month in which you complete the program; or

(ii) The month in which you stop participating in the program for any reason (see § 404.327(b) for what we mean by ''participating'' in the program); or

(iii) The month in which we determine under § 404.328 that your continuing participation in the program will no longer increase the likelihood that you will not have to return to the disability benefit rolls.

Exception to paragraph (c): In no case will we stop your benefits with a month earlier than the second month after the month your disability ends, provided that you meet all other requirements for entitlement to and payment of benefits through such month.

* * * * *

■ 3. A new undesignated centered heading and new §§ 404.327 and 404.328 are added following § 404.325 to read as follows:

Rules Relating to Continuation of Benefits After Your Impairment Is No Longer Disabling

§ 404.327 When you are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services.

(a) *What is an appropriate program of vocational rehabilitation services, employment services, or other support services?* An appropriate program of vocational rehabilitation services, employment services, or other support services means—

(1) A program that is carried out under an individual work plan with an employment network under the Ticket to Work and Self-Sufficiency Program under part 411 of this chapter;

(2) A program that is carried out under an individualized plan for employment with—

(i) A State vocational rehabilitation agency (*i.e.*, a State agency administering or supervising the administration of a State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720–751) under 34 CFR part 361; or

(ii) An organization administering a Vocational Rehabilitation Services Project for American Indians with Disabilities authorized under section 121 of part C of title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 741);

(3) A program of vocational rehabilitation services, employment services, or other support services that is carried out under a similar, individualized written employment plan with—

(i) An agency of the Federal Government (for example, the Department of Veterans Affairs);

(ii) A one-stop delivery system or specialized one-stop center described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)); or

(iii) Another provider of services approved by us; providers we may approve include, but are not limited to—

(A) A public or private organization with expertise in the delivery or coordination of vocational rehabilitation services, employment services, or other support services; or

(B) A public, private or parochial school that provides or coordinates a program of vocational rehabilitation services, employment services, or other support services carried out under an individualized program or plan;

(4) An individualized education program developed under policies and procedures approved by the Secretary of Education for assistance to States for the education of individuals with disabilities under the Individuals with Disabilities Education Act, as amended (20 U.S.C. 1400 *et seq.*); you must be age 18 through age 21 for this provision to apply.

(b) *When are you participating in the program?* (1) You are participating in a program described in paragraph (a)(1), (a)(2), or (a)(3) of this section when you are taking part in the activities and services outlined in your individual work plan, your individualized plan for employment, or your similar individualized written employment plan, as appropriate.

(2) If you are a student age 18 through 21 receiving services under an individualized education program described in paragraph (a)(4) of this section, you are participating in your program when you are taking part in the activities and services outlined in your program or plan.

(3) You are participating in your program under paragraph (b)(1) or (2) of this section during temporary interruptions in your program. For an interruption to be considered temporary, you must resume taking part in the activities and services outlined in your plan or program, as appropriate, no more than three months after the month the interruption occurred.

§ 404.328 When your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability benefit rolls.

(a) We will determine that your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability benefit rolls if your completion of or your continuation in the program will provide you with—

(1) Work experience (see § 404.1565) so that you would more likely be able to do past relevant work (see § 404.1560(b)), despite a possible future reduction in your residual functional capacity (see § 404.1545); or

(2) Education (see § 404.1564) and/or skilled or semi-skilled work experience (see § 404.1568) so that you would more likely be able to adjust to other work that exists in the national economy (see § 404.1560(c)), despite a possible future reduction in your residual functional capacity (see § 404.1545).

(b) If you are a student age 18 through age 21 participating in an individualized education program described in § 404.327(a)(4), we will find that your completion of or continuation in the program will increase the likelihood that you will not have to return to the disability benefit rolls.

(c) If you are receiving transition services after having completed an individualized education program as described in paragraph (b) of this section, we will determine that the transition services will increase the likelihood that you will not have to return to the disability benefit rolls if they meet the requirements in § 404.328(a).

■ 4. Section 404.337 is amended by revising paragraph (c) to read as follows:

§ 404.337 When does my entitlement to widow's and widower's benefits start and end?

* * * * *

(c)(1) Your benefits may be continued after your impairment is no longer disabling if—

(i) You are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services, as described in § 404.327(a) and (b);

(ii) You began participating in the program before the date your disability ended; and

(iii) We have determined under § 404.328 that your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability benefit rolls.

(2) We generally will stop your benefits with the earliest of these months—

(i) The month in which you complete the program; or

(ii) The month in which you stop participating in the program for any reason (see § 404.327(b) for what we mean by ''participating'' in the program); or

(iii) The month in which we determine under § 404.328 that your continuing participation in the program will no longer increase the likelihood that you will not have to return to the disability benefit rolls.

Exception to paragraph (c): In no case will we stop your benefits with a month earlier than the second month after the month your disability ends, provided that you meet all other requirements for entitlement to and payment of benefits through such month.

* * * * *

■ 5. Section 404.352 is amended by revising paragraph (d) to read as follows:

§ 404.352 When does my entitlement to child's benefits begin and end?

* * * * *

(d)(1) Your benefits may be continued after your impairment is no longer disabling if—

(i) You are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services, as described in § 404.327(a) and (b);

(ii) You began participating in the program before the date your disability ended; and

(iii) We have determined under § 404.328 that your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability benefit rolls.

(2) We generally will stop your benefits with the earliest of these months—

(i) The month in which you complete the program; or

(ii) The month in which you stop participating in the program for any reason (see § 404.327(b) for what we mean by ''participating'' in the program); or

(iii) The month in which we determine under § 404.328 that your continuing participation in the program will no longer increase the likelihood that you will not have to return to the disability benefit rolls.

Exception to paragraph (d): In no case will we stop your benefits with a month earlier than the second month after the month your disability ends, provided that you meet all other requirements for entitlement to and payment of benefits through such month.

* * * * *

Subpart J—[Amended]

■ 6. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note).

■ 7. Section 404.902 is amended by revising paragraph (s) to read as follows:

§ 404.902 Administrative actions that are initial determinations.

* * * * *

(s) Whether your completion of, or continuation for a specified period of time in, an appropriate program of vocational rehabilitation services, employment services, or other support services will increase the likelihood that you will not have to return to the disability benefit rolls, and thus, whether your benefits may be continued even though you are not disabled;

* * * * *

Subpart P—[Amended]

■ 8. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

■ 9. Section 404.1586 is amended by revising paragraph (g) to read as follows:

§ 404.1586 Why and when we will stop your cash benefits.

* * * * *

(g) *If you are in an appropriate program of vocational rehabilitation services, employment services, or other support services.* (1) Your benefits, and those of your dependents, may be continued after your impairment is no longer disabling if—

(i) You are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services, as described in § 404.327(a) and (b);

(ii) You began participating in the program before the date your disability ended; and

(iii) We have determined under § 404.328 that your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability benefit rolls.

(2) We generally will stop your benefits with the earliest of these months—

(i) The month in which you complete the program; or

(ii) The month in which you stop participating in the program for any reason (see § 404.327(b) for what we mean by ''participating'' in the program); or

(iii) The month in which we determine under § 404.328 that your continuing participation in the program will no longer increase the likelihood that you will not have to return to the disability benefit rolls.

Exception to paragraph (d): In no case will we stop your benefits with a month earlier than the second month after the month your disability ends, provided that you meet all other requirements for entitlement to and payment of benefits through such month.

■ 10. In § 404.1596, the heading and introductory text of paragraph (c) are republished, and paragraph (c)(4) is revised to read as follows:

§ 404.1596 Circumstances under which we may suspend your benefits before we make a determination.

* * * * *

(c) *When we will not suspend your cash benefits.* We will not suspend your cash benefits if—

* * * * *

(4) Even though your impairment is no longer disabling,

(i) You are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services, as described in § 404.327(a) and (b);

(ii) You began participating in the program before the date your disability ended; and

(iii) We have determined under § 404.328 that your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability benefit rolls.

■ 11. Section 404.1597 is amended by revising paragraph (a) to read as follows:

§ 404.1597 After we make a determination that you are not now disabled.

(a) *General.* If we determine that you do not meet the disability requirements of the law, your benefits generally will stop. We will send you a formal written notice telling you why we believe you are not disabled and when your benefits should stop. If your spouse and children are receiving benefits on your social security number, we will also stop their benefits and tell them why. The notices will explain your right to reconsideration if you disagree with our determination. However, your benefits may continue even though your impairment is no longer disabling, if you are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services (see § 404.327). You must have started participating in the program before the date your disability ended. In addition, we must have determined that your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability benefit rolls. (See §§ 404.316(c), 404.328, 404.337(c), 404.352(d), and 404.1586(g).) You may still appeal our determination that you are not disabled even though your benefits are continuing because of your participation in an appropriate program of vocational rehabilitation services, employment services, or other support services. You may also appeal a determination that your completion of the program, or your continuation in the program for a specified period of time, will not increase the likelihood that you will not have to return to the disability benefit rolls and, therefore, you are not entitled to continue to receive benefits.

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—[Amended]

■ 12. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a),

and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

■ 13. Section 416.987 is amended by revising the first and third sentences of paragraph (b) to read as follows:

§ 416.987 Disability redeterminations for individuals who attain age 18.

* * * * *

(b) *What are the rules for age-18 redeterminations?* When we redetermine your eligibility, we will use the rules for adults (individuals age 18 or older) who file new applications explained in §§ 416.920(c) through (g). * * * If you are working and we find that you are disabled under § 416.920(d) or (g), we will apply the rules in §§ 416.260ff.

* * * * *

Subpart M—[Amended]

■ 14. The authority citation for subpart M of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1129A, 1611–1614, 1619, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1320a–8a, 1382–1382c, 1382h, and 1383).

■ 15. Section 416.1320 is amended by revising paragraph (d) to read as follows:

§ 416.1320 Suspensions; general.

* * * * *

(d) *Exception.* Even though conditions described in paragraph (a) of this section apply because your impairment is no longer disabling or you are no longer blind under § 416.986(a)(1), (a)(2) or (b), we will not suspend your benefits for this reason if—

(1) You are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services, as described in § 416.1338(c) and (d);

(2) You began participating in the program before the date your disability or blindness ended; and

(3) We have determined under § 416.1338(e) that your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability or blindness benefit rolls.

■ 16. Section 416.1331 is amended by revising paragraphs (a) and (b) to read as follows:

§ 416.1331 Termination of your disability or blindness payments.

(a) *General.* The last month for which we can pay you benefits based on disability or blindness is the second month after the month in which your disability or blindness ends. (See §§ 416.987(e), 416.994(b)(6) and 416.994a(g) for when disability ends, and § 416.986 for when blindness ends.) See § 416.1338 for an exception to this rule if you are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services. You must meet the income, resources, and other eligibility requirements to receive any of the benefits referred to in this paragraph. We will also stop payment of your benefits if you have not cooperated with us in getting information about your disability or blindness.

(b) *After we make a determination that you are not now disabled or blind.* If we determine that you do not meet the disability or blindness requirements of the law, we will send you an advance written notice telling you why we believe you are not disabled or blind and when your benefits should stop. The notice will explain your right to appeal if you disagree with our determination. You may still appeal our determination that you are not now disabled or blind even though your payments are continuing because of your participation in an appropriate program of vocational rehabilitation services, employment services, or other support services. You may also appeal a determination that your completion of, or continuation for a specified period of time in, an appropriate program of vocational rehabilitation services, employment services, or other support services will not increase the likelihood that you will not have to return to the disability or blindness benefit rolls and, therefore, you are not eligible to continue to receive benefits.

* * * * *

■ 17. Section 416.1338 is revised to read as follows:

§ 416.1338 If you are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services.

(a) *When may your benefits based on disability or blindness be continued?* Your benefits based on disability or blindness may be continued after your impairment is no longer disabling, you are no longer blind as determined under § 416.986(a)(1), (a)(2) or (b), or your disability has ended as determined under § 416.987(b) and (e)(1) in an age-18 redetermination, if—

(1) You are participating in an appropriate program of vocational rehabilitation services, employment services, or other support services, as described in paragraphs (c) and (d) of this section;

(2) You began participating in the program before the date your disability or blindness ended; and

(3) We have determined under paragraph (e) of this section that your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability or blindness benefit rolls.

(b) *When will we stop your benefits?* We generally will stop your benefits with the earliest of these months—

(1) The month in which you complete the program; or

(2) The month in which you stop participating in the program for any reason (see paragraph (d) of this section for what we mean by ''participating'' in the program); or

(3) The month in which we determine under paragraph (e) of this section that your continuing participation in the program will no longer increase the likelihood that you will not have to return to the disability or blindness benefit rolls.

Exception to paragraph (b): In no case will we stop your benefits with a month earlier than the second month after the month your disability or blindness ends, provided that you are otherwise eligible for benefits through such month.

(c) *What is an appropriate program of vocational rehabilitation services, employment services, or other support services?* An appropriate program of vocational rehabilitation services, employment services, or other support services means—

(1) A program that is carried out under an individual work plan with an employment network under the Ticket to Work and Self-Sufficiency Program under part 411 of this chapter;

(2) A program that is carried out under an individualized plan for employment with—

(i) A State vocational rehabilitation agency (*i.e.,* a State agency administering or supervising the administration of a State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720–751)) under 34 CFR part 361; or

(ii) An organization administering a Vocational Rehabilitation Services Project for American Indians with Disabilities authorized under section 121 of part C of title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 741);

(3) A program of vocational rehabilitation services, employment services, or other support services that is carried out under a similar, individualized written employment plan with—

(i) An agency of the Federal government (for example, the Department of Veterans Affairs);

(ii) A one-stop delivery system or specialized one-stop center described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)); or

(iii) Another provider of services approved by us; providers we may approve include, but are not limited to—

(A) A public or private organizations with expertise in the delivery or coordination of vocational rehabilitation services, employment services, or other support services; or

(B) A public, private or parochial school that provides or coordinates a program of vocational rehabilitation services, employment services, or other support services carried out under an individualized program or plan;

(4) An individualized education program developed under policies and procedures approved by the Secretary of Education for assistance to States for the education of individuals with disabilities under the Individuals with Disabilities Education Act, as amended (20 U.S.C. 1400 *et seq.*); you must be age 18 through age 21 for this provision to apply.

(d) When are you participating in the program? (1) You are participating in a program described in paragraph (c)(1), (c)(2) or (c)(3) of this section when you are taking part in the activities and services outlined in your individual work plan, your individualized plan for employment, or your similar individualized written employment plan, as appropriate.

(2) If you are a student age 18 through 21 receiving services under an individualized education program described in paragraph (c)(4) of this section, you are participating in your program when you are taking part in the activities and services outlined in your program or plan.

(3) You are participating in your program under paragraph (d)(1) or (2) of this section during temporary interruptions in your program. For an interruption to be considered temporary, you must resume taking part in the activities and services outlined in your plan or program, as appropriate, no more than three months after the month the interruption occurred.

(e) *How will we determine whether or not your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability or blindness benefit rolls?* (1) We will determine that your completion of the program, or your continuation in the program for a specified period of time, will increase the likelihood that you will not have to return to the disability or blindness benefit rolls if your completion of or your continuation in the program will provide you with—

(i) Work experience (see § 416.965) so that you would more likely be able to do past relevant work (see § 416.960(b)), despite a possible future reduction in your residual functional capacity (see § 416.945); or

(ii) Education (see § 416.964) and/or skilled or semi-skilled work experience (see § 416.968) so that you would more likely be able to adjust to other work that exists in the national economy (see § 416.960(c)), despite a possible future reduction in your residual functional capacity (see § 416.945).

(2) If you are a student age 18 through age 21 participating in an individualized education program described in paragraph (c)(4) of this section, we will find that your completion of or continuation in the program will increase the likelihood that you will not have to return to the disability or blindness benefit rolls.

(3) If you are receiving transition services after having completed an individualized education program as described in paragraph (e)(2) of this section, we will determine that the transition services will increase the likelihood that you will not have to return to the disability benefit rolls if they meet the requirements in paragraph (e)(1) of this section.

Subpart N—[Amended]

■ 18. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b).

■ 19. Section 416.1402 is amended by revising paragraph (j) to read as follows:

§ 416.1402 Administrative actions that are initial determinations.

* * * * *

(j) Whether your completion of, or continuation for a specified period of time in, an appropriate program of vocational rehabilitation services, employment services, or other support services will increase the likelihood that you will not have to return to the disability or blindness benefit rolls, and thus, whether your benefits may be continued even though you are not disabled or blind;

* * * * *

[FR Doc. 05–12432 Filed 6–23–05; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Jacksonville 05–076]

RIN 1625–AA00

Safety Zone; Indian River, New Smyrna, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone around a fireworks barge as it launches fireworks in New Smyrna, Florida. The rule prohibits entry into the safety zone without the permission of the Captain of the Port Jacksonville or his designated representative. The rule is needed to protect participants, vendors, and spectators from the hazards associated with the launching of fireworks.

DATES: This rule is effective from 9 p.m. on June 25, 2005, until 10 p.m. on June 25, 2005.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket (COTP Jacksonville 05–076) and are available for inspection and copying at Coast Guard Marine Safety Office Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, Florida, 32211, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jamie Bigbie at Coast Guard Marine Safety Office Jacksonville, FL, tel: (904) 232–2640, ext. 105.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553 (b)(B), the Coast Guard finds that good cause exists for not publishing a NRPM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued and delay the rule's effective date, is contrary to public interest because immediate action is necessary to protect the public and waters of the United States.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners and will place Coast Guard vessels in the vicinity of this zone to advise mariners of the restriction.

Background and Purpose

This rule is needed to protect spectator craft in the vicinity of the fireworks presentation from the hazards associated with the storage, preparation and launching of fireworks. Anchoring, mooring, or transiting within this zone is prohibited, unless authorized by the Captain of the Port, Jacksonville, FL or his designated representative. The temporary safety zone encompasses all waters within 500 yards in any direction around the fireworks barge during the storage, preparation and launching of fireworks. During the fireworks show, the barge will be located at approximate position 29°03′00″ N, 080°55′00″ W.

Regulatory Evaluation

This regulation 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 the order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS) because these regulations will only be in effect for a short period of time and the impact on routine navigation is expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominate in their field, 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 upon a substantial number of small entities because the regulations will only be in effect for a short period of time and the impact on routine navigation is expected to be minimal.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969

(NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are 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. A new temporary § 165.T07–076 is added to read as follows:

§ 165.T07–076 Safety Zone, Indian River, FL.

(a) *Regulated area.* The Coast Guard is establishing a temporary safety zone around a fireworks barge on the Indian River, New Smyrna, Florida. The safety zone includes all waters within 500 yards in any direction from the fireworks barge located at approximate position 29°03′00″ N, 080°55′00″ W.

(b) *Definitions.* The following definitions apply to this section:

Designated representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP), Jacksonville, Florida, in the enforcement of the regulated navigation areas and security zones

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Jacksonville, FL or his designated representative.

(d) *Dates.* This rule is effective from 9 p.m. on June 25, 2005, until 10 p.m. on June 25, 2005.

Dated: June 14, 2005.

David L. Lersch,

Captain, U.S. Coast Guard, Captain of the Port Jacksonville.

[FR Doc. 05–12540 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2005–PA–0014; FRL–7927–5]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Control of VOC Emissions From Aerospace, Mobile Equipment, and Wood Furniture Surface Coating Applications for Allegheny County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Allegheny County portion of the Commonwealth of Pennsylvania State Implementation Plan (SIP). This revision, submitted by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD), establishes standards and requirements to control volatile organic compounds (VOCs) emissions from aerospace, mobile equipment, and wood furniture surface coating applications, and modifies existing regulations for general and specific coating processes. This revision updates the ACHD's regulations to make them consistent with the Commonwealth's SIP-approved regulations regarding the affected surface coating processes. EPA is approving this revision to the Allegheny portion of the Commonwealth of Pennsylvania SIP in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on August 23, 2005, without further notice, unless EPA receives adverse written comment by July 25, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2005–PA–0014, by one of the following methods:

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

B. Agency Web site: *http://www.docket.epa.gov/rmepub/index.jsp* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *campbell.dave@epa.gov.*

D. Mail: R03–OAR–2005–PA–0014, David Campbell Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2005–PA–0014. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov Web sites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov*

SUPPLEMENTARY INFORMATION:

I. Background

On March 18, 2004, the Commonwealth of Pennsylvania, on behalf of Allegheny County, submitted a formal revision to its State Implementation Plan (SIP). The revision modifies existing regulations under ACHD's Rules and Regulations, Article XXI, sections 2101.20, 2105.01, and 2105.10 pertaining to surface coating processes in general, and creates new sections, 2105.74, 2105.75, and 2105.76 specific to the aerospace, automotive, and wood furniture industries, respectively. These new regulations are applicable to all automotive touch-up and repair facilities, certain aircraft maintenance facilities, and wood furniture manufacturing facilities that meet or exceed specified emission thresholds.

II. Summary of SIP Revision

The March 18, 2004 revision to the Pennsylvania SIP, submitted by PADEP on behalf of Allegheny County, is based on recent PADEP amendments, EPA Control Technique Guidelines (CTGs), and National Emission Standards for Hazardous Air Pollutants (NESHAPS). This revision updates Allegheny County's Article XXI Air Pollution Control Regulations to make them consistent with previously SIP-approved PADEP regulations. Listed below is a summary of the SIP revision. For more detailed information on this revision, please see the technical support document (TSD) prepared for this rulemaking.

A. Part A—General, section 2101.20, Definitions

This revision adds and revises definitions in Article XXI, section 2101.20, Definitions, for terms that are used in the substantive sections of 2105.74, Aerospace Manufacturing and Rework, 2105.75, Mobile Equipment Repair and Refinishing, and 2105.76, Wood Furniture Manufacturing Operations.

B. Part E—Source Emission and Operating Standards, section 2105.01, Equivalent Compliance Techniques

This revision revises the VOC equivalency provisions of section 2105.01, Equivalent Compliance Techniques of the ACHD's Article XXI Air Pollution Control Regulations. The revision authorizes compliance with section 2105.01 by the use of an alternative method if that method is incorporated by the Department into an applicable federally enforceable installation permit or operating permit subject to review by EPA. The revision removes the requirement that alternative compliance methods for certain VOC requirements be submitted to EPA as a SIP revision. This action will streamline the process for establishing alternative compliance methods. EPA is approving this revision because any alternative compliance method would be reviewed by EPA as a part of the permitting process to ensure that it produced results equivalent to the method specified in the regulations, thereby not jeopardizing attainment of the ozone standard.

C. Part E—Source Emission and Operating Standards-Subpart 1, VOC Sources, section 2105.10, Surface Coating Processes

This revision to the ACHD's Article XXI, section 2105.10, Surface Coating Processes, revises equations for calculating VOC content, recalculates emission limits on a ''per solids'' basis, and modifies recordkeeping requirements. This regulation applies to a surface coating process category, regardless of the size, which emits or has emitted VOCs into the outdoor atmosphere in quantities greater than 3 pounds (1.4 kilograms) per hour, 15 pounds (7 kilograms) per day, or 2.7 tons (2,455 kilograms) per year during any calendar year since January 1, 1987. A person may not cause or permit the emission into the outdoor atmosphere of VOCs from a surface coating process category in the regulation, unless the VOC content of each as applied coating is equal to or less than the standard specified in the regulation, or the overall weight of VOCs emitted to the atmosphere is reduced through the use of vapor recovery or incineration or another method which is acceptable under section 2105.01, Equivalent Compliance Techniques.

D. Part E—Source Emission and Operating Standards, Subpart 7—Miscellaneous Sources, section 2105.74, Aerospace Manufacturing and Rework

This revision adds a new section, 2105.74 to ACHD's Article XXI, adopting requirements to control VOC emissions from coatings and solvents used in the aerospace industry. This regulation updates ACHD's Article XXI Air Pollution Control regulations to reflect existing PADEP aerospace regulations, establishing emission limits and reasonably available control technology (RACT) for aerospace sources that have the potential to emit (PTE) 25 tons a year or more of VOCs. The aerospace industry includes all manufacturing facilities that produce an aerospace vehicle or component and all facilities that repair these aerospace products. An aerospace vehicle or component is defined as, but not limited to, any fabricated part, processed part, assembly of parts, or completed unit of any aircraft including, but not limited to airplanes, helicopters, missiles, rockets, and space vehicles. In addition to manufacturing and repair facilities, some shops may specialize in providing a service, such as chemical milling, rather than actually producing a component or assembly. Aerospace coatings that meet the definitions of the specific coatings of the regulation shall meet those allowable VOC limits.

E. Part E—Source Emission and Operating Standards, Subpart 7—Miscellaneous Sources, section 2105.75, Mobile Equipment Repair and Refinishing

This revision adds a new section, 2105.75, to ACHD's Article XXI Air Pollution Control Regulations, establishing allowable VOC-content requirements for coatings used in mobile equipment repair and refinishing. This regulation updates ACHD's Article XXI Air Pollution Control regulations to reflect existing PADEP mobile equipment repair and refinishing regulations. This regulation establishes emission limits, equations for calculating content, application techniques, and housekeeping requirements for non-assembly plant mobile equipment repair and refinishing sources. This regulation applies to a person who applies mobile equipment repair and refinishing or color-matched coatings to mobile equipment or mobile equipment components. This regulation does not apply to a person who applies surface coatings to mobile equipment or mobile equipment components if the surface coating process is subject to the miscellaneous metal parts finishing

requirements of the ACHD's Article XXI, section 2105.10, Surface Coating Processes, if the surface coating process is at an automobile assembly plant, or if the person applying the coatings does not receive compensation for the application of the coatings. A person subject to this regulation may not apply to mobile equipment or mobile equipment components any automotive pretreatment, automotive primer-surfacer, automotive primer-sealer, automotive topcoat, and automotive specialty coatings, including any VOC-containing materials added to the original coating supplied by the manufacturer, that contain VOCs in excess of the limits specified in the regulation.

F. Part E—Source Emission and Operating Standards, Subpart 7—Miscellaneous Sources, section 2105.76, Wood Furniture Manufacturing Operations

This revision adds a new section, 2105.74 to ACHD's Article XXI, adopting new VOC regulations for wood furniture operations including wood furniture finishing, cleaning, and wash-off operations. This regulation establishes emission limits and control technology for sources that have a PTE of 25 tons a year or more of VOCs from wood furniture manufacturing operations. In addition to setting VOC emission limits, the new regulation establishes work practice standards, compliance procedures, monitoring requirements, recordkeeping and reporting requirements, and special provisions for facilities using an emissions averaging approach. The limits in this regulation do not apply to a coating used exclusively for determining product quality and commercial acceptance, touch-up and repair, and other small quantity coatings if the quantity of coating does not exceed 50 gallons per year for a single coating, and a total of 200 gallons per year for all coatings combined for the facility. The owner or operator of the facility must submit a written request to the Department which must be approved prior to the use of the coatings.

An owner or an operator of a facility subject to this regulation shall limit VOC emissions from wood furniture manufacturing operations by: (1) Applying either waterborne topcoats or a combination of sealers and topcoats and strippable spray booth coatings with a VOC content equal to or less than the standards specified in the regulation; (2) using an emissions averaging program which meets the requirements of the emissions averaging provisions of the regulation; (3) using a control system that achieves a reduction in emissions equivalent to 0.8 lb VOC/lb solids for topcoats, or 1.8 lbs VOC/lb solids for topcoats and 1.9 lbs VOC/lb solids for sealers; and (4) using a combination of the above methods.

III. Final Action

EPA is approving a revision to the Allegheny County portion of the Pennsylvania SIP consisting of amendments to section 2101.20, Definitions, section 2105.01, Equivalent Compliance Techniques, and section 2105.10, Surface Coating Processes. In addition, EPA is also approving the addition to ACHD's Article XXI of new sections 2105.74, Aerospace Manufacturing and Rework, section 2105.75, Mobile Equipment Repair and Refinishing, and section 2105.76, Wood Furniture Manufacturing Operations. These revisions were submitted by the Commonwealth of Pennsylvania on behalf of Allegheny County on March 18, 2004, and update ACHD's Article XXI regulations to make them consistent with existing PADEP regulations.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on August 23, 2005, without further notice unless EPA receives adverse comment by July 25, 2005. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

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 (Public Law 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 requirement, 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.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

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 August 23, 2005. Filing a petition for reconsideration by the Administrator of this final rule, revising Allegheny County's Article XXI, VOC Control, General and Specific Surface Coating Applications, 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 15, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

■ 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 NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph(c)(2) is amended by revising the title of the third column to read ''State effective date''; adding an entry for Part A, 2101.20 after the existing entry for 2101.20; adding entries for Part E, 2105.74, 2105.75, and 2105.76; and revising entries for Part E, 2105.01 and 2105.10 to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(2) * * *

Article XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
	PART A General			
*	* * * * *	*		*
2101.20	Definitions	7/10/03	6/24/05 [Insert page number where the document begins]	
*	* * * * *	*		*
	PART E Source Emission and Operating Standards			
2105.01	Equivalent Compliance Techniques	7/10/03	6/24/05 [Insert page number where the document begins]	
*	* * * * *	*		*
	Subpart 1 VOC Sources			
2105.10	Surface Coating Processes	7/10/03	6/24/05 [Insert page number where the document begins]	
*	* * * * *	*		*
	Subpart 7 Miscellaneous VOC Sources			
*	* * * * *	*		*
2105.74	Aerospace Manufacturing and Rework	7/10/03	6/24/05 [Insert page number where the document begins]	

Article XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
2105.75	Mobile Equipment Repair and Refinishing	7/10/03	6/24/05 [Insert page number where the document begins]	
2105.76	Wood Furniture Manufacturing Operations	7/10/03	6/24/05 [Insert page number where the document begins]	
*	*	*	*	*	*	*

* * * * *

[FR Doc. 05–12581 Filed 6–23–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[FRL–7927–4]

Delegation of Authority to the States of Iowa and Kansas for New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP); and Maximum Achievable Control Technology (MACT) Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: The states of Iowa and Kansas have submitted updated regulations for delegation of EPA authority for implementation and enforcement of NSPS, NESHAP, and MACT. The submissions cover new EPA standards and, in some instances, revisions to standards previously delegated. EPA's review of the pertinent regulations shows that they contain adequate and effective procedures for the implementation and enforcement of these Federal standards. This action informs the public of delegations to the above-mentioned agencies.

DATES: This document is effective on June 24, 2005. The dates of delegation can be found in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Copies of documents relative to this action are available for public inspection during normal business hours at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

Effective immediately, all notifications, applications, reports, and other correspondence required pursuant to the newly delegated standards and revisions identified in this document must be submitted with respect to sources located in the jurisdictions identified in this document, to the following addresses:

Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Urbandale, Iowa 50322.

Kansas Department of Health and Environment, Bureau of Air and Radiation, 1000 SW., Jackson, Suite 310, Topeka, Kansas 66612.

Duplicates of required documents must also continue to be submitted to the EPA Regional Office at the above address.

FOR FURTHER INFORMATION CONTACT: Leland Daniels at (913) 551–7651, or by e-mail at *daninels.leland@epa.gov.*

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

What does this action do?

The EPA is providing notice of an update to its delegable authority for implementation and enforcement of the Federal standards shown in the tables below to the states of Iowa and Kansas. This rule updates the delegation tables previously published at 68 FR 69029 (December 11, 2003). The EPA has established procedures by which these agencies are automatically delegated the authority to implement the standards when they adopt regulations which are identical to the Federal standards. We then periodically provide notice of the new and revised standards for which delegation has been given.

What is the authority for delegation?

1. Section 111(c)(1) of the Clean Air Act (CAA) authorizes EPA to delegate authority to any state agency which submits adequate regulatory procedures for implementation and enforcement of the NSPS program. The NSPS are codified at 40 CFR part 60.

2. Section 112(l) of the CAA and 40 CFR part 63, subpart E, authorizes the EPA to delegate authority to any state or local agency which submits adequate regulatory procedures for implementation and enforcement of emission standards for hazardous air pollutants. The hazardous air pollutant standards are codified at 40 CFR parts 61 and 63, respectively.

What does delegation accomplish?

Delegation confers primary responsibility for implementation and enforcement of the listed standards to the respective state and local air agencies. However, EPA also retains the concurrent authority to enforce the standards.

What has been delegated?

Tables I, II, and III below list the delegated standards. Each item listed in the Subpart column has two relevant dates listed in each column for each state. The first date in each block is the reference date to the CFR contained in the state rule. In general, the state or local agency has adopted the applicable standard through the date as noted in the table. The second date is the most

recent effective date of the state agency rule for which the EPA has granted the delegation. This notice specifically addresses revisions to the columns for Iowa and Kansas.

What has not been delegated?

1. The EPA regulations effective after the first date specified in each block have not been delegated, and authority for implementation of these regulations is retained solely by EPA.

2. In some cases, the standards themselves specify that specific provisions cannot be delegated. You should review the applicable standard for this information.

3. In some cases, the agency rules do not adopt the Federal standard in its entirety. Each agency rule (available from the respective agency) should be consulted for specific information.

4. In some cases, existing delegation agreements between the EPA and the agencies limit the scope of the delegated standards. Copies of delegation agreements are available from the state agencies, or from this office.

5. With respect to 40 CFR part 63, subpart A, General Provisions (see Table III), the EPA has determined that sections 63.6(g), 63.6(h)(9), 63.7(e)(2)(ii) and (f), 63.8(f), and 63.10(f) cannot be delegated. Additional information is contained in an EPA memorandum titled ''Delegation of 40 CFR Part 63 General Provisions Authorities to State and Local Air Pollution Control Agencies'' from John Seitz, Director, Office of Air Quality Planning and Standards, dated July 10, 1998.

List of Delegation Tables

TABLE I.—DELEGATION OF AUTHORITY—PART 60 NSPS—REGION 7

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
A	General Provisions	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
D	Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
Da	Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
Db	Industrial-Commercial-Institutional Steam Generating Units	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
Dc	Small Industrial-Commercial-Institutional Steam Generating Units.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
E	Incinerators	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
Ea	Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989, and on or before September 20 1994..	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
Eb	Large Municipal Waste Combustors for Which Construction is Commenced after September 20, 1994, or for Which Modification or Reconstruction is Commenced After June 19, 1996.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
Ec	Hospital/Medical/Infectious Waste Incinerators for Which Construction Commenced after June 20, 1996.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
F	Portland Cement Plants	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
G	Nitric Acid Plants	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
H	Sulfuric Acid Plants	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
I	Hot Mix Asphalt Facilities	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
J	Petroleum Refineries	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
K	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 0/30/03	07/01/01 07/10/02
Ka	Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
Kb	Volatile Organic Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
L	Secondary Lead Smelters	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
M	Secondary Brass and Bronze Production Plants	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
N	Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
Na	Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
O	Sewage Treatment Plants	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
P	Primary Copper Smelters	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02

TABLE I.—DELEGATION OF AUTHORITY—PART 60 NSPS—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
Q	Primary Zinc Smelters	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
R	Primary Lead Smelters	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
S	Primary Aluminum Reduction Plants	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
Y	Coal Preparation Plants	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
Z	Ferroalloy Production Facilities	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
AA	Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983.	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
BB	Kraft Pulp Mills	12/19/03	07/01/03	06/30/02	.....
		12/15/04	12/03/04	10/30/03	.....
CC	Glass Manufacturing Plants	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
DD	Grain Elevators	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
EE	Surface Coating of Metal Furniture	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
GG	Stationary Gas Turbines	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
HH	Lime Manufacturing Plants	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
KK	Lead-Acid Battery Manufacturing Plants	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
LL	Metallic Mineral Processing Plants	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
MM	Automobile and Light Duty Truck Surface Coating Operations.	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
NN	Phosphate Rock Plants	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
PP	Ammonium Sulfate Manufacture	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
QQ	Graphic Arts Industry: Publication Rotogravure Printing	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
RR	Pressure Sensitive Tape and Label Surface Coating Operations.	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
SS	Industrial Surface Coating: Large Appliances	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
TT	Metal Coil Surface Coating	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
UU	Asphalt Processing and Asphalt Roofing Manufacture	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
VV	Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
WW	Beverage Can Surface Coating Industry	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
XX	Bulk Gasoline Terminals	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
AAA	New Residential Wood Heaters	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
BBB	Rubber Tire Manufacturing Industry	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
DDD	Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02
FFF	Flexible Vinyl and Urethane Coating and Printing	12/19/03	07/01/03	06/30/02	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02

TABLE I.—DELEGATION OF AUTHORITY—PART 60 NSPS—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
GGG	Equipment Leaks of VOC in Petroleum Refineries	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
HHH	Synthetic Fiber Production Facilities	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
III	Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) AIR Oxidation Unit Processes.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
JJJ	Petroleum Dry Cleaners	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
KKK	Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
LLL	Onshore Natural Gas Processing: SO_2 Emissions	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
NNN	Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
OOO	Nonmetallic Mineral Processing Plants	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
PPP	Wool Fiberglass Insulation Manufacturing Plants	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
QQQ	VOC Emissions from Petroleum Refinery Wastewater Systems.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
RRR	Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
SSS	Magnetic Tape Coating Facilities	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
TTT	Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
UUU	Calciners and Dryers in Mineral Industries	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
VVV	Polymeric Coating of Supporting Substrates Facilities	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
WWW	Municipal Solid Waste Landfills	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
AAAA	Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02
CCCC	Commercial and Industrial Solid Waste Incineration Units for Which Construction is Commenced After November 30, 1999 or for Which Modification or Reconstruction is Commenced on or After June 1, 2001.	12/19/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02

TABLE II.—DELEGATION OF AUTHORITY—PART 61 NESHAP—REGION 7

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
A	General Provisions	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
B	Radon Emissions from Underground Uranium Mines.	....	07/01/03 12/03/04	....	....	....	....
C	Beryllium	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
D	Beryllium Rocket Motor Firing.	12/11/03 12/23/98	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
E	Mercury	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
F	Vinyl Chloride	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
J	Equipment Leaks (Fugitive Emission Sources) of Benzene.	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
L	Benzene Emissions from Coke By-Product Recovery Plants.	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
M	Asbestos	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03

TABLE II.—DELEGATION OF AUTHORITY—PART 61 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
N	Inorganic Arsenic Emissions from Glass Manufacturing Plants.	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
O	Inorganic Arsenic Emissions From Primary Copper Smelters.	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
P	Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities.	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
Q	Radon Emissions From Department of Energy Facilities.	....	07/01/03 12/03/04	....	....	....	....
R	Radon Emissions From Phosphogypsum Stacks.	....	07/01/03 12/03/04	....	....	....	....
T	Radon Emissions From the Disposal of Uranium Mill Tailings.	....	07/01/03 12/03/04	....	....	....	....
V	Equipment Leaks (Fugitive Emission Sources).	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
W	Radon Emissions From Operating Mill Tailings.	....	07/01/03 12/03/04	....	....	....	....
Y	Benzene Emissions From Benzene Storage Vessels.	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
BB	Benzene Emissions From Benzene Transfer Operations.	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03
FF	Benzene Waste Operations.	12/11/03 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/92 07/31/01	07/01/01 04/18/03

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
A	General Provisions	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
B	Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Section 112(g) and (j).	05/06/04 12/15/04	07/01/03 12/03/04	12/31/00 11/20/02	04/05/02 11/20/02	....	04/05/02 04/18/03 (112 (g) only)
D	Compliance Extensions for Early Reductions of Hazardous Air Pollutants.	05/06/04 12/15/04	07/01/03 12/03/04	12/31/00 09/30/02	12/29/92 11/20/02	11/21/94 07/31/01	12/29/92 04/18/03
F	Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
G	Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
H	Organic Hazardous Air Pollutants for Equipment Leaks.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
I	Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
J	Polyvinyl Chloride and Copolymers Production.	05/06/04 12/15/04	07/01/03 12/03/04				
L	Coke Oven Batteries	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03			
M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
N	Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
O	Ethylene Oxide Emissions Standards for Sterilization Facilities.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
Q	Industrial Process Cooling Towers.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
R	Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/98 04/18/03
S	Pulp and Paper Industry	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
T	Halogenated Solvent Cleaning.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
U	Polymers and Resins Group I.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
W	Epoxy Resins Production and Non-Nylon Polyamides Production.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
X	Secondary Lead Smelting.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
Y	Marine Tank Vessel Loading Operations.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03			
AA/BB	Phosphoric Acid/Phosphate Fertilizers.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
CC	Petroleum Refineries	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/31/97 07/31/01	07/01/01 04/18/03
DD	Off-Site Waste and Recovery Operations.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
EE	Magnetic Tape Manufacturing Operations.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
GG	Aerospace Manufacturing and Rework Facilities.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
HH	Oil and Natural Gas Production Facilities.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
II	Shipbuilding and Ship Repair (Surface Coating).	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03			
JJ	Wood Furniture Manufacturing Operations.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
KK	Printing and Publishing Industry.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
LL	Primary Aluminum Reduction Plants.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03
MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Along Semichemical Pulp Mills.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02		07/01/01 04/18/03
OO	Tanks-Level 1		07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02	07/01/00 07/31/01	07/01/01 04/18/03

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
PP	Containers		07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
			12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
QQ	Surface Impoundments		07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
			12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
RR	Individual Drain Systems		07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
			12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
SS	Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
TT	Equipment Leaks—Control Level 1 Standards.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
UU	Equipment Leaks—Control Level 2 Standards.	05/06/04		06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04		10/30/03	07/10/02	07/31/01	04/18/03
VV	Oil-Water Separators and Organic-Water Separators.		07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
			12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
WW	Storage Vessel (Tanks)—Control Level 2.	05/06/04		06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04		10/30/03	07/10/02	07/31/01	04/18/03
XX	Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.	05/06/04					
		12/15/04					
YY	Generic Maximum Achievable Control Technology Standards.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
CCC	Steel Pickling-HCL Process Facilities and Hydrochloric Acid Regeneration Plants.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
DDD	Mineral Wool Production	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
EEE	Hazardous Waste Combustors.	05/06/04	07/01/03	06/30/02		07/01/00	
		12/15/04	12/03/04	10/30/03		07/31/01	
GGG	Pharmaceutical Production.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
HHH	Natural Gas Transmission and Storage Facilities.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
III	Flexible Polyurethane Foam Production.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
JJJ	Polymers and Resins Group IV.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
LLL	Portland Cement Manufacturing Industry.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
MMM	Pesticide Active Ingredient Production.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
NNN	Wool Fiberglass Manufacturing.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
OOO	Manufacture of Amino/Phenolic Resins.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
PPP	Polyether Polyols Production.	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
QQQ	Primary Copper Smelting	05/06/04	07/01/03	06/30/02			
		12/15/04	12/03/04	10/30/03			
RRR	Secondary Aluminum Production.	05/06/04	07/01/03	06/30/02	07/01/01		07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02		04/18/03
TTT	Primary Lead Smelting	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
UUU	Petroleum Refineries	05/06/04	07/01/03	06/30/02	07/01/02		
		12/15/04	12/03/04	10/30/03	11/24/03		
VVV	Publicly Owned Treatment Works.	05/06/04	07/01/03	06/30/02	07/01/01		07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02		04/18/03
XXX	Ferroalloys Production	05/06/04	07/01/03	06/30/02	07/01/01	07/01/00	07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02	07/31/01	04/18/03
AAAA	Municipal Solid Waste Landfills.	05/06/04	07/01/03				
		12/15/04	12/03/04				
CCCC	Manufacturing of Nutritional Yeast.	05/06/04	07/01/03	06/30/02	07/01/01		07/01/01
		12/15/04	12/03/04	10/30/03	07/10/02		04/18/03

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
DDDD	Plywood and Composite Wood Products.						
EEEE	Organic Liquids Distribution (Non-Gasoline).	05/06/04 12/15/04					
FFFF	Misc. Organic Chemical Manufacturing.	05/06/04 12/15/04					
GGGG	Solvent Extraction for Vegetable Oil Production.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/01 07/10/02		07/01/01 04/18/03
HHHH	Wet Formed Fiberglass Mat Production.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/02 11/24/03		
IIII	Surface Coating of Automobiles and Light-Duty Trucks.	05/06/04 12/15/04					
JJJJ	Paper and Other Web Coating.	05/06/04 12/15/04	07/01/03 12/03/04				
KKKK	Surface Coating of Metal Cans.	05/06/04 12/15/04	07/01/03 12/03/04				
MMMM	Surface Coating of Misc. Metal Parts and Products.	05/06/04 12/15/04					
NNNN	Surface Coating of Large Appliances.	05/06/04 12/15/04	07/01/03 12/03/04				
OOOO	Printing, Coating and Dyeing of Fabrics and Other Textiles.	05/06/04 12/15/04	07/01/03 12/03/04				
PPPP	Surface Coating of Plastic Parts and Products.						
QQQQ	Surface Coating of Wood Building Products.	05/06/04 12/15/04	07/01/03 12/03/04				
RRRR	Surface Coating of Metal Furniture.	05/06/04 12/15/04	07/01/03 12/03/04				
SSSS	Surface Coating of Metal Coil.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/02 11/24/03		
TTTT	Leather Finishing Operations.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/02 11/24/03		
UUUU	Cellulose Products Manufacturing.	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/02 11/24/03		
VVVV	Boat Manufacturing	05/06/04 12/15/04	07/01/03 12/03/04	06/30/02 10/30/03	07/01/02 11/24/03		
WWWW	Reinforced Plastic Composites Production.	05/06/04 12/15/04	07/01/03 12/03/04				
XXXX	Rubber Tire Manufacturing.	05/06/04 12/15/04	07/01/03 12/03/04				
YYYY	Stationary Combustion Turbines.	05/06/04 12/15/04					
ZZZZ	Stationary Reciprocating Internal Combustion Engines.						
AAAAA	Lime Manufacturing Plants.						
BBBBB	Semiconductor Manufacturing.		07/01/03 12/03/04				
CCCCC	Coke Ovens: Pushing, Quenching, and Battery Stacks.	05/06/04 12/15/04	07/01/03 12/03/04				
EEEEE	Iron and Steel Foundries	05/06/04 12/15/04					
FFFFF	Integrated Iron and Steel Manufacturing Facilities.	05/06/04 12/15/04	07/01/03 12/03/04				
GGGGG	Site Remediation						
HHHHH	Misc. Coating Manufacturing.	05/06/04 12/15/04	07/01/03 12/03/04				
IIIII	Mercury Cell Chlor-Alkali Plants.	05/06/04 12/15/04	07/01/03 12/03/04				
JJJJJ	Brick and Structural Clay Products Manufacturing.	05/06/04 12/15/04	07/01/03 12/03/04				
KKKKK	Clay Ceramics Manufacturing.	05/06/04 12/15/04					

TABLE III.—DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION 7—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
LLLLL	Asphalt Processing and Asphalt Roofing Manufacturing.	05/06/04 12/15/04	07/01/03 12/03/04				
MMMMM	Flexible Polyurethane Foam Fabrication Operation.	05/06/04 12/15/04	07/01/03 12/03/04				
NNNNN	Hydrochloric Acid Production.	05/06/04 12/15/04	07/01/03 12/03/04				
PPPPP	Engine Test Cells/Stands	05/06/04 12/15/04	07/01/03 12/03/04				
QQQQQ	Friction Materials Manufacturing Facilities.	05/06/04 12/15/04	07/01/03 12/03/04				
RRRRR	Taconite Iron Ore Processing.						
SSSSS	Refractory Prdocuts Manufacturing.	05/06/04 12/15/04	07/01/03 12/03/04				
TTTTT	Primary Magnesium Refining.						

Summary of This Action

All sources subject to the requirements of 40 CFR parts 60, 61, and 63 are also subject to the equivalent requirements of the above-mentioned state or local agencies.

This notice informs the public of delegations to the above-mentioned agencies of the above-referenced Federal regulations.

Authority: This notice is issued under the authority of sections 101, 110, 112, and 301 of the CAA, as amended (42 U.S.C. 7401, 7410, 7412, and 7601).

Dated: June 15, 2005.

Martha R. Cuppy,

Acting Regional Administrator, Region 7.

[FR Doc. 05–12577 Filed 6–23–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2003–0193; FRL–7925–8]

RIN 2060–AL91

National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: We are taking final action to amend the national emission standards for hazardous air pollutants (NESHAP) for Cellulose Products Manufacturing. This amendment will correct the date in the definition of a process change that was included in the final rule. Without this amendment, the earliest date on which changes could qualify as process changes for compliance purposes would be January 1992. With this action, process changes implemented in January 1991 and later can qualify as process changes for compliance purposes.

This action corrects an error by the Agency and makes the regulatory language consistent with the technical background work that was performed during the development of the standards. Thus, it is proper to issue this final rule correction without notice and comment.

DATES: *Effective Date:* The correction is effective on June 24, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Schrock, Organic Chemicals Group, Emission Standards Division (C504–04), Office of Air Quality Planning and Standards, EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5032, facsimile number (919) 541–3470, electronic mail (e-mail) address *schrock.bill@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The EPA, under section 112 of the CAA, promulgated the NESHAP for cellulose products manufacturing on June 11, 2002 (67 FR 40044). The final rule, codified at 40 CFR part 63, subpart UUUU, includes definitions of a process change for the viscose industry, as well as the cellulose ether industry. Following promulgation of the rule, Teepak, Inc., requested that we issue specific amendments to the final rule changing the date that process changes that reduced emissions could be utilized for the purpose of demonstrating compliance. Their request was based on the calculations for the maximum achievable control technology (MACT) floor which included these process changes.

II. Summary of Amendment

This document corrects the definition for ''viscose process change'' under 40 CFR 63.5610 which states that the process change must occur ''no earlier than January 1992.'' In the CAA section 114 information collection request sent to the industry in 1998, EPA requested information on source reduction measures implemented since 1987. In their response, Teepak provided information on three projects that reduced emissions per unit length of food casing produced, and one of these projects was implemented in January 1991. According to Teepak, EPA indicated it would credit Teepak for emission reductions from that project. Noting that the Teepak level of control was chosen as the MACT floor, Teepak has recommended that the definition for ''viscose process change'' be amended to ''no earlier than January 1991.''

The definition for ''viscose process change'' as promulgated effectively excludes the 1991 process change at Teepak that was accounted for in our MACT floor calculations. Since we established the MACT floor for cellulose food casing operations based on the level of emission control achieved at Teepak, we are making the suggested revision to the definition for ''viscose process change.'' For consistency, we are revising the definition for ''cellulose ether process change'' similarly.

III. Statutory and Executive Order Reviews

Under Executive Order 12866, Regulatory Planning and Review (58 FR

51735, October 4, 1993), this action is not a ''significant regulatory action'' and is, therefore, not subject to review by the Office of Management and Budget (''OMB''). This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). The technical correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Because EPA has made a ''good cause'' finding that this action is not subject to notice and comment requirements under the APA or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

The correction does not have substantial direct effects on the States, or 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, Federalism (64 FR 43255, August 10, 1999).

Today's action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000). The technical correction also is not subject to Executive Order 13045, Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) because it is not economically significant.

The correction 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.

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the Agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's action final without prior proposal and opportunity for comment because the change to the rule corrects an error, is noncontroversial, and is consistent with the technical basis of the rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B) (*see also* the final sentence of section 307(d)(1) of the CAA, 42 U.S.C. 7607(d)(1), indicating that the good cause provisions of the APA continue to apply to rulemaking under section 307(d) of the Clean Air Act (CAA).

Section 553(d)(3) allows an agency, upon a finding of good cause, to make a rule effective immediately. Because today's changes relieve an unintended restriction, we find good cause to make these technical corrections effective immediately.

The correction action does not involve changes to the technical standards related to test methods or monitoring methods; 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.

The correction also does not involve special consideration of environmental justice-related issues as required by Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by SBREFA 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 U.S. The EPA will submit a report containing this final action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the U.S. prior to publication of today's action in the **Federal Register**. Today's action is not a ''major rule'' as defined by 5 U.S.C. 804(2). The final rule will be effective on June 24, 2005.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 16, 2005.

Jeffrey R. Holmstead,

Assistant Administrator for Air and Radiation.

■ For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart UUUU—[Amended]

■ 2. Section 63.5610 is amended by revising the following definitions in paragraph (g) to read as follows:

§ 63.5610 What definitions apply to this subpart?

* * * * *

(g) * * *

Cellulose ether process change means a change to the cellulose ether process that occurred no earlier than January 1991 that allows the recovery of organic HAP, reduction in organic HAP usage, or reduction in organic HAP leaving the reactor. Includes extended cookout.

* * * * *

Viscose process change means a change to the viscose process that occurred no earlier than January 1991 that allows either the recovery of carbon disulfide or a reduction in carbon disulfide usage in the process.

* * * * *

[FR Doc. 05–12576 Filed 6–23–05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2005–0155; FRL–7720–2]

Trifloxystrobin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of trifloxystrobin in or on soybean, forage; soybean, hay; and soybean, seed. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on soybeans. This regulation establishes a maximum permissible level for residues of trifloxystrobin in this food commodity. The tolerances will expire and are revoked on December 31, 2009.

DATES: This regulation is effective June 24, 2005. Objections and requests for hearings must be received on or before August 23, 2005.

ADDRESSES: To submit a written objection or hearing request follow the

detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under docket identification (ID) number OPP–2005–0155. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket/*. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Room 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Carmen Rodia, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0327; fax number: (703) 308–5433; e-mail address: *rodia.carmen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (*http://www.epa.gov/edocket/*), you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available on E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the fungicide trifloxystrobin, (benzeneacetic acid, (E,E)-[alpha]-(methoxyimino)-2-[[[[1-[3-(trifluoromethyl)phenyl]ethylidene] amino]oxy]methyl]-,methylester) and the free form of its acid metabolite CGA–321113 ((E,E)-methoxyimino-[2-[1-(3-trifluoromethylphenyl) ethylideneaminooxymethyl]-phenyl] acetic acid) in or on soybean, forage at 4.0 parts per million (ppm); soybean, hay at 6.5 ppm; and soybean, seed at 0.04 ppm. These tolerances will expire and are revoked on December 31, 2009. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR).

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on FIFRA section 18 related tolerances to set binding precedents for the application of section 408 of FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Trifloxystrobin on Soybeans and FFDCA Tolerances

Multiple States throughout the United States have petitioned the Agency requesting an emergency exemption for use of trifloxystrobin to control soybean rust under the provisions of section 18 of FIFRA. The soybean rust pathogen (*Phakopsora pachyrhizi*) was recently identified in the continental United States. Soybean rust has been designated as a biosecurity threat by action of the U.S. Congress and; therefore, it is important that control measures be available to soybean growers in the United States. Accordingly, EPA has expedited review under section 18 of FIFRA to authorize the use of trifloxystrobin on soybeans for control of soybean rust for requesting states in the United States, having concluded that emergency conditions exist regarding this chemical use.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of trifloxystrobin in or on soybeans. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with section 18 of FIFRA. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public

comment as provided in section 408(l)(6) of FFDCA. Although these tolerances will expire and are revoked on December 13, 2009, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on poultry, soybeans, or swine after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether trifloxystrobin meets EPA's registration requirements for use on soybeans or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of trifloxystrobin by a State for special local needs under section 24(c) of FIFRA. Nor do these tolerances serve as the basis for any State that has not been specifically authorized by EPA to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 of FIFRA as identified in 40 CFR part 166. For additional information regarding the emergency exemption for trifloxystrobin, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of trifloxystrobin and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a time-limited tolerance for combined residues of trifloxystrobin in or on soybean, forage at 4.0 ppm; soybean, hay at 6.5 ppm; and soybean, seed at 0.04 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10x to account for interspecies differences and 10x for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns over risk to children's health, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic population adjusted dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor (SF).

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10x to account for interspecies differences and 10x for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for trifloxystrobin used for human risk assessment is shown in Table 1 of this unit:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR TRIFLOXYSTROBIN FOR USE IN HUMAN RISK ASSESSMENT

Exposure/scenario	Dose used in risk assessment, UF	FQPA SF* and level of concern for risk assessment	Study and toxicological effects
Acute dietary (Females 13–49 years of age)	NOAEL = 250 milligram/kilogram/day (mg/kg/day) UF = 100 Acute RfD = 2.5 mg/kg/day	FQPA SF = 1x aPAD = acute RfD/FQPA SF = 2.5 mg/kg/day	Developmental toxicity—rat LOAEL = 500 mg/kg/day based on increased fetal skeletal anomalies.
Acute Dietary (General U.S. population, including infants and children).	There were no appropriate toxicological effects attributable to a single exposure (dose) observed in oral toxicity studies including maternal effects in developmental studies in rats and rabbits. Therefore, a dose and endpoint were not identified for this risk assessment.		
Chronic dietary (All populations)	Parental NOAEL = 3.8 mg/kg/day UF = 100 Chronic RfD = 0.038 mg/kg/day	FQPA SF = 1x cPAD = chronic RfD/FQPA SF = 0.038 mg/kg/day	2-Generation reproduction study—rat LOAEL = 55.3 mg/kg/day based on decreases in body weight, body weight gains, reduced food consumption, and histopathological lesions in the liver, kidneys, and spleen.
Short- (1 to 30 days) and intermediate-term (1–6 months) Oral	Offspring NOAEL = 3.8 mg/kg/day	LOC for MOE = 100 (residential, includes FQPA SF)	2-Generation reproduction study—rat LOAEL = 55.3 mg/kg/day based on reduced pup body weights during lactation.
Short- (1 to 30 days) and intermediate-term (1–6 months) Dermal	Dermal study NOAEL = 100 mg/kg/day	LOC for MOE = 100 (occupational) LOC for MOE = 100 (residential, includes FQPA SF)	28-Day dermal toxicity study—rat LOAEL = 1,000 mg/kg/day based on increases in mean absolute and relative liver and kidney weights.
Long-term (> 6 months) Dermal	Oral study NOAEL = 3.8 mg/kg/day (dermal absorption rate = 33%)	LOC for MOE = 100 (occupational) LOC for MOE = 100 (residential, includes FQPA SF)	2-Generation reproduction study—rat LOAEL = 55.3 mg/kg/day based on decreases in body weight, body weight gains, reduced food consumption, and histopathological lesions in the liver, kidneys, and spleen.
Short- (1 to 30 days), intermediate- (1–6 months), and long-term (> 6 months) Inhalation	Oral study NOAEL = 3.8 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (occupational) LOC for MOE = 100 (residential, includes FQPA SF)	2-Generation reproduction study—rat LOAEL = 55.3 mg/kg/day based on decreases in body weight, body weight gains, reduced food consumption, and histopathological lesions in the liver, kidneys, and spleen.
Cancer (Oral, dermal, and inhalation)	Classification: "Not Likely Human Carcinogen," based on the lack of evidence of carcinogenicity in mouse and rat cancer studies.		

*The reference to the FQPA SF refers to any additional SF retained due to concerns unique to FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.555) for the combined residues of trifloxystrobin, in or on a variety of raw agricultural commodities (RACs). Specifically, tolerances for almonds, barley, carrots, celery, citrus, field corn, fruiting vegetables, hops, pecans, potatoes, rice, stone fruits, sugar beets, and wheat. Risk assessments were conducted by EPA to assess dietary exposures from trifloxystrobin in food as follows:

i. *Acute exposure.* Acute dietary (food only) exposure assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™), Version 1.3, which incorporates the individual food consumption data as reported by respondents in the United States Department of Agriculture (USDA) 1994–1996 and 1998 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The acute dietary (food only) exposure analysis for trifloxystrobin is unrefined, assuming 100% crop treated and tolerance level residues. No additional data were used to refine the analysis. The acute dietary endpoint is applicable to the population subgroup females, 13–49 years only. An acute dietary endpoint for the general U.S. population, including infants and children, was not identified. The estimated dietary (food only) exposure for females, 13–49 years old occupies less than 1% of the aPAD and does not exceed EPA's level of concern.

ii. *Chronic exposure.* In conducting this chronic dietary (food only) exposure assessment, EPA used the DEEM-FCID™ software, incorporating the individual food consumption data as reported by respondents in the USDA 1994–1996 and 1998 CSFII and accumulated exposure to the chemical for each commodity. The chronic dietary (food only) exposure analysis for trifloxystrobin is unrefined, assuming 100% crop treated and tolerance level residues. The chronic dietary endpoint applies to all population subgroups, including infants and children. Risk

estimates for all population subgroups are below EPA's level of concern (100% of the cPAD).

iii. *Cancer*. EPA's previous reviews of data (May 1999) related to trifloxystrobin have determined that trifloxystrobin should be classified as a ''Not Likely Human Carcinogen.'' Accordingly, no additional cancer risk assessment was performed for trifloxystrobin.

iv. *Anticipated residue and percent crop treated (PCT) information*. Established and recommended tolerances were used in the acute and chronic dietary (food only) exposure assessments for trifloxystrobin. The metabolite L7a (taurine conjugate of trifloxystrobin) was also included in the exposure assessment for liver, based on the amount found in the ruminant metabolism study. EPA did not apply PCT data for this assessment. DEEM-FCID™ default concentration factors were used except for tomato juice, puree, paste, and catsup. Processing data show no concentration in these fractions.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for trifloxystrobin in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of trifloxystrobin.

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis modeling system (PRZM/EXAMS) to produce estimates of pesticide concentrations in an index reservoir. The Screening Concentration in Ground Water modeling system (SCI-GROW) is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water, EPA will generally use FIRST (a tier 2 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to trifloxystrobin, they are further discussed in Unit IV.D., aggregate risk.

Based on the PRZM/EXAMS and SCI-GROW models, the EECs of trifloxystrobin for acute exposures are estimated to be 48 parts per billion (ppb) for surface water and 3.4 ppb for ground water. The EECs for chronic exposures are estimated to be 140 ppb for surface water and 3.4 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Trifloxystrobin is currently registered for use in turf grass and ornamentals. No new residential uses are proposed in this action. Because FQPA requires consideration of aggregate exposure to all likely non-occupational uses, this assessment uses non-occupational post-application contact with trifloxystrobin following potential use on turf grass as the most common and worst case contributor to such exposures. The current registered use of trifloxystrobin on turf grass and ornamentals may only be applied by a Certified Pest Control Operator (PCO); therefore, an assessment of dermal or inhalation exposure for residential handlers is not required and was not performed.

EPA calculated MOEs for exposure scenarios involving potential residential exposure resulting from the currently registered uses of the chemical. The lowest MOE was 800 for children resulting from direct dermal contact with treated lawns (this represents the exposure scenario with the highest exposure; conversely, the adult dermal MOE was 1,300). The highest MOE for children was 220,000 from ingestion of soil from treated lawns. All calculated non-occupational post-application MOEs are greater than 100 on the day of application and; therefore, did not exceed EPA's level of concern.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to trifloxystrobin and any other substances and trifloxystrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action; therefore, EPA has not assumed that trifloxystrobin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's OPP concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative/*.

C. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional ten-fold margin of safety for infants and children in the case of threshold effects to account for prenatal and post-natal toxicity and the completeness of the data base on toxicity and exposure, unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of an MOE analysis or through using UFs in calculating a dose level that poses no appreciable risk to humans.

2. *Discussion*. There is no indication of an increased susceptibility of rat or rabbit fetuses/pups to pre- and/or post-natal exposure to trifloxystrobin. In the developmental and reproduction

toxicity studies, effects in the fetuses/pups were observed only at or above treatment levels, which resulted in evidence of parental toxicity. As a result, the Agency determined that a developmental neurotoxicity (DNT) study in rats is not required.

The acute and chronic dietary (food only) exposure assessments utilize existing and proposed tolerance level residues and 100% crop treated information for all commodities. By using these screening-level assessments, actual exposures/risks will not be underestimated. Additionally, the exposure assessments will not underestimate the potential dietary (food and drinking water) or non-dietary exposures for infants and children from the use of trifloxystrobin.

The dietary drinking water assessment utilizes water concentration values generated by model and associated modeling parameters, which are designed to provide conservative, health protective, high-end estimates of water concentrations, which are not likely to be exceeded. The residential post-application assessment is based upon the residential standard operating procedures (SOPs) and is based upon surrogate study data. These data are reliable and are not expected to underestimate risk to adults or children. The residential SOPs are based upon reasonable ''worst-case'' assumptions and are not expected to underestimate risk.

3. *Conclusion*. EPA has evaluated the potential for increased susceptibility of infants and children from exposure to trifloxystrobin. There is a complete toxicity data base for trifloxystrobin and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The Agency has concluded that there are no residual uncertainties for pre- and/or post-natal toxicity. Further, based on existing hazard data and the quality of exposure data for trifloxystrobin, EPA has determined that traditional 10x safety factors are adequately protective for all populations, and the special FQPA SF need not be applied (e.g., it has been reduced from 10x to 1x).

D. Aggregate Risks and Determination of Safety

1. *General discussion*. To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure)]. This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the EPA's Office of Water are used to calculate DWLOCs: 2 liter (L)/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to trifloxystrobin in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of trifloxystrobin on drinking water as a part of the aggregate risk assessment process.

2. *Summary of aggregate risk analysis*. Acute and chronic aggregate risk estimates were calculated in this risk assessment. Acute aggregate risk was calculated by comparing acute DWLOCs to potential drinking water exposure to trifloxystrobin. Similarly, chronic aggregate risk was calculated by comparing chronic DWLOCs to potential drinking water exposure. The surface and ground water EECs were used to compare against back-calculated DWLOCs for aggregate risk assessments.

Short-term risk is based on exposures occurring over 1 to 30 days. Short-term aggregate risk was calculated by combining risk estimates for high-end residential oral and/or dermal exposures with chronic food and drinking water risks. Intermediate-term exposure (1 to 6 months) to the parent trifloxystrobin is not expected to occur in residential settings due to its short half-life (about 2 days based on soil and aquatic metabolism studies). Therefore, an intermediate-term aggregate risk assessment was not performed. Chronic non-dietary aggregate risk was not calculated as chronic dermal and oral exposures (from residential treatment) are not expected. Cancer aggregate risk was not calculated because trifloxystrobin has been classified as a ''not likely human carcinogen.''

Acute, short-term and chronic aggregate risk estimates resulting from aggregate exposure to trifloxystrobin in food and drinking water were assessed, and are below EPA's level of concern.

3. *Acute risk*. The acute aggregate risk assessment takes into account exposure estimates from dietary consumption of trifloxystrobin from food and drinking water sources. Acute aggregate risk was not calculated for the general U.S. population (including infants and children or other population subgroups) as hazard endpoints have not been identified for those groups.

The acute risk estimate for females, 13–49 years, resulting from aggregate exposure to trifloxystrobin in food and drinking water, is below EPA's level of concern. DWLOCs were calculated for females 13–49 years, the only subgroup to which the acute dietary endpoint applies. Surface and ground water EECs were used to compare against back-calculated DWLOCs for aggregate risk assessments. To calculate the DWLOC for acute exposure relative to an acute toxicity endpoint, the acute dietary food exposure (from DEEM-FCID™) was subtracted from the aPAD to obtain the acceptable acute exposure to trifloxystrobin in drinking water.

The DWLOC was 75,000 ppb for females, 13–49 years, a value that is well above the EECs for drinking water. Therefore, acute aggregate risk is below EPA's level of concern. EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in Table 2 of this unit:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO TRIFLOXYSTROBIN

Population subgroup	aPAD (mg/kg/day)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Females 13–49 years	2.5	< 1	92 (turf) 48 (rice)	3.4	75,000

4. *Chronic risk*. For the chronic aggregate risk scenario, potential food and drinking water exposures were analyzed. Chronic exposure in residential settings is not expected. The surface and ground water EECs were used to compare against back-calculated DWLOCs for aggregate risk assessments. To calculate DWLOCs for chronic exposure relative to an chronic toxicity endpoint, the chronic dietary food exposure (from DEEM-FCID™) was subtracted from the cPAD to obtain the acceptable chronic exposure to trifloxystrobin in drinking water.

DWLOCs were calculated for the general U.S. population, children aged 1–2 years, females aged 13–49 years and adults aged 50 years and older. DWLOCs ranged from 170 ppb for children to 1,200 ppb for adults aged 50 years and older. These values are above the EECs for drinking water. Therefore, chronic aggregate risk is below EPA's level of concern. EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in Table 3 of this unit:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO TRIFLOXYSTROBIN

Population subgroup	cPAD (mg/kg/day)	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
General U.S. population	0.038	15	140 (rice) 50 (turf)	3.4	1,100
Children 1–2 years		54			170

5. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Though residential exposure could occur with the use of trifloxystrobin, the potential short-term exposures were not aggregated with chronic dietary food and water exposures because the toxic effects are different. Different endpoints have been identified for short-term incidental oral and dermal risk assessment (the basis for the oral endpoint is reduced pup body weights and the dermal endpoint is based on increases in liver and kidney weights). Therefore, based on the best available data and current policies, potential risks do not exceed EPA's level of concern.

A short-term risk assessment was not required for adults, because no incidental oral exposure is expected for adults. A short-term risk assessment was performed for infants and children because of residential post-application oral exposure scenarios. Incidental oral exposure for toddlers is assumed to include hand-to-mouth exposure, object-to-mouth exposure and exposure through incidental ingestion of soil.

DWLOCs were calculated for the general U.S. population, children aged 1–2 years, females aged 13–49 years and adults 50 years and older. DWLOCs ranged from 130 ppb for children to 1,200 ppb for adults aged 50 years and older. Although the surface water EEC for rice (140 ppb) exceeds the DWLOC for children (130 ppb), EPA does not believe this is a cause for concern, because the surface water estimate for rice is considered to be a gross overestimate of the true value found in the environment. EPA's careful analysis indicates that the turf grass estimate (50 ppb) is a more realistic estimate of drinking water residues. Thus, EPA does not consider short-term aggregate risk for children to exceed the Agency's level of concern, as shown in Table 4 of this unit:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO TRIFLOXYSTROBIN

Population subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
General U.S. population	690	100	140 (rice) 50 (turf)	3.4	1,100
All infants < 1 year	190				180
Children 1–2 years	150				130
Females 13–49 years	970				1,000
Adults > 50 years	950				1,200

6. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). An intermediate-term aggregate risk assessment (1 to 6 months of exposure to trifloxystrobin residues from food, drinking water, and residential pesticide uses) is not expected to occur based on the short soil half-life of trifloxystrobin (about 2 days). Therefore, EPA did not perform an intermediate-term aggregate risk assessment.

7. *Aggregate cancer risk for U.S. population*. EPA has concluded that trifloxystrobin should be classified as a ''Not Likely Human Carcinogen.'' Due to the classification, an aggregate cancer risk assessment was not performed.

8. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general U.S. population, and to infants and children from aggregate exposure to trifloxystrobin residues.

V. Other Considerations

A. Analytical Enforcement Methodology

EPA has completed a method validation trial of AG–659A on apples, cow liver, cow milk, grapes, peanut hay, peanuts, raisins, summer squash, and wet apple pomace and concluded that AG–659A is suitable for enforcement of trifloxystrobin and the free form of its acid metabolite in plant and livestock commodities. The analytical methods, AG–659A or AG–659A/REM 177.04, are adequate for collecting data for residues of trifloxystrobin and its acid metabolite CGA–321113 in or on soybeans.

The regulable residue was tested in accordance with the Pesticide Analytical Manual (PAM), Volume I, Appendix II. Trifloxystrobin gave adequate responses through protocol C, and was completely recovered from fortified apple samples when analyzed through protocols D and E. Acid metabolite CGA–321113 was recoverable through protocol B and residues from apples fortified with CGA–321113 were completely recovered through Section 402 E2/C1 (extraction with methylene chloride). The enforcement method has been forwarded to the Food and Drug Administration (FDA) for inclusion in the PAM II.

Adequate enforcement methodology (example—gas chromatography) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Road, Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no Codex, Canadian, or Mexican maximum residue limits (MRLs) established for trifloxystrobin. Harmonization is thus not an issue at this time.

C. Conditions

There are no conditions for registration placed on these time-limited tolerances.

VI. Conclusion

Therefore, tolerances are established for combined residues of trifloxystrobin, (benzeneacetic acid, (E,E)-[alpha]-(methoxyimino)-2-[[[[1-[3-(trifluoromethyl) phenyl]ethylidene]amino]oxy]methyl]-,methylester) and the free form of its acid metabolite CGA–321113 ((E,E)-methoxyimino-[2-[1-(3-trifluoromethylphenyl) ethylideneaminooxymethyl]-phenyl]acetic acid) in or on soybean, forage at 4.0 ppm, soybean, hay at 6.5 ppm; and soybean, seed at 0.04 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2005–0155 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 23, 2005.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR part 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR part 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900L), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Suite 350, 1099 14th St., NW., Washington, DC 20005. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 564–6255.

2. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in **ADDRESSES**. Mail your copies, identified by the docket ID number OPP–2005–0155, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in **ADDRESSES**. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an

electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR part 178.32).

VIII. Statutory and Executive Order Reviews

This final rule establishes a time-limited tolerance under section 408 of FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, 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). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under section 408 of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 17, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.555 is amended by adding text to paragraph (b) to read as follows:

§ 180.555 Trifloxystrobin; tolerances for residues.

* * * * *

(b) * * * Time-limited tolerances are established for combined residues of the fungicide trifloxystrobin, (benzeneacetic acid, (E,E)-[alpha]-(methoxyimino)-2-[[[[1-[3-(trifluoromethyl)phenyl] ethylidene]amino]oxy]methyl]-,methylester) and the free form of its acid metabolite CGA–321113 ((E,E)-methoxyimino-[2-[1-(3-trifluoromethylphenyl) ethylideneaminooxymethyl]-phenyl]acetic acid) in connection with the use of the pesticide under FIFRA section 18 emergency exemptions granted by EPA. The tolerances will expire and are revoked on the date specified in the table in this unit.

Commodity	Parts per million	Expiration/ revocation date
Soybean, forage	4.0	12/31/09
Soybean, hay	6.5	12/31/09
Soybean, seed ..	0.04	12/31/09

* * * * *

[FR Doc. 05–12447 Filed 6–23–05; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 416

[CMS–1478–CN]

RIN 0938–AN23

Medicare Program; Update of Ambulatory Surgical Center List of Covered Procedures; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of interim final rule with comment period.

SUMMARY: This document corrects technical errors that appeared in the interim final rule with comment period published in the **Federal Register** on May 4, 2005 entitled ''Medicare Program; Update of Ambulatory Surgical Center List of Covered Procedures.''

DATES: Effective July 1, 2005.

FOR FURTHER INFORMATION CONTACT: Dana Burley, (410) 786–0378.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 05–8875 of May 4, 2005 (70 FR 23690), there were several technical errors that are identified and corrected in the Correction of Errors section below. The provisions in this correction notice are effective as if they had been included in the document published May 4, 2005. Accordingly, the corrections are effective July 1, 2005.

II. Correction of Errors

In FR Doc. 05–8875 of May 4, 2005 (70 FR 23690), make the following corrections:

On page 23690, in the first column, in the ''Effective Date'' section, the effective date of July 5, 2005 is an error. Remove ''July 5, 2005'' and add in its place ''July 1, 2005.''

On page 23710, in section IV, Waiver of Proposed Rulemaking, in column 2, in lines 1 and 8, remove ''July 5, 2005'' and add in its place ''July 1, 2005.''

On page 23752, there are three CPT codes erroneously included in the list of ASC covered procedures. These CPT codes are not on the ASC list because they were discontinued for 2005. Therefore on page 23752, remove CPT codes 50559, Renal endoscopy/ radiotracer, 50959, Ureter endoscopy and tracer, and 50978, Ureter endoscopy and tracer.

The final error is one of omission. One public comment and the response were not included in the May 4, 2005 interim final rule. That comment and response are as follows:

Comment: We received one comment requesting that we add CPT code 55873, Cryosurgical ablation of the prostate, to the ASC list. The commenter also asked that we assign the procedure to a newly created payment group with a higher rate than current payment group 9. The commenter believes that the procedure meets the criteria for inclusion on the ASC list and that adding it to the list will permit reasonable site-of-service flexibility for physicians.

Response: We agree with the commenter that the procedure meets the criteria for inclusion on the ASC list. Utilization data show that the service is performed most of the time in the hospital outpatient setting and our medical staff agreed that it is appropriate for the ASC setting. We cannot however, create a new, higher payment level for this procedure because we do not have data upon which to base new payment rates and because the Congress has relieved us of performing a new survey and has, instead, mandated development of a new payment system. Therefore, we assigned the procedure to Group 9, the highest paying of the existing payment groups under which payments for ASC facility services are currently made.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a notice take effect. We can waive this procedure, however, if we find good cause that notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of the finding and the reasons for it into the notice issued.

We find it unnecessary to undertake notice and comment rulemaking because this notice merely provides technical corrections to the regulations. Therefore, we find good cause to waive notice and comment procedures.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 20, 2005.

Ann C. Agnew,

Executive Secretary to the Department.

[FR Doc. 05–12522 Filed 6–23–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 050125016–5097–02; I.D. 061605B]

Pacific Halibut Fisheries; Oregon Sport Fisheries

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

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS announces changes to the regulations for the Area 2A sport halibut fisheries off the central coast of Oregon. This action would clarify the halibut regulations for the central Oregon coast sport fishery sub-area to specify that halibut may be onboard recreational fishing vessels trolling for salmon within the Oregon yelloweye rockfish conservation area (YRCA). The purpose of this action is to allow recreational salmon vessels to retain halibut caught legally outside of the YRCA while those vessels are legally fishing for salmon within the YRCA.

DATES: Effective June 24, 2005, through the 2006 annual management measures which will publish in a later **Federal Register** document. Comments must be received no later than 5 p.m., local time, on July 11, 2005.

ADDRESSES: You may submit comments, identified by I.D. 061605B by any of the following methods:

- E-mail: *Halibut2005inseason.nwr@noaa.gov*: Include 061605B in the subject line of the message.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: 206–526–6736, Attn: Yvonne deReynier
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Attn: Yvonne deReynier.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier (NMFS, Northwest Region), phone: 206–526–6129.

SUPPLEMENTARY INFORMATION: International Pacific Halibut Commission (IPHC) annual management measures for the Pacific halibut fisheries were published on February 25, 2005 (70 FR 9242). The Area 2A Catch Sharing Plan for Pacific halibut off

Washington, Oregon, and California was implemented subsequently at 70 FR 20304, April 19, 2005. Those regulations established a YRCA within the Oregon central coast sport fishery subarea (Cape Falcon, OR to Humbug Mountain, OR), among other management measures. The YRCA is intended to protect yelloweye rockfish from incidental catch in the sport halibut fishery, which uses bottom-tending gear that tends to catch both halibut and rockfish. This closed area is located on Stonewall Bank, an ocean area of high sealife abundance located offshore and southwest of Newport, Oregon.

Sport fishing for halibut off the central Oregon coast is managed in two area-specific fisheries. The fishery shoreward of a boundary line approximating the 40–fm (73.2–m) depth contour is open from May 1 through October 31 and participants tend to take halibut incidentally to fisheries targeting other nearshore species. Seaward of the boundary line approximating the 40–fm (73.2–m) depth contour, the halibut fishery is more intense, and is open for alternating weekends in the spring and summer, depending on quota availability. See the final rule implementing the 2005 West Coast Pacific halibut regulations for season details (70 FR 20304, April 19, 2005). The YRCA is in waters offshore of the boundary line approximating the 40–fm (73.2–m) depth contour, thus it applies only to vessels participating in the all-depth halibut fishery on days when that fishery is open.

Recreational fishing for salmon occurs in similar waters to the recreational halibut fishery, although the recreational salmon season is usually open for more days than the halibut season. Also similar to the halibut fishery, recreational salmon fishermen use hook-and-line gear. Unlike halibut hook-and-line gear, salmon gear is not tended so that hooks stay on or near the bottom, mainly because most salmon do not range as close to the ocean bottom as halibut. In addition to fishing with hooks dropped from one or more fishing poles, salmon anglers may also troll for salmon. Troll fishing gear is defined in the 2005 annual West Coast salmon regulations as ''One or more lines that drag hooks behind a moving fishing vessel. In that portion of the fishery management area off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.'' (70 FR 23054, May 4, 2005)

Recreational salmon gear does not tend to have the same interactions with yelloweye rockfish as halibut bottom-tending hook-and-line gear. Therefore, recreational salmon fishing is permitted within the YRCA during the salmon season off the central Oregon coast. Stonewall Bank, where the YRCA is located, is a popular salmon fishing location because it is relatively easy to access from the port of Newport, OR, and because salmon and other species congregate there to feed. While allowing recreational salmon fishing within the YRCA is not problematic from a yelloweye rockfish conservation perspective, it can be problematic from an enforcement perspective. Hook-and-line recreational salmon fishing pole gear essentially looks the same as recreational halibut fishing pole gear from the ocean surface. Thus, it would be extremely difficult for an enforcement officer to accurately determine whether an angler were using that gear to fish for salmon or halibut. To facilitate enforcement of the prohibition against recreational halibut fishing within the YRCA, recreational fishing for salmon with any gear other than troll gear is prohibited within the YRCA on days when the all-depth recreational halibut fishery is open (70 FR 23054, May 4, 2005), at 23060, Section 2, paragraph A, Cape Falcon, OR to Humbug Mountain, OR).

Federal halibut regulations at Section 24(12) at 70 FR 9249, February 25, 2005, state that for vessels sport fishing for halibut, ''No person shall be in possession of halibut on a vessel while fishing in a closed area.'' This regulation has been in place since the early 1990s and is intended to aid in the Catch Sharing Plan's intent that the halibut sport fishery be managed with seven separate sub-areas with different open and closed periods. Each of the seven sub-areas, from Puget Sound, WA to northern California, has its own quota and different open dates. This closed area halibut retention prohibition, however, inadvertently conflicts with the intent of Federal salmon regulations by unnecessarily restricting anglers who fish for halibut outside of the YRCA and who wish to also troll for salmon within the YRCA.

NMFS believes that it is necessary to clarify Federal halibut regulations to ensure that recreational salmon trollers are again able to retain halibut they have caught legally outside of the YRCA while they are legally fishing for salmon within the YRCA. Section 25 of the 2005 Pacific halibut regulations provides NMFS with the authority to make certain inseason management changes, provided that the action is necessary to allow allocation objectives to be met, and that the action will not result in exceeding the catch limit for the area. This action would allow halibut allocation objectives to be met by ensuring that anglers who wish to fish for halibut and salmon on the same day have access to both of those species. This action would encourage anglers to fish offshore of the YRCA for halibut, while still allowing them to access the recreational salmon quota at Stonewall Bank. This action will not result in exceeding the central Oregon coast catch limit. The central Oregon coast sport fishery for halibut is managed as a quota fishery, meaning that the fishery will close when the quota has been achieved, regardless of where anglers are permitted to fish within the sub-area.

In consultation with the Oregon Department of Fish and Wildlife and the IPHC, NMFS has decided to revise Federal regulations to clarify that recreational vessels trolling for salmon within the YRCA may retain halibut on board. This action is not expected to result in bycatch of overfished groundfish species above the amounts previously projected to be taken in Oregon sport fisheries in 2005, particularly the 6.7 mt estimated for yelloweye rockfish taken in the Washington and Oregon sport fisheries, combined.

NMFS Action

For the reasons stated above, NMFS announces the following change to the 2005 annual management measures (70 FR 20304, April 19, 2005) to read as follows:

1. On page 20308, in section 24. Sport Fishing for Halibut, the introductory text to paragraph (4)(b)(v)(E) in the middle column is revised to read as follows:

24. Sport Fishing for Halibut

* * * * *

(4) * * *

(b) * * *

(v) * * *

(E) A yelloweye rockfish conservation area off central Oregon is closed to sport fishing for halibut. Notwithstanding Section 24(12) at 70 FR 9249, February 25, 2005, halibut may be retained onboard recreational fishing vessels trolling for salmon while those vessels

are operating within this closed area. This area is defined by the following coordinates in the order listed: * * * * * * * * *

Classification

This action is authorized by section 25 of the IPHC regulations published at 70 FR 20304 (April 19, 2005). The determination to take these actions is based on the most recent data available.

The Assistant Administrator for Fisheries, NOAA (AA), has determined that good cause exists for this document to be published without affording a prior opportunity for public comment under 5 U.S.C. 553(b)(B) because doing so would be impracticable and contrary to the public interest. Providing prior notice and opportunity for public comment would be impracticable because the fishery affected by this action is scheduled to re-open on June 30, 2005. Providing prior notice and opportunity for public comment would also be contrary to public interest because it would prevent fishers from having access to recreational salmon fishing opportunities in an otherwise legal salmon fishing area.

Without the regulatory revision provided in this document, the combined halibut and salmon regulations exclude recreational salmon trollers from accessing their salmon quota within the YRCA on days when the all-depth halibut fishery is open, if they have halibut onboard the vessel. The all-depth halibut fishery is currently closed, but is scheduled to re-open on June 30, 2005. NMFS first learned of the inadvertent effect of its combined halibut and salmon regulations on May 26, 2005. There was not sufficient time between receiving this information and June 30, 2005 to afford the public prior notice and opportunity for comment on this notice, making prior public notice and comment opportunity impracticable. Providing time for public notice and comment on this notice would be contrary to public interest because that time would reduce public opportunities to participate in the recreational salmon and halibut fisheries.

For the above reasons, the AA has also determined that good cause exists to waive the delay of effectiveness of this action under 5 U.S.C. 553(d)(1) and (d)(3).

Public comments will be received for a period of 15 days after the publication in the **Federal Register**. This action is authorized by section 25 of the IPHC's annual management measures for Pacific halibut fisheries published on April 19, 2005 (70 FR 20304), and has been determined to be not significant for purposes of Executive Order 12866.

Authority: 16 U.S.C. 773.773k.

Dated: June 21, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–12585 Filed 6–23–05; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 121
Friday, June 24, 2005

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

RIN 0560–AH29

Cottonseed Payment Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes regulations to implement provisions of the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005, enacted on October 13, 2004 (''2004 Act'') to provide assistance to producers and first-handlers of the 2004 crop of cottonseed in counties declared a disaster by the President of the United States due to 2004 hurricanes and tropical storms.

DATES: Comments on this rule must be received July 25, 2005 in order to be assured consideration. Comments on the information collection in this rule must be received by August 23, 2005 in order to be assured consideration.

ADDRESSES: The Farm Service Agency invites interested persons to submit comments on this proposed rule and on the collection of information. Comments may be submitted by any of the following methods:

E-Mail: Send comments to *chris.kyer@wdc.usda.gov*

Fax: Submit comments by facsimile transmission to (202) 690–3307.

Mail: Submit comments to Grady Bilberry, Director, Price Support Division (PSD), Farm Service Agency (FSA), United States Department of Agriculture (USDA), STOP 0512, Room 4095–S, 1400 Independence Avenue, SW., Washington, DC 20250–0512.

Hand Delivery or Courier: Deliver comments to the above address.

Federal eRulemaking Portal: Go to *http://www.regulations.gov* Follow the online instructions for submitting comments.

Comments may be inspected in the Office of the Director, PSD, FSA, USDA, Room 4095, South Building, Washington, DC, between 8 a.m. and 4:30 p.m. Monday through Friday, except holidays. A copy of this proposed rule is available on the PSD Web site at *http://www.fsa.usda.gov/dafp/psd.*

Comments on the information collection requirements of this rule must also be sent to the addresses listed in the Paperwork Reduction Act section of this notice.

FOR FURTHER INFORMATION CONTACT: Chris Kyer, phone: (202) 720–7935; e-mail: *chris.kyer@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 104 of Division B of the 2004 Act (Pub. L. 108–324), requires the Commodity Credit Corporation (CCC) to provide assistance to producers and first-handlers of the 2004 crop of cottonseed in counties declared a disaster by the President of the United States due to hurricanes. Section 789 of Division A of the Consolidated Appropriations Act, 2005 (Pub. L. 108–447) further amended section 104 of Division B of the 2004 Act by adding as eligible counties those which were declared disasters because of tropical storms. The 2004 Act appropriated $10 million for these payments. As amended, the provisions of section 104 read in full:

> The Secretary of Agriculture shall use $10,000,000 to provide assistance to producers and first handlers of the 2004 crop of cottonseed located in counties declared a disaster by the President of the United States in 2004 due to hurricanes or tropical storms.

Further, section 105 of Division B of the same Act provides that the funds, facilities and authorities of the CCC shall be used to carry out Section 104.

CCC most recently operated a Cottonseed Payment Program in 2003, the 2002-Crop Cottonseed Payment Program (68 FR 20332, April 25, 2003). This rule proposes that the 2004 Cottonseed Payment Program operate somewhat like the 2002 program in that payments will be made to cotton gins for distribution to eligible producers. However, the 2002 program was tied simply to previous year's production. Consistent with the terms of section 104 and other provisions of the same legislation, this rule proposes to provide payments for cottonseed loss in eligible counties based on a comparison of a producer's production in the year before the disaster (making the 2003 crop year the base year) to the amount produced in 2004, the year of the hurricanes. Generally, a gin's eligibility will be based on the lint lost to gins in deliveries of 2004-crop cotton because of reductions in lint production in eligible counties adjusted for changes in plantings and for crop losses due to other causes. This rule proposes special provisions for producers who for the 2004 crop were new producers, and for producers who delivered, or would have delivered, cotton to more than one gin. Accordingly, whereas previous cottonseed programs have covered all cottonseed, benefits here will be tied to losses of cottonseed because of eligible losses of delivered cotton lint in eligible disaster counties. Comment is invited on all aspects of the proposed regulations.

CCC will announce a period during which U.S. cotton gins may apply for cottonseed payments. To participate, cotton gins must complete an application form including: (1) Applicant name, address, and a contact person and phone; (2) bank account information for payees electing to have payments made by direct account deposit; (3) the gin 5-digit identifying code; (4) the weight (in pounds) of cotton lint for which payment is requested; and (5) the number of bales of cotton ginned from the applicable lint weight. CCC must receive the application within the announced application period.

So that the basic method of operation of the proposed rule is clear, the following example is offered:

Example:

1. Producer A grows 450 acres of 2004 cotton in an eligible county and gin A obtains 225,000 pounds of lint from that cotton. Producer A grew 500 acres of 2003 cotton, and gin A obtained 375,000 pounds of lint weight from the 2003 cotton.

2. Gin A calculates the producer's loss in lint weight was 112,500 pounds, taking into consideration the difference in acres between the two years and the difference in production by calculating the per-acre yield for each year and multiplying the difference in yield by the 2004 acres. The 112,500 pound loss is derived by multiplying the 450 acres

of 2004 cotton by the 250-pound loss in lint yields per acre from 2004 to 2003.

3. Gin A calculates the loss for each of its customers and submits the total of the losses to FSA as a basis for payment. Producers who did not have a loss in yield are not included in the total amount submitted for payment.

Cases involving producers who might have been unable to deliver any cotton in 2004 to any gin because of the disaster are dealt with separately in the rule.

Upon receipt of all payment applications from all gins seeking to participate, CCC will estimate the national total quantity of cottonseed for payment based on the weight of cotton lint for which payment is requested. The payment rate per ton of cottonseed will be determined by dividing the $10 million available by the total quantity of cottonseed for payment. In order to be sure that an eligible producer is not over compensated (does not receive more than the total economic value of the loss suffered), payments to individual cotton gins will be subject to a payment limitation equal to the result of multiplying the total pounds of cottonseed determined eligible by the 2004 national average price of cottonseed ($112 per short ton).

CCC plans to provide all 2004-crop cottonseed payments to cotton gins and to require gins to share such payments with applicable cotton producers to the extent that the effect of cottonseed prices was borne by the producer rather than the gin. This payment plan is proposed because of the various agreements between ginners and producers regarding the costs of ginning and the disposition of the proceeds from the sale of cottonseed. These agreements were entered into prior to the ginning of 2004-crop cotton and the authorization of this cottonseed payment program, and CCC has no knowledge of their terms. Based on these existing contracts and marketing agreements, ginners and producers are best suited to equitably distribute the cottonseed assistance payments. However, producers dissatisfied with the distribution by the gin will, as in previous cottonseed programs, be limited to complaints directed toward the gin itself as may be allowed under law—that is, the regulations propose no administrative remedy.

In order to identify eligible production from designated counties, CCC will also ask gins to identify cotton production from designated counties versus that from non-designated counties and apply for only an eligible payment quantity. CCC believes that gins are well suited to be able to identify eligible production using existing systems and readily available data. Because of the nature of the interest involved in this notice it has been determined that the comment period should be limited to 30 days; that is, that a longer period would be contrary to the public interest.

Executive Order 12866

This proposed rule has been determined to be ''Significant'' under Executive Order 12866 and was reviewed by the Office of Management and Budget (OMB). A cost-benefit assessment of this rule was completed.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this proposed rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking with respect to the subject of this rule.

Environmental Assessment

The environmental impacts of this proposed rule have been considered consistent with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508), and FSA's regulations for compliance with NEPA, 7 CFR part 799. To the extent these authorities may apply, CCC has concluded that this rule is categorically excluded from further environmental review as evidenced by the completion of an environmental evaluation. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement. A copy of the environmental evaluation is available for inspection and review upon request.

Executive Order 12988

The proposed rule has been reviewed in accordance with Executive Order 12988. This proposed rule preempts State laws to the extent such laws are inconsistent with it. This rule is not retroactive. Before judicial action may be brought concerning this rule, all administrative remedies set forth at 7 CFR Parts 11 and 780 must be exhausted.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject of this rule. Further, this rule contains no unfunded mandates as defined in sections 202 and 205 of UMRA.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, FSA intends to request approval by OMB of an information collection required to support the proposed rule establishing a 2004 crop year cottonseed payment program. Copies of the information collection may be obtained from Linda Turner, the Agency Information Collection Coordinator, at (202) 690–1855.

Title: 2004 Cottonseed Payment Program.

OMB Control Number: 0560-NEW.

Type of Request: Request for Approval of a New Information Collection.

Abstract: Section 104 of the 2005 Act requires the Commodity Credit Corporation to provide assistance to producers and first-handlers of the 2004 crop of cottonseed in counties declared a disaster by the President of the United States due to hurricanes and tropical storms. This rule is intended to implement this legislative mandate and assist producers who suffered financially as a result of unfavorable weather conditions in 2004 caused by hurricanes and tropical storms. Applicants are asked to provide: (1) The weight of lint to be used by CCC for determining seed weight for payment based upon calculation of a loss in lint production; (2) the number of bales ginned and applicable to the lint weight for which payment is requested, not adjusted to a uniform bale weight basis; and (3) basic data such as name and address, direct deposit information, and tax identification number. The information will be used by FSA to determine the program eligibility of the gin. FSA considers the information collected essential to prudent eligibility determinations and payment calculations. Additionally, without accurate information on lint weight and bale numbers, the national payment rate could be inaccurate and could result in payments being made to ineligible recipients, or overpayments, compromising the integrity and accuracy of the program.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 45 minutes per response.

Respondents: Cotton gins receiving 2004 crop cotton from counties declared a disaster by the President of the United States due to hurricanes and tropical storms.

Estimated Number of Respondents: 120.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 90 hours.

Proposed topics for comment include: (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 collected; or (d) ways to minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to Grady Bilberry, Director, Price Support Division, Farm Service Agency, United States Department of Agriculture, STOP 0512, 1400 Independence Avenue, SW., Washington, DC 20250–0512 or telephone (202) 720–7901.

Government Paperwork Elimination Act

CCC is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general, and the FSA in particular, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. Because of the need to publish these regulations quickly, the forms and other information collection activities required to be utilized by a person subject to this rule are not yet fully implemented in a way that would allow the public to conduct business with CCC electronically. Accordingly, at this time, all forms required to be submitted under this rule may be submitted to CCC by mail or FAX.

List of Subjects in 7 CFR Part 1427

Agriculture, Cottonseed.

For the reasons set out in the preamble, 7 CFR 1427 is proposed to be amended as set forth below.

PART 1427—COTTON

1. The authority citation for 7 CFR part 1427 is revised to read as follows:

Authority: 7 U.S.C. 7231–7239; 15 U.S.C. 714b, 714c; Pub. L. 108–324, Pub. L. 108–447.

Subpart F—2004 Cottonseed Payment Program

2. Revise the title of part 1427 subpart F to read as set forth above:

3. Revise § 1427.1100 to read as follows:

§ 1427.1100 Applicability.

(a) Subject to the availability of funds, this subpart sets forth the terms and conditions under which the Commodity Credit Corporation (CCC) may provide payments under the cottonseed payment program for the 2004 crop year of cottonseed. Additional terms and conditions may be set forth in the application or other forms which must be executed to participate in the cottonseed payment program.

(b) Payments shall be available only as provided in this subpart and only with respect to cottonseed losses related to 2004-crop cotton production in counties declared a disaster by the President of the United States due to hurricanes or tropical storms.

§1427.1102 [Amended]

4. In § 1427.1102, remove the definitions ''Number of ginned cotton bales'' and ''Running bale.''

5. Revise § 1427.1103 to read as follows:

§ 1427.1103 Eligible cottonseed.

To be eligible for payments under this subpart, cottonseed losses must:

(a) Be related to 2004-crop cotton production in a county declared a disaster by the President of the United States due to 2004 hurricanes or tropical storms.

(b) Not have been destroyed or damaged by fire, flood, or other events such that its loss or damage was compensated by other local, State, or Federal government or private or public insurance or disaster relief payments.

6. Amend § 1427.1104 by revising the section heading, revising paragraph (a) and in paragraph (c) changing the term ''low cottonseed prices'' to ''loss of the cottonseed'' to read as follows:

§ 1427.1104 Eligible applicants (first handlers).

(a) Only an eligible first handler of cottonseed shall be eligible to file an application for payment under this subpart. An eligible first handler of cottonseed may only be a gin that has an eligible payment quantity as determined under § 1427.1107.

* * * * *

7. Amend § 1427.1105 by revising the section heading and revising paragraph (b) to read as follows:

§ 1427.1105 Payment application and deadline.

* * * * *

(b) The application deadline shall be 30 days after the rules in this subpart become effective unless otherwise announced by CCC.

* * * * *

8. Revise § 1427.1106 to read as follows:

§ 1427.1106 Available funds.

The total available program funds for the 2004-crop cottonseed program provided for in this subpart shall be $10 million.

9. Revise § 1427.1107 to read as follows:

§ 1427.1107 Applicant payment quantity.

(a) The applicant's payment quantity of cottonseed will be calculated by the applicant and submitted on the Cottonseed Payment Application and Certification for approval for by CCC. An applicant must be a gin and the applicant's payment eligibility will be based on the determination of the amount of lint deliveries by cotton producers in eligible counties which were lost to the gin because of the qualifying hurricane or tropical storm as calculated under this section.

(1) The lost lint determination will be made on a producer-by-producer and farm-by-farm basis, based on producer certification, ginning records and other relevant information as applicable.

(2) The loss determination will be limited to losses related to 2004-crop cotton production in eligible counties. A cotton producer's gross loss of lint shall be determined based on a comparison of lint deliveries for 2003 and 2004 by the producer from the eligible farm to all gins. That difference will be adjusted to reflect changes in the acreage planted in the two years by the producer on the eligible farm and adjusted for losses due to reasons other than hurricane or tropical storm.

(b) The producer will certify the gin or gins to which the lost lint production as so determined would have been delivered. Also, the producer will certify the relevant percentages of the losses that would have been delivered to each gin if more than one gin would have received the deliveries. Apportionment of the loss may be made by CCC between gins on that basis.

(c) If the producer delivered 2004-crop cotton to a gin different than the gin to which the producer delivered 2003-crop cotton, or delivered cotton to

more than one gin in either 2003 or 2004, the gin receiving 2004-crop cotton shall contact the other gins for production information or obtain other proof of the eligible quantity from the cotton producer so as to make or verify the calculation called for in paragraph (a) of this section.

(d) If the cotton producer did not produce 2003-crop cotton the producer shall be considered a new producer. A new producer's eligible lost quantity will be determined as provided in paragraph (a) of this section except that the amount of loss of lint will be made by comparing the producer's actual 2004 per-acre yield with the 2003 USDA, National Agricultural Statistics Service county average yield for the applicable county.

(e) The gin's lint eligibility will be calculated individually with respect to all eligible cotton producers and those individual eligibilities for the gin will then be added together to determine the total lint eligibility of the gin. From that amount of lint eligibility, the applicant gin's payment quantity of cottonseed shall be calculated by multiplying:

(1) The applicant gin's eligible weight of lint for which payment is requested, as approved by CCC, and as determined in paragraphs (a) through (d) of this section by;

(2) The Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, as determined by CCC, for the five years preceding the 2004 crop year.

10. Revise § 1427.1108 to read as follows:

§ 1427.1108 Total payment quantity.

The total quantity of 2004-crop cottonseed eligible under this subpart shall be based on the total payment quantity of cottonseed as determined under this subpart for which timely applications are filed. Eligible cottonseed for which no application is received according to announced application instructions shall not be included in the total payment quantity of cottonseed. The total payment quantity of cottonseed (ton-basis) shall be calculated by multiplying:

(a) The total weight of cotton lint (ton-basis) for which payment is requested by all applicants, as approved by CCC, by

(b) The Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, as determined by CCC for the five years preceding the 2004 crop year.

11. Revise § 1427.1109 to read as follows:

§ 1427.1109 Payment rate.

The payment rate (dollars per ton) shall be determined by CCC by dividing the total available program funds by the total eligible payment quantity of cottonseed. However, in no event may the total payment to an eligible applicant exceed $112 per ton of cottonseed multiplied by the applicant's total eligible payment quantity.

12. Amend § 1427.1111 by revising paragraph (d) to read as follows:

§ 1427.1111 Liability of first handler.

* * * * *

(d) For three years after the date of the application for 2004-crop payments, the applicant shall keep records, including records supporting the quantity of cottonseed for which payment was requested, and furnish such information and reports relating to the application to CCC as requested. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in refund to CCC of all payments received, plus interest thereon, as determined by CCC. In the event of a controversy concerning payments, records must be kept for such longer period as may be specified by CCC until such controversy is resolved. Destruction of records at any time is at the risk of the applicant.

Signed in Washington, DC, on June 15, 2005.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 05–12485 Filed 6–23–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

User Input to the Aviation Weather Technology Transfer (AWTT) Board

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

ACTION: Notice of public meeting.

SUMMARY: The FAA will hold an informal public meeting to seek aviation weather user input on icing products. Details: July 13, 2005; Northrop Grumman, Conference Room A, 475 School Street, SW., Washington, DC 20024; 9 a.m. to 5 p.m. The objective of this meeting is to provide an opportunity for interested Government and commercial sector representatives who use government-provided aviation weather information in operational decision-making to provide input on FAA's plans for implementing new icing weather products.

DATES: The meeting will be held at Northrop Grumman, 475 School Street, SW., Washington, DC 20024; Times: 9 a.m. to 5 p.m. on July 13, 2005.

FOR FURTHER INFORMATION CONTACT: Debi Bacon, Air Traffic Organization, Operations Planning, Weather Policy and Standards, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone number (202) 385–7705; Fax: (202) 385–7701; e-mail: *debi.bacon@faa.gov*.

SUPPLEMENTARY INFORMATION:

History

In 1999, the FAA established an Aviation Weather Technology Transfer (AWTT) Board to manage the orderly transfer of weather capabilities and products from research and development (R&D) into operations. The Director of the National Airspace (NAS) Weather Office, Operations Planning, Air Traffic Organization chairs the AWTT Board. The board is composed of stakeholders in the Air Traffic and Aviation Safety organizations in the Federal Aviation Administration and the Office of Climate, Water and Weather Services, the Office of Science and Technology, and the National Center for Environmental Predictions (NCEP) in the National Weather Service.

The AWTT Board meets semi-annually or as needed, to determine the readiness of weather R&D products for experimental use, full operational use for meteorologists or full operational use for end users. The board makes the determination based on technical and operational readiness, cost and benefits, user needs and budget considerations.

FAA has the sole responsibility and authority to make decisions intended to provide a safe, secure, and efficient U.S. national airspace system. However, it behooves FAA to not make decisions in a vacuum. Rather, FAA is seeking inputs from the user community before decisions are finalized.

Industry users are invited to participate in one-day meetings about three times per year to give specific feedback to the Government. Meetings will be focused on a specific domain (*e.g.* terminal, enroute) or specific weather phenomena (*e.g.* turbulence, convection). Meetings will include a time for users to provide input on specific weather products and aviation

weather roadmaps and to surface issues or concerns with those products. The meetings will also include information on program and policy updates and on-going research. The industry review sessions will be announced in the **Federal Register** and open to all interested parties.

This meeting in the industry session focused on in-flight icing products, roadmaps and research activities.

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by representatives of the FAA Headquarters.

(b) The meeting will be open to all persons on a space-available basis. Every effort was made to provide a meeting site with sufficient seating capacity for the expected participation. There will be neither admission fee nor other charge to attend and participate. Attendees must present themselves to the security guard at the Northrop Grumman office, 475 School Street, SW., Washington, DC 20024 to obtain a visitor pass and adhere to security instructions for the Northrop Grumman facility.

(c) FAA personnel will conduct overview briefings on the user input process, weather products, aviation weather roadmaps and programs and policies. Research leads from the inflight icing product development team will conduct an overview briefing on the status of research efforts in the icing domain. Questions may be asked during the presentation and FAA personnel will clarify any part of the process that is not clear.

(d) FAA personnel will lead a session intended to elicit user views on the inflight icing products and any issues surrounding those products. Any person present may offer comment or feedback in the session. Comments and feedback will be captured through discussion between FAA personnel and those persons attending the meeting.

(e) FAA will not take any action items from this meeting nor make any commitments to accept specific user suggestions. An official verbatim transcript of the meeting will not be made. However, a list of the attendees and a digest of discussions during the meeting will be produced and posted on a web site Instructions to access the web site will be provide to all persons attending the meeting and provided to any who desire it.

(f) Every reasonable effort will be made to hear each person's feedback consistent with a reasonable closing time for the meeting. Written feedback is also solicited and may be submitted to FAA personnel for the period July 14—August 13, 2005.

Agenda

(a) Opening Remarks.

(b) Review of AWTT weather products, roadmaps and research efforts.

(c) Inflight icing Products and Issues Session.

(d) Closing Comments.

* * * * *

Issued in Washington, DC, on June 20, 2005.

Richard J. Heuwinkel,

Manager, Aviation Weather Policy and Standards.

[FR Doc. 05–12558 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21447; Airspace Docket No. 05–AAL–17]

Proposed Revision of Class E Airspace; Cordova, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise the Class E airspace at Cordova, AK. New and revised Standard Instrument Approach Procedures (SIAPs) are being published for Cordova, AK. Additional Class E airspace is needed to contain aircraft executing instrument approaches at Merle K. (Mudhole) Smith Airport. Adoption of this proposal would result in additional Class E surface area and Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Cordova, AK.

DATES: Comments must be received on or before August 8, 2005.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2005–21447/ Airspace Docket No. 05–AAL–17, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Services Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Derril Bergt, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Derril.Bergt@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–21447/Airspace Docket No. 05–AAL–17.'' 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 notice 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 Notice of Proposed Rulemaking's (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 Superintendent of Document's Web page at *http://www.access.gpo.gov/nara.*

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

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), by adding Class E airspace at Cordova, AK. The intended effect of this proposal is to revise the Class E surface area and Class E airspace upward from 700 ft. and 1,200 ft above the surface to contain Instrument Flight Rules (IFR) operations at Cordova, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed new and revised SIAPs for the Merle K. (Mudhole) Smith Airport. The approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 27, original; (2) RNAV (GPS) –B, Amendment 1; and (3) Non-directional Beacon /Distance Measuring Equipment (NDB/DME) –A, original. Revised Class E surface area and Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface of the Cordova Airport would be created by this action. The proposed airspace is sufficient to contain aircraft executing the new and revised instrument procedures for the Merle K. (Mudhole) Smith Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as surface areas are published in paragraph 6002, and the Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9M, *Airspace Designations and Reporting Points,* dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because in proposes to revise Class E airspace sufficient to contain aircraft executing instrument procedures at Merle K. (Mudhole) Smith Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6002 Class E airspace Designated as Surface Areas.

* * * * *

AAL AK E2 Cordova, AK [Revised]

Cordova, Merle K. (MUDHOLE) Smith Airport, AK
(Lat. 60°29′31″ N., Long. 145°28′39″ W.)
Glacier River NDB
(Lat. 60°29′56″ N., Long. 145°28′28″ W.)

Within a 4.1-mile radius of the Merle K. (Mudhole) Smith Airport and within 2 miles each side of the 115° bearing from the Glacier River NDB extending from the 4.1-mile radius to 6 miles southeast of the airport, and within 2 miles each side of the 124° bearing from the Glacier River NDB extending from the 4.1-mile radius to 10.4 miles southeast of the airport, and within 3.2 miles northwest and 2.1 miles southeast of the 222° bearing from the Glacier River NDB extending from the 4.1-mile radius to 10 miles southwest of the airport, excluding that airspace north of a line from lat. 60°31′03″ N., long. 145°20′59″ W. to lat. 60°32′45″ N., long. 145°33′43″ W.

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Cordova, AK [Revised]

Cordova, Merle K. (MUDHOLE) Smith Airport, AK
(Lat. 60°29′31″ N., Long. 145°28′39′ W.)
Glacier River NDB
(Lat. 60°29′56″ N., Long. 145°28′28″ W.)

That airspace extending upward from 700 feet above the surface within an 6.6-mile radius of the Merle K. (Mudhole) Smith Airport and within 4 miles each side of the 222° bearing from the Glacier River NDB extending from the 6.6-mile radius to 20 miles southwest of the airport; and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of the airport and within 6 miles each side of the 115° bearing from the Glacier River NDB extending from the 30-mile radius to 45 miles east of the airport, excluding that airspace within Control 1487L. and more than 12-miles from the shoreline.

* * * * *

Issued in Anchorage, AK, on June 16, 2005.

Michael A. Tarr,

Acting Area Director, Alaska Flight Services Area Office.

[FR Doc. 05–12562 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21529; Airspace Docket No. 05–AAL–19]

Proposed Revision of Class E Airspace; Yakutat, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise the Class E airspace at Yakutat, AK. Three new Standard Instrument Approach Procedures (SIAPs) are being published for Yakutat, AK. Additional Class E airspace is needed to contain aircraft executing instrument approaches at Yakutat Airport. Adoption of this proposal would result in additional Class E airspace upward from 1,200 feet (ft.) above the surface at Yakutat, AK.

DATES: Comments must be received on or before August 8, 2005.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2005–21529/ Airspace Docket No. 05–AAL–19, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Services Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Derril Bergt, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Derril.Bergt@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–21529/Airspace Docket No. 05–AAL–19.'' 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 notice 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 Notice of Proposed Rulemaking's (NPRM's)

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

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), by adding Class E airspace at Yakutat, AK. The intended effect of this proposal is to revise Class E airspace upward from 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Yakutat, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed three new SIAPs for the Yakutat Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 2, original; (2) RNAV (GPS) RWY 11, original; and (3) RNAV (GPS) RWY 29, original. Revised Class E controlled airspace extending upward from 1,200 ft above the surface would be created by this action. The proposed airspace is sufficient to contain aircraft executing the new instrument procedures for the Yakutat Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9M, *Airspace Designations and Reporting Points,* dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because in proposes to revise Class E airspace sufficient to contain aircraft executing instrument procedures at Yakutat Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Yakutat, AK [Revised]

Yakutat Airport, AK
(Lat. 59°30′39″N., long. 139°38′53″W.)

That airspace extending upward from 700 feet above the surface within the area bounded by lat. 59°47′42″ N. long. 139°58′48″ W. to lat. 59°37′33″ N. long. 139°40′53″ W. then along the 7-mile radius of the Yakutat VORTAC clockwise to lat. 59°28′54″ N. long. 139°25′35″ W. to lat. 59°20′16″ N. long. 139°10′20″ W. to lat. 59°02′49″ N. long. 139°47′45″ W. to lat. 59°30′15″ N. long. 140°36′43″ W. to the point of beginning; and that airspace extending upward from 1,200 feet above the surface within the area bounded by lat. 59°00′00″ N. long. 141° 10′00″W. by lat. 59°5′00″ N. long. 141°00′00″ W. by lat. 60°05′00″ N. long. 140°30′00″ W. by lat. 60°10′00″ N. long. 139°30′00″ W. by lat. 59°30′00″ N. long. 138°15′00″ W. by lat. 59°00′00″ N. long. 138°35′00″ W. by lat. 58°40′00″ N. long. 139°30′00″ W., and within 5.6 miles each side of the Yakutat VORTAC 112° radial to 65 miles southeast of the VORTAC.

* * * * *

Issued in Anchorage, AK, on June 16, 2005.

Michael A. Tarr,

Acting Area Director, Alaska Flight Services Area Office.

[FR Doc. 05–12561 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21601; Airspace Docket No. 05–AAL–20]

Proposed Revision of Class E Airspace; Prospect Creek, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise the Class E airspace at Prospect Creek, AK. An airspace evaluation has concluded that additional airspace is required to fully contain aircraft executing Special Instrument Approaches Procedures at Prospect Creek Airport. Adoption of this proposal would result in the revision of Class E airspace upward from 700 feet (ft.) above the surface at Prospect Creek, AK.

DATES: Comments must be received on or before August 8, 2005.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2005–21601/ Airspace Docket No. 05–AAL–20, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Services Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Derril Bergt, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Derril.Bergt@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–21601/Airspace Docket No. 05–AAL–20.'' 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 notice 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 Notice of Proposed Rulemaking's (NPRM's)

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published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara.*

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

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), which would revise Class E airspace at Prospect Creek, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Prospect Creek, AK.

The Special Instrument Flight Procedures developed for the Prospect Creek Airport currently are not fully contained in Class E airspace. The FAA is proposing to revise Class E airspace at Prospect Creek, AK, which would be sufficient to contain aircraft executing instrument procedures. Additional Class E controlled airspace extending upward from 700 ft. above the surface within the Prospect Creek Airport area would be created by this action.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9M, *Airspace Designations and Reporting Points,* dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to revise Class E airspace sufficient to contain aircraft executing the instrument procedures at Prospect Creek Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Prospect Creek, AK [Revised]

Prospect Creek Airport, AK
(Lat. 66°48′46″ N., Long. 150°38′38″ W.)

That airspace extending upward from 700 feet above the surface within a 4.2-mile radius of the Prospect Creek Airport and that airspace 4 miles either side of the 279° bearing from the Prospect Creek Airport from the 4.2 mile radius to 8 miles west of the Airport.

* * * * *

Issued in Anchorage, AK, on June 16, 2005.

Michael A. Tarr,

Acting Area Director, Alaska Flight Services Operations.

[FR Doc. 05–12559 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21448; Airspace Docket No. 05–AAL–16]

Proposed Establishment of Class E Airspace; Golovin, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish new Class E airspace at Golovin, AK. Two new Standard Instrument Approach Procedures (SIAPs) and one departure procedure are being published for the Golovin Airport. There is no existing Class E airspace to contain aircraft executing the new instrument procedures at Golovin, AK. Adoption of this proposal would result in the establishment of Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Golovin, AK.

DATES: Comments must be received on or before August 8, 2005.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2005–21448/ Airspace Docket No. 05–AAL–16, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets

Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Services Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Derril Bergt, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Derril.Bergt@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–21448/Airspace Docket No. 05–AAL–16.'' 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 notice 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 Notice of Proposed Rulemaking's (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 Superintendent of Document's Web page at *http://www.access.gpo.gov/nara.*

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

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), which would establish new Class E airspace at Golovin, AK. The intended effect of this proposal is to establish Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Golovin, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAPs and one departure procedure for the Golovin Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 2, original and (2) RNAV (GPS)-A, original. The new departure procedure is the Nome ONE. New Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface within the Golovin Airport area would be created by this action. The proposed airspace is sufficient to contain aircraft executing the new instrument procedures at the Golovin Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9M, *Airspace Designations and Reporting Points,* dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to establish Class E airspace sufficient to contain aircraft executing instrument procedures at Golovin Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M,

Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Golovin, AK [New]

Golovin Airport, AK
(Lat. 64°33′02″ N., long. 163°00′26″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of the Golovin Airport, and that airspace extending upward from 1,200 feet above the surface within a 30-mile radius of 64°43′47″ N 163°15′17″ W and a 30-mile radius of 64°17′57″ N 163°01′41″ W excluding that airspace within Nome E airspace.

* * * * *

Issued in Anchorage, AK, on June 16, 2005.

Michael A. Tarr,

Acting Area Director, Alaska Flight Services Area Office.

[FR Doc. 05–12560 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2005–PA–0014; FRL–7927–6]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Control of VOC Emissions From Aerospace, Mobile Equipment, and Wood Furniture Surface Coating Applications for Allegheny County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Allegheny County portion of the Commonwealth of Pennsylvania State Implementation Plan (SIP). This revision, submitted by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD), establishes standards and requirements to control volatile organic compounds (VOCs) emissions from aerospace, mobile equipment, and wood furniture surface coating applications, and modifies existing regulations for general and specific coating processes. This revision updates the ACHD's regulations to make them consistent with the Commonwealth's SIP-approved regulations regarding the affected surface coating processes. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by July 25, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–20005–PA–0014 by one of the following methods:

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

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *campbell.dave@epa.gov.*

D. Mail: R03–OAR–2005–PA–0014, David Campbell, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2005–PA–0014. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov websites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, pertaining to the Control of VOC Emissions from Aerospace, Mobile Equipment, and Wood Furniture Surface Coating Applications for Allegheny County, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: June 15, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 05–12582 Filed 6–23–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7925–2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Amendment

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment and request for comment.

SUMMARY: The Environmental Protection Agency (EPA, also ''the Agency'' or ''we'' in this preamble) is proposing to modify an exclusion (or ''delisting'') from the lists of hazardous waste previously granted to Nissan North America, Inc. (Nissan) in Smyrna, Tennessee.

This action responds to a petition for amendment submitted by Nissan to increase the maximum annual volume covered by its current exclusion for a F019 listed hazardous waste.

The Agency is basing its tentative decision to grant the petition for amendment on an evaluation of specific information provided by the petitioner. This tentative decision, if finalized, would increase the annual volume of waste conditionally excluded from the requirements of the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: EPA is requesting public comments on this proposed amendment. We will accept comments on this proposal until August 8, 2005. Comments postmarked after the close of the comment period will be stamped ''late.'' These late comments may not be considered in formulating a final decision.

Any person may request a hearing on this tentative decision to grant the petition for amendment by filing a request by July 11, 2005. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Please send two copies of your comments to Daryl R. Himes, South Enforcement and Compliance Section, RCRA Enforcement and Compliance Branch, Waste Management Division, U.S. EPA Region 4, 61 Forsyth Street SW., Atlanta, GA, 30303. Comments may also be sent to Daryl R. Himes via email at *Himes.Daryl@epa.gov.*

Your request for a hearing should be addressed to Narindar M. Kumar, Chief, RCRA Enforcement and Compliance Branch, Waste Division, U.S. Environmental Protection Agency Region 4, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303.

The RCRA regulatory docket for this proposed rule is located at the offices of U.S. EPA Region 4, 61 Forsyth Street SW., Atlanta, GA, 30303, and is available for your viewing from 8:30 a.m. to 5 p.m., Monday through Friday, except on Federal holidays. Please call Daryl R. Himes, at (404) 562–8614 for appointments. The public may copy material from the regulatory docket at $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this document, please contact Daryl R. Himes at the address above or at (404) 562–8614.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Background

A. What Laws and Regulations Give EPA the Authority To Delist Waste?

EPA published amended lists of hazardous wastes from nonspecific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA. These lists have been amended several times, and are found at 40 CFR 261.31 and 261.32.

We list these wastes as hazardous because: (1) They typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of 40 CFR Part 261 (*i.e.,* ignitability, corrosivity, reactivity, and toxicity), or (2) they meet the criteria for listing contained in 40 CFR 261.11(a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be.

For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure which allows a person to demonstrate that a specific listed waste from a particular generating facility should not be regulated as a hazardous waste, and should, therefore, be delisted.

According to 40 CFR 260.22(a)(1), in order to have these wastes excluded a petitioner must first show that wastes generated at its facility do not meet any of the criteria for which the wastes were listed. The criteria which we use to list wastes are found in 40 CFR 261.11. An explanation of how these criteria apply to a particular waste is contained in the background document for that listed waste.

In addition to the criteria that we considered when we originally listed the waste, we are also required by the provisions of 40 CFR 260.22(a)(2) to consider any other factors (including additional constituents), if there is a reasonable basis to believe that these factors could cause the waste to be hazardous.

In a delisting petition, the petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics defined in Subpart C of

40 CFR Part 261 (*i.e.,* ignitability, corrosivity, reactivity, and toxicity), and must present sufficient information for EPA to determine whether the waste contains any other constituents at hazardous levels.

A generator remains obligated under RCRA to confirm that its waste remains nonhazardous based on the hazardous waste characteristics defined in Subpart C of 40 CFR Part 261 even if EPA has delisted its waste.

We also define residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing listed hazardous wastes as hazardous wastes. (*See* 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), referred to as the ''mixture'' and ''derived-from'' rules, respectively.) These wastes are also eligible for exclusion but remain hazardous wastes until delisted.

B. What Waste Is Currently Delisted at Nissan?

Nissan operates a light-duty vehicle manufacturing facility in Smyrna, Tennessee. As a result of Nissan's use of aluminum as a component of its automobile bodies, Nissan generates a sludge meeting the listing definition of F019 at 40 CFR 261.31.

On October 12, 2000, Nissan petitioned EPA under the provisions in 40 CFR 260.20 and 260.22 to exclude the F019 sludge, discussed above, from hazardous waste regulation.

In support of its October 12, 2000, petition, Nissan submitted sufficient information to EPA to allow us to determine that the waste was not hazardous based upon the criteria for which it was listed and that no other hazardous constituents were present in the waste at levels of regulatory concern.

A full description of the Agency's evaluation of the 2000 Nissan petition is contained in the Proposed Rule and Request for Comments published in the **Federal Register** on November 19, 2001, (223 FR 57918).

After evaluating public comment on the Proposed Rule, we published a final decision in the **Federal Register** on June 21, 2002, (67 FR 41287) to exclude the Nissan F019 wastewater treatment sludge from the list of hazardous wastes found in 40 CFR 261.31.

EPA's final decision in 2002 was conditioned on the volume of waste identified in the 2001 Nissan petition. Specifically, the exclusion granted by EPA is limited to a maximum annual volume of 2400 cubic yards. Any additional waste volume in excess of this limit generated by Nissan in a calendar year was to have been managed as hazardous waste.

C. What Does Nissan Request in Its Petition for Amendment?

As a result of an increase in wastewater treatment sludge filter cake production associated with an increase in vehicle production, Nissan petitioned EPA on February 3, 2004, for an amendment to its June 21, 2002, final exclusion. In its petition, Nissan requested an increase in the maximum annual waste volume that is covered by its exclusion from 2400 cubic yards to 3500 cubic yards.

II. Disposition of Petition Amendment

A. What Information Did Nissan Submit to Support Its Petition for Amendment?

The exclusion which we granted to Nissan on June, 21, 2002, is a conditional exclusion. In order for its exclusion to have remained effective, Nissan has performed verification testing on its delisted F019 waste water treatment sludge. Constituents tested for by the required verification testing were previously identified for Nissan by EPA in the June 21, 2002, final exclusion. The constituents identified were those detected in initial analysis of Nissan's F019 waste water treatment sludge.

Nissan has submitted its verification testing results to EPA as required in the June 21, 2002, Final Rule. A summary of the maximum values detected from samples of Nissan's F019 waste for each of Nissan's verification testing constituents are presented in Table 1 below. The values presented were identified from a review of the verification testing results as well as the initial testing results which were performed to identify the verification testing constituents.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1] WWTP FILTER CAKE

Inorganic constituents	Total constituent concentration (mg/kg)	TCLP leachate concentration (mg/l)
Barium	6600.0	0.18
Cadmium	6.0	<0.010
Chromium	160.00	<0.050
Lead	390.0	<0.0050
Nickel	4600	<0.050
4-Methyl-phenol (ρ-cresol)	.....	0.31
Bis (2-ethylhexyl) phthalate	.....	<0.050
Di-n-octyl phthalate	.....	<0.050
Cyanide	3.2	0.0095

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

< Denotes that the constituent was not detected at the concentration specified in the table.

The verification testing program specified by the current exclusion for Nissan requires leachate constituent analysis for the metal and organic constituents. In addition, analysis for totals levels for each of the metal constituents as well as cyanide is also currently required.

B. How did EPA evaluate risk for the November 19, 2001, Nissan petition and this proposed amendment?

In the rule proposed on November 19, 2001, and this proposed amendment, EPA has determined the delisting levels for Nissan's F019 waste water treatment plant sludge based on the following: (1) EPA Composite Model for Leachate Migration with Transformation Products (EPACMTP model) as used in EPA, Region 6's Delisting Risk Assessment Software (DRAS); (2) use of DRAS-calculated levels based on Safe Drinking Water Act Maximum Contaminant Levels (MCLs) if more conservative delisting levels would be obtained; (3) use of the Multiple Extraction Procedure (MEP), SW–846 Method 1320, to evaluate the long-term resistance of the waste to leaching in a landfill; (4) setting limits on total concentrations of constituents in the waste.

C. What Conclusion Did EPA Reach?

EPA believes that the information provided by Nissan provides a reasonable basis to grant Nissan's petition for an amendment to its current delisting. We, therefore, propose to grant Nissan an amendment for an increase in waste volume. The data submitted to support the petition and the Agency's evaluation show that the constituents in the Nissan wastewater treatment sludge filter cake are below health-based levels used by the Agency for delisting decision-making even at the increased maximum annual waste volume of 3500 cubic yards.

For this delisting determination, we used information gathered to identify plausible exposure routes (*i.e.*, groundwater, surface water, air) for hazardous constituents present in the petitioned waste. We determined that disposal in a Subtitle D landfill is the most reasonable, worst-case disposal scenario for Nissan's petitioned waste. We applied the Delisting Risk Assessment Software (DRAS) described above to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned waste after disposal, and we determined the potential impact of the disposal of Nissan's petitioned waste on human health and the environment. In assessing potential risks to groundwater, we used the increased maximum waste volume and the maximum measured or calculated leachate concentrations as inputs to the DRAS program to estimate the constituent concentrations in the groundwater at a hypothetical receptor well downgradient from the disposal site. Using an established risk level, the DRAS program can back-calculate receptor well concentrations (referred to as a compliance-point concentration) using standard risk assessment algorithms and Agency health-based numbers.

EPA Region 4 generally defines acceptable risk levels for the delisting program as wastes with an excess cancer risk of no more than 1×10^{-5} and a hazard quotient of no more than 1.0 for individual constituents.

Using the maximum compliance-point concentrations and the EPACMTP fate and transport modeling factors, the DRAS further back-calculates the maximum waste constituent concentrations which would not exceed the compliance-point concentrations in groundwater.

The Agency believes that the EPACMTP fate and transport model represents a reasonable worst-case scenario for possible groundwater contamination resulting from disposal of the petitioned waste in a landfill and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of the RCRA Subtitle C program. The use of a reasonable worst-case scenario results in conservative values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, will not pose a significant threat to human health or the environment.

Similarly, the DRAS used the increased waste volume requested in the petition and the maximum reported total concentrations to predict possible risks associated with releases of waste constituents through surface pathways (*e.g.*, volatilization or wind-blown particulate from the landfill). As in the groundwater analyses, the DRAS uses the established acceptable risk level, the health-based data, and standard risk assessment and exposure algorithms to predict maximum compliance-point concentrations of waste constituents at a hypothetical point of exposure. Using fate and transport equations, the DRAS uses the maximum compliance-point concentrations and back-calculates the maximum allowable waste constituent concentrations. In most cases, because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict, and does not presently control, how a petitioner will manage a waste after it is excluded. Therefore, we believe that it is inappropriate to consider extensive site-specific factors when applying the fate and transport model.

As a condition of Nissan's current delisting, Nissan must continue to test for a list of verification constituents. Based on the increased waste volume requested in the petition, new proposed maximum allowable leachate concentrations and maximum allowable total constituent concentrations (as explained below) for these constituents were derived by back-calculating from the delisting health-based levels through the proposed fate and transport model for a landfill management scenario. The maximum allowable concentration of the verification constituents, both in leachate and totals levels, were recalculated for each of the current verification constituents. These concentration limits are shown in Table 2 below.

TABLE 2.—MAXIMUM ALLOWABLE CONCENTRATION OF CONSTITUENTS IN LEACHATE OR IN WASTE [1]

Constituent	Maximum allowable leachate concentration (mg/l)	Maximum allowable total concentration (mg/kg)
Barium	1.00e+02	6.16e+07
Cadmium	1.00e+00	6.43e+05
Chromium	5.00e+00	1.93e+09
Lead	5.00e+00	4.56e+05
Nickel	6.07e+01	2.57e+07
Cyanide	7.73e+00	2.57e+07
Bis(2-ethylhexyl)phthalate	6.01e−01	.....
ρ-Cresol	7.66e+00	.....
Di-n-octyl phthalate	7.52e−02	.....

[1]The term ''e'' in the table is a variation of ''scientific notation'' in base 10 exponential form and is used in this table because it is a convenient way to represent very large or small numbers. For example, 3.00e–03 is equivalent to 3.00×10^{-3} and represents the number 0.003.

The Final Rule published in the **Federal Register** on June 21, 2002, (67 FR 41287) included maximum allowable total concentration limits for each of the inorganic constituents and cyanide for which Nissan would be required to perform verification testing results. Upon a comparative review of the maximum total constituent levels analyzed for as shown in Table 1 to the maximum allowable levels of these constituents as calculated by the DRAS model, EPA is proposing to remove the requirement from the June 21, 2002, Final Rule which requires Nissan to

analyze its verification samples for the currently specified total values. This proposal is being made based upon a comparison made by EPA between the results of such totals analysis shown in Table 1 as compared to the totals levels calculated for these constituents by the DRAS model in Table 2. The maximum allowable verification levels for total constituent levels shown in Table 2 are in excess of an order of magnitude of three (10^3) times greater than the results of the sample analysis performed by Nissan for totals values shown in Table 1.

III. Conditions for Exclusion

A. What Are the Maximum Allowable Concentrations of Hazardous Constituents?

The following table (Table 3) summarizes the maximum allowable constituent concentrations (delisting levels) which EPA is proposing for Nissan's waste. We recalculated these delisting levels for each constituent that is part of Nissan's current delisting using the DRAS and the increased maximum annual waste volume of 3500 cubic yards. These proposed delisting levels were derived from the health-based calculations performed by the DRAS program using either strict health-based levels or MCLs, or from Toxicity Characteristic regulatory levels, whichever resulted in a lower (*i.e.*, more conservative) concentration.

TABLE 3.—MAXIMUM ALLOWABLE CONCENTRATION OF CONSTITUENTS IN LEACHATE OR IN WASTE [1]

Constituent	Maximum allowable leachate concentration (mg/l)
Barium	1.00e+02
Cadmium	1.00e+00
Chromium	5.00e+00
Lead	5.00e+00
Nickel	6.07e+01
Cyanide	7.73e+00
Bis(2-ethylhexyl)phthalate	6.01e−01
ρ-Cresol	7.66e+00
Di-n-octyl phthalate	7.52e−02

[1]The term ''e'' in the table is a variation of ''scientific notation'' in base 10 exponential form and is used in this table because it is a convenient way to represent very large or small numbers. For example, 3.00e–03 is equivalent to 3.00×10^{-3} and represents the number 0.003.

The current maximum allowable constituent concentrations (delisting levels) for Nissan as found in 40 CFR 261 Appendix IX, Table 1, are specified as leachate concentrations for inorganic and organic constituents and cyanide, and as total constituent concentrations for inorganic constituents for reasons set forth previously in the Proposed Rule published in the **Federal Register** on November 19, 2001 (223 FR 57918).

B. How Frequently Must Nissan Test the Waste and How Must It Be Managed Until It Is Disposed?

Nissan must continue to test and manage its waste according to the conditions set forth in its current delisting. We are not proposing in this amendment to change the method of sample collection, the frequency of sample analyses or the waste holding procedures currently specified in EPA's final decision in the **Federal Register** on June 21, 2002, (67 FR 41287), except the total constituent analyses, which no longer will be required.

C. What Must Nissan Do If the Process Changes?

We are not proposing to change the conditions regarding process changes as set forth in EPA's final decision in the **Federal Register** on June 21, 2002, (67 FR 41287).

D. What Data Must Nissan Submit?

We are not proposing to change the data Nissan is required to submit as specified in EPA's final decision in the **Federal Register** on June 21, 2002, (67 FR 41287).

E. What Happens If Nissan Fails to Meet the Conditions of the Exclusion?

We are not proposing to change the reopener language Nissan is required to comply with as specified in EPA's final decision in the **Federal Register** on June 21, 2002, (67 FR 41287).

IV. Effect on State Authorizations

This proposed amendment, if promulgated, would be issued under the Federal RCRA delisting program. States, however, may impose more stringent regulatory requirements than EPA pursuant to Section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (RCRA) or State (non-RCRA) programs), petitioners are urged to contact State regulatory authorities to determine the current status of their wastes under the State laws.

Furthermore, some States are authorized to administer a delisting program in lieu of the Federal program (*i.e.*, to make their own delisting decisions). Therefore, this proposed amendment, if promulgated, may not apply in those authorized States, unless it is adopted by the State. If the petitioned waste is managed in any State with delisting authorization, Nissan must obtain delisting authorization from that State before the waste may be managed as nonhazardous in that State.

V. Effective Date

EPA is today making a tentative decision to grant Nissan's petition for amendment. This proposed rule, if made final, will become effective immediately upon such final publication. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for a facility generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after publication and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective

immediately upon final publication. These reasons also provide a basis for making this rule effective immediately, upon final publication, under the Administrative Procedures Act, 5 U.S.C. 553(d).

VI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a rule of general applicability and therefore is not a ''regulatory action'' subject to review by the Office of Management and Budget. Because this action is a rule of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because the rule will affect only one facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA, or communities of Indian tribal governments, as specified in Executive Order 13175 (65 FR 67249, November 6, 2000). For the same reason, this rule 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). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) 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. 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.*).

VII. Public Comments

A. How May I as an Interested Party Submit Comments?

The EPA is requesting public comments on this proposed decision. Please send three copies of your comments. Send two copies to the Chief, North Section, RCRA Enforcement and Compliance Branch, U.S. Environmental Protection Agency Region 4, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303. Send a third copy to Mr. Mike Apple, Director, Division of Solid Waste Management, Tennessee Department of Environment and Conservation, 5th Floor, L&C Tower, 401 Church Street, Nashville, Tennessee 37243–1535. You should identify your comments at the top with this regulatory docket number: R$DLP–0401–Nissan.

You should submit requests for a hearing to Narrindar M. Kumar, Chief, RCRA Enforcement and Compliance Branch, Waste Division, U.S. Environmental Protection Agency Region 4, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303.

B. How May I Review the Docket or Obtain Copies of the Proposed Exclusion?

You may review the RCRA regulatory docket for this proposed rule at the U.S. Environmental Protection Agency Region 4, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303.

It is available for viewing in the EPA Freedom of Information Act Review Room from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (404) 562–8614 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at fifteen cents per page for additional copies.

VIII. Regulatory Impact

Under Executive Order 12866, the EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions.

The proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of the EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from the EPA's lists of hazardous wastes, thus enabling a facility to manage its waste as nonhazardous.

Because there is no additional impact from this proposed rule, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under section (6) of Executive Order 12866.

IX. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on small entities. This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of the EPA's hazardous waste regulations and would be limited to one facility. Accordingly, the EPA hereby certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Therefore, this regulation does not require a regulatory flexibility analysis.

X. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96 511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050 0053.

XI. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, which was signed into law on March 22, 1995, the EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

When such a statement is required for the EPA rules under section 205 of the UMRA, the EPA must identify and consider alternatives. The alternatives must include the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law.

Before the EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA

a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of the EPA's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon state, local, or tribal governments or the private sector.

The EPA finds that this delisting decision is deregulatory in nature and does not impose any enforceable duty on any State, local, or tribal governments or the private sector. In addition, the proposed delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

XII. Executive Order 13045

The Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that the EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the EPA. This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

XIII. Executive Order 13084

Because this action does not involve any requirements that affect Indian Tribes, the requirements of section 3(b) of Executive Order 13084 do not apply. Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments.

If the mandate is unfunded, the EPA must provide to the Office Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of the EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires the EPA to develop an effective process permitting elected and other representatives of Indian tribal governments to have ''meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

XIV. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act, the EPA is directed to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices, etc.) developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by the EPA, the Act requires that the EPA provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards and thus, the EPA has no need to consider the use of voluntary consensus standards in developing this final rule.

XV. Executive Order 13132 Federalism

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

Under section 6 of Executive Order 13132, the EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the EPA consults with State and local officials early in the process of developing the proposed regulation.

This action does not have federalism implication. It will not have a substantial direct effect on 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, because it affects only one facility.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Section 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: June 9, 2005.

Jon D. Johnston,

Acting Director, Waste Management Division, Region 4.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of appendix IX, part 261 add the following wastestream in alphabetical order by facility to read as follows:

Appendix IX—Wastes Excluded Under Secs. 260.20 and 260.22.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	* *	* * * * *
Nissan North America, Inc	Smyrna, Tennessee	Wastewater treatment sludge (EPA Hazardous Waste No. F019) that Nissan North America, Inc. (Nissan) generates by treating wastewater from the automobile assembly plant located at 983 Nissan Drive in Smyrna, Tennessee. This is a conditional exclusion for up to 3,500 cubic yards of waste (hereinafter referred to as ''Nissan Sludge'') that will be generated each year and disposed in a Subtitle D landfill after [Publication Date of the Final Rule]. Nissan must continue to demonstrate that the following conditions are met for the exclusion to be valid. (1) Delisting Levels: All leachable concentrations for these metals, cyanide, and organic constituents must not exceed the following levels (ppm): Barium—100.0; Cadmium—0.422; Chromium—5.0; Cyanide—7.73, Lead—5.0; and Nickel—60.7; Bis—(2-ethylhexyl) phthalate—0.601; Di-n-octyl phthalate—0.0752; and 4–Methylphenol—7.66. These concentrations must be measured in the waste leachate obtained by the method specified in 40 CFR 261.24, except that for cyanide, deionized water must be the leaching medium. Cyanide concentrations in waste or leachate must be measured by the method specified in 40 CFR 268.40, Note 7. (2) Verification Testing Requirements: Sample collection and analyses, including quality control procedures, must be performed according to SW–846 methodologies, where specified by regulations in 40 CFR parts 260–270. Otherwise, methods must meet Performance Based Measurement System Criteria in which the Data Quality Objectives are to demonstrate that representative samples of the Nissan Sludge meet the delisting levels in Condition (1). Nissan must perform an annual testing program to demonstrate that the constituent concentrations measured in the TCLP extract do not exceed the delisting levels established in Condition (1). If the levels of constituents measured in Nissan's annual testing program do not exceed the levels set forth in Condition (1), then the Nissan Sludge is non-hazardous and must be managed in accordance with all applicable solid waste regulations. If constituent levels in a composite sample exceed any of the delisting levels set forth in Condition (1), the batch of Nissan Sludge generated during the time period corresponding to this sample must be managed and disposed of in accordance with Subtitle C of RCRA. (4) Changes in Operating Conditions: Nissan must notify EPA in writing when significant changes in the manufacturing or wastewater treatment processes are implemented. EPA will determine whether these changes will result in additional constituents of concern. If so, EPA will notify Nissan in writing that the Nissan Sludge must be managed as hazardous waste F019 until Nissan has demonstrated that the wastes meet the delisting levels set forth in Condition (1) and any levels established by EPA for the additional constituents of concern, and Nissan has received written approval from EPA. If EPA determines that the changes do not result in additional constituents of concern, EPA will notify Nissan, in writing, that Nissan must verify that the Nissan Sludge continues to meet Condition (1) delisting levels. (5) Data Submittals: Data obtained in accordance with Condition (2) must be submitted to Narindar M. Kumar, Chief, RCRA Enforcement and Compliance Branch, Mail Code: 4WD–RCRA, U.S. EPA, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303. The submission is due no later than 60 days after taking each annual verification samples in accordance with delisting Conditions (1) through (7). Records of analytical data from Condition (2) must be compiled, summarized, and maintained by Nissan for a minimum of three years, and must be furnished upon request by EPA or the State of Tennessee, and made available for inspection. Failure to submit the required data within the specified time period or maintain the required records for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(6) Reopener Language: (A) If, at any time after disposal of the delisted waste, Nissan possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified in the delisting verification testing is at a level higher than the delisting level allowed by EPA in granting the petition, Nissan must report the data, in writing, to EPA within 10 days of first possessing or being made aware of that data. (B) If the testing of the waste, as required by Condition (2)(B), does not meet the delisting requirements of Condition (1), Nissan must report the data, in writing, to EPA within 10 days of first possessing or being made aware of that data. (C) Based on the information described in paragraphs (6)(A) or (6)(B) and any other information received from any source, EPA will make a preliminary determination as to whether the reported information requires that EPA take action to protect human health or the environment. Further action may include suspending or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If EPA determines that the reported information does require Agency action, EPA will notify the facility in writing of the action believed necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing Nissan with an opportunity to present information as to why the proposed action is not necessary. Nissan shall have 10 days from the date of EPA's notice to present such information. (E) Following the receipt of information from Nissan, as described in paragraph (6)(D), or if no such information is received within 10 days, EPA will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment, given the information received in accordance with paragraphs (6)(A) or (6)(B). Any required action described in EPA's determination shall become effective immediately, unless EPA provides otherwise. (7) Notification Requirements: Nissan must provide a one-time written notification to any State Regulatory Agency in a State to which or through which the delisted waste described above will be transported, at least 60 days prior to the commencement of such activities. Failure to provide such a notification will result in a violation of the delisting conditions and a possible revocation of the decision to delist.
*	* * * * * * *	

[FR Doc. 05–12579 Filed 6–23–05; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

45 CFR Part 61

RIN 0906–AA46

Office of the Secretary, Health Care Fraud and Abuse Data Collection Program: Reporting of Final Adverse Actions; Correction

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Proposed correction amendment.

SUMMARY: This document proposes a correction to the final regulations, which were published in the **Federal Register** on October 26, 1999 (64 FR 57740). These regulations established a national health care fraud and abuse data collection program for the reporting and disclosing of certain adverse actions taken against health care providers, suppliers and practitioners, and for maintaining a data base of final adverse actions taken against health care providers, suppliers and practitioners. An inadvertent error appeared in the text of the regulations concerning the definition of the term ''any other negative action or finding.'' As a result, we are proposing to correct 45 CFR 61.3, Definitions, to assure the technical correctness of these regulations.

DATES: To assure consideration, public comments must be mailed and delivered to the address provided below by no later than 5 p.m., July 25, 2005.

ADDRESSES: Please mail or deliver your written comments to the following address: Department of Health and Human Services, Office of Inspector General, Attention: OIG–46–CA2, 330 Independence Avenue, SW., Room 5246, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, OIG Regulations Officer Office of External Affairs, (202) 619–0089.

SUPPLEMENTARY INFORMATION: The HHS Office of Inspector General (OIG) issued final regulations on October 26, 1999 (64 FR 57740) that established a national health care fraud and abuse data collection program—the Healthcare Integrity and Protection Data Bank (HIPDB)—for the reporting and disclosing of certain final adverse actions taken against health care providers, suppliers and practitioners, and for maintaining a data base of final adverse actions taken against health care providers, suppliers and practitioners. The final rule established a new 45 CFR part 61 to implement the requirements for reporting of specific data elements to, and procedures for obtaining information from, the HIPDB. In that final rule, an inadvertent error appeared in § 61.3—the definitions section of the regulations—and is now being proposed for correction.

Section 61.3 expanded on previous regulatory definitions and provided additional examples of the scope of various terms set fort in the statute. On page 57755 of the preamble, summarizing the various revisions being made to the final rule, we indicated that with respect to the definition for the term ''any other negative action or finding'' there are certain kinds of actions or findings that would not meet the intent of the statute and *not* be

reportable. We cited, as an example, administrative actions, such as limited training permits, limited licenses for telemedicine, fines or citations that do not restrict a practitioner's practice, or personnel actions for tardiness, that were *not* within the range of actions intended by the statute. As a result, we agreed to add a clarifying phrase to this term. The revised definition would exclude administrative fines or citations, corrective action plans and other personnel actions, unless they are (1) connected to the billing, provision or delivery of health care services, and (2) taken in conjunction with other licensure or certification actions such as revocation, suspension, censure, reprimand, probation, or surrender. However, we inadvertently omitted this clarifying language to the regulations text of the rule itself. Therefore, to be consistent with the intended clarification and the overall intent of the final rulemaking, we are correcting this inadvertent error in the definition of the term ''any other negative action or finding'' that appeared on page 57759 in the October 26, 1999 final regulations to include this additional clarifying language.

Comments should be addressed specifically to the issue of clarifying the existing definition of the term in question in accordance with the earlier final rulemaking.

Response to Public Comments

Comments will be available for public inspection beginning on July 8, 2005 in Room 5518 of the Office of Inspector General at 330 Independence Avenue, SW., Washington DC, on Monday through Friday of each week from 8 a.m. to 4 p.m., (202) 619–0089. Because of the number of comments we normally receive on regulations, we will not acknowledge or respond to them individually. However, we will consider all timely and appropriate comments when developing the final corrections amendment.

List of Subjects in 45 CFR Part 61

Billing and transportation services, Durable medical equipment suppliers and manufacturers, Health care insurers, Health maintenance organizations, Health professions, Home health care agencies, Hospitals, Penalties, Pharmaceutical suppliers and manufacturers, Privacy, Reporting and recordkeeping requirements, Skilled nursing facilities.

Therefore, 45 CFR part 61 is proposed to be amended by making the following correcting amendment:

PART 61—HEALTHCARE INTEGRITY AND PROTECTION DATA BANK FOR FINAL ADVERSE INFORMATION ON HEALTH CARE PROVIDERS, SUPPLIERS AND PRACTITIONERS

1. The authority citation for part 61 would continue to read as follows:

Authority: 42 U.S.C. 1320a-7e.

2. Section 61.3 would be amended by republishing the introductory text, and by revising the definition for the term *''Any other negative action or finding''* to read as follows:

§ 61.3 Definitions.

The following definitions apply to this part:

* * * * *

Any other negative action or finding by a Federal or State licensing agency means any action or finding that under the State's law is publicly available information, and rendered by a licensing authority, including but not limited to, limitations on the scope of practice, liquidations, injunctions and forfeitures. This definition also includes final adverse actions rendered by a Federal or State licensing or certification authority, such as exclusions, revocations or suspension of license or certification that occur in conjunction with settlements in which no finding of liability has been made (although such a settlement itself is not reportable under the statute). This definition excludes administrative fines or citations and corrective action plans and other personnel actions, unless they are:

(1) Connected to the delivery of health care services; and

(2) taken in conjunction with other licensure or certification actions such as revocation, suspension, censure, reprimand, probation or surrender.

* * * * *

Dated: June 20, 2005.

Ann Agnew,

Executive Secretary to the Department.

[FR Doc. 05–12481 Filed 6–23–05; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 062005A]

Fisheries of the Exclusive Economic Zone Off Alaska; Public Workshop

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

ACTION: Notice of public workshop.

SUMMARY: NMFS will present a workshop on proposed catch-monitoring standards for the non-American Fisheries Act (AFA) trawl catcher/processor sector. These standards are necessary to support proposed groundfish and prohibited species allocations to this sector that are under consideration by the North Pacific Fishery Management Council.

DATES: The workshop will be held Monday, June 27, 2005, from 10 a.m. to 1 p.m.

ADDRESSES: The workshop will be held at the Nordby Center, located in Fishermen's terminal, 1711 W Nickerson St, Seattle, WA.

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, 907–586–7228.

SUPPLEMENTARY INFORMATION: The North Pacific Fisheries Management Council is developing proposed Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Area (FMP). Amendment 80 would allocate prohibited species and target species other than Pacific cod and pollock to trawl catcher/processor vessels that are not qualified to fish for pollock under the AFA. One aspect of the analysis of alternatives being developed for Amendment 80 includes options for catch monitoring, weighing, and accounting standards for the non-AFA trawl catcher/processor sector. NMFS is conducting the June 27, 2005, workshop so that interested industry members may provide guidance to NMFS on the development and implementation of these standards.

This workshop is not intended to be a forum for providing public comment on the proposed rule to implement proposed Amendment 79 to the FMP. That proposed rule also would establish catch monitoring standards for some vessels within the non-AFA trawl catcher/processor sector. Written comments on Amendment 79 may be submitted to NMFS consistent with the protocol set forth in the preamble to the proposed rule published in the **Federal Register** on June 16, 2005 (70 FR 35054).

This workshop is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Alan Kinsolving (see **FOR FURTHER INFORMATION CONTACT**).

Dated: June 20, 2005.

Alan D. Risenhoover

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

[FR Doc. 05–12584 Filed 6–23–05; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 70, No. 121
Friday, June 24, 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

Conservation Security Program; Primary Purpose Determination To Exclude Program Payments From Gross Income Under Section 126 of the Internal Revenue Code

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that existing practice, new practice, and enhancement activity payments made to producers under the Conservation Security Program (CSP), authorized under the provision of Title II, Subtitle A, Section 2001 of the Farm Security and Rural Investment Act of 2002 (Pub. Law 107–171), are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, and providing a habitat for wildlife. This determination is in accordance with Section 126 of the Internal Revenue Code of 1954, as amended. Subject to a finding by the Secretary of the Treasury that the program is a small watershed program administered by the Secretary of Agriculture substantially similar to the type of programs described in 26 U.S.C. 126(a)(1) through (8), this determination permits recipients to exclude from gross income, for Federal income tax purposes, all or part of the existing practice, new practice, and enhancement activity cost-share payments made under said program to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Craig Derickson, Program Manager, Conservation Security Program, Natural Resources Conservation Service, USDA, Box 2890, Washington, DC 20013; (202) 720–3524.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 126, provides that part or all of certain payments made to persons under certain small watershed programs administered by the Secretary of Agriculture, which are determined by the Secretary of the Treasury to be substantially similar to the type of programs described in 26 U.S.C. 126(a)(1) and (8), may be excluded from the recipient's gross income for Federal income tax purposes if certain determinations are made. One such determination is made by the Secretary of Agriculture that program payments are made ''primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.'' To make such a ''primary purpose'' determination, the Secretary evaluates conservation program payments based on criteria set forth at 7 CFR Part 14. Following a primary purpose determination by the Secretary of Agriculture, the Secretary of the Treasury must determine, during individual audits, that payments made under the conservation program do not substantially increase the annual income derived from the property benefited by the payments.

CSP supports ongoing conservation stewardship of agricultural lands by providing assistance to producers to maintain and enhance natural resources. CSP will help producers maintain conservation stewardship and implement additional conservation practices that provide added environmental enhancement.

Under CSP program, the Secretary is authorized to make payments to the participant for the Federal share in accordance with subsection (C)ii, for not more than 75 percent (or in the case of a beginning farmer or rancher, 90 percent) of the average county costs of practices for the 2001 crop year that are included in the conservation security contract, as determined by the Secretary, including the costs of (I) the adoption of new management, vegetative, and land-based structural practices; (II) the maintenance of existing land management and vegetative practices; and (III) the maintenance of existing land-based structural practices that are approved by the Secretary but not already covered by a Federal or State maintenance requirement.

In implementing the program, the Natural Resources Conservation Service, on behalf of the Commodity Credit Corporation (CCC), will allocate resources locally, as appropriate for the agriculture operation, to address significant resource concerns, meet the appropriate nondegradation standard, and to implement or maintain vegetative, active land management, and structural conservation practices included in the plan. Participants will enter into cost share contracts with the CCC for 5 to 10 years, under which the CCC and the participants will share the cost of installing new conservation practices and activities at a Federal rate not to exceed 75 percent or as a flat rate, as appropriate.

Having carefully examined the authorizing legislation, and planned operating procedures for CSP, using the criteria set forth at 7 CFR Part 14, we concluded that the payments for implementing approved contract practices under this program are made primarily for the purpose of conserving soil and water resources, protecting and restoring the environment, and providing a habitat for wildlife.

Determination: As provided by Section 126(b) of the Internal Revenue Code, the authorizing legislation, and planned operating procedures regarding CSP have been examined in accordance with criteria set out at 7 CFR Part 14. Based on this examination, we determined that those payments made for planning, installing, and maintaining approved practices under this program are primarily for the purpose of conserving soil and water resources or protecting and restoring the environment.

Subject to a finding by the Secretary of the Treasury that the program is a small watershed program administered by the Secretary of Agriculture substantially similar to the type of programs described in 26 U.S.C. 126(a)(1) through (8), this determination permits recipients to exclude from gross income, for Federal income tax purposes, all or part of the existing practice, new practice, and enhancement activity payments under the extent allowed by the Internal Revenue Service.

Signed in Washington, DC on June 14, 2005

Mike Johanns,

Secretary of Agriculture.

[FR Doc. 05–12516 Filed 6–23–05; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Proposed Collection; Comment Request Forms FNS–698, FNS–699, and FNS–700, The Integrity Profile (TIP)

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's (FNS) intention to request approval of revision of a currently approved collection, Forms FNS–698—State Agency Profile of Integrity Practices and Procedures Report Form, FNS–699—The Integrity Profile Report Form, and FNS–700—TIP Data Entry Form.

DATES: Comments on this notice must be received by August 23, 2005.

ADDRESSES: 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 proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Patricia N. Daniels, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 520, Alexandria, VA 22302.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection form and instructions should be directed to: Patricia N. Daniels, (703) 305–2749.

SUPPLEMENTARY INFORMATION:

Title: The Integrity Profile (TIP).

OMB Number: 0584–0401.

Expiration Date: 06–30–2007.

Type of Request: Revision of the Currently Approved Collection Form.

Abstract: State agencies administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) are required by 7 CFR 246.12(j)(5) to submit to FNS an annual summary of the results of their vendor monitoring efforts in order to provide Congress, senior FNS officials, as well as the general public, assurance that every reasonable effort is being made to ensure integrity in the WIC Program. Since 1989, WIC State agencies have been required to submit such data annually. FNS compiles the data to produce a national report, which shows the level of monitoring and investigation conducted by WIC State agencies to detect and eliminate, or substantially reduce, vendor fraud and abuse. Most State agencies download the data from their automated system and transmit it electronically to FNS.

Comments are being solicited on integrating the TIP reporting system as a subsystem of the Food Stamp Store Tracking and Redemption System (STARS). Comments are also being solicited on the addition of the following proposed data elements to the TIP Data Entry Form (FNS–700) data submission:

(1) Identification of vendors (*i.e.*, retail stores) authorized that derive more than 50 percent of their annual food sales revenue from WIC food instruments, and

(2) The number of months for which redemption data is being reported. In addition, the following data elements are proposed for inclusion to the State Agency Profile of Integrity Practices and Procedures Report Form (FNS–698) data submission regarding criteria used to select vendors for authorization:

(1) A vendor must provide a variety of foods other than WIC supplemental foods;

(2) A vendor must obtain infant formula only from the sources on the State agency's list of infant formula wholesalers, distribution, and retailers, licensed under State law/regulations and manufacturers registered with the Food and Drug Administration;

(3) A vendor must obtain prior approval to provide incentive items to WIC participants if the store derives more than 50 percent of its annual food sales revenue from WIC food instruments; and

(4) A vendor must be authorized by the Food Stamp Program. Most of these proposed revisions are a result of amendments made to seciton 17 ot the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended, by the Child Nutrition and WIC Reauthorization Act of 2004, Public Law 108–265 enacted June 30, 2004. Lastly, comments are sought on the inclusion of an EBT card as an option in reporting the type of food instrument used in the State agency's food delivery system.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 46.56 hours 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. The total annual burden on respondents was previously 3,725 hours. This revision includes an adjustment that adds one respondent, which increases the total annual burden by 46.56 hours, and program changes, which increase the total annual burden by about 372 hours, for a total annual increase of 419 hours.

Respondents: Directors or Administrators of WIC State agencies.

Estimated Number of Respondents: 89 respondents.

Estimated Number of Responses per Respondent: One.

Estimated Total Annual Burden on Respondents: 4,144 hours.

Dated: June 3, 2005.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 05–12478 Filed 6–23–05; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National Advisory Council on Maternal, Infant and Fetal Nutrition; Notice of Meeting

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council on Maternal, Infant and Fetal Nutrition.

DATES: August 3–5, 2005, 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at the Food and Nutrition Service, 3101 Park Center Drive, Conference Rooms 204 A&B, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Anne Bartholomew, Supplemental Food Programs Division, Food and Nutrition Service, Department of Agriculture, (703) 305–2086.

SUPPLEMENTARY INFORMATION: The Council will continue its study of the Special Supplemental Nutrition

Program for Women, Infants and Children, and the Commodity Supplemental Food Program. The agenda items will include a discussion of general program issues. Meetings of the Council are open to the public. Members of the public may participate, as time permits. Members of the public may file written statements with the contact person named above, before or after the meeting.

Dated: June 15, 2005.

Roberto Salazar,

Administrator.

[FR Doc. 05–12479 Filed 6–23–05; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Cape Cod Water Resources Restoration Project, Barnstable County, Massachusetts

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, give notice that an environmental impact statement is being prepared for the Cape Cod Watershed, Barnstable County, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Cecil B. Currin, State Conservationist, Natural Resources Conservation Service, 451 West Street, Amherst, MA 01002, 413–253–4351.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Cecil B. Currin, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

Area: Barnstable County, excluding Federal lands.

Sponsors: Barnstable County Commissioners and the Cape Cod Conservation District.

Partners: Massachusetts Division of Marine Fisheries, Massachusetts Coastal Zone Management, all towns on Cape Cod.

Project purposes are watershed protection and fish and wildlife development. Sponsors objectives are to (1) improve water quality for shellfish beds, (2) restore degraded salt marshes and (3) restore anadromous fish passages. Alternatives under consideration to reach these objectives include but are not limited to:

Objective 1: Constructed wetlands, infiltration basins or trenches, dry wells, and sand filters.

Objective 2: Enlarging existing culverts to restore marsh hydrology to pre-restriction conditions; marsh and pit development to provide fish pools in marshes.

Objective 3: Water level control structures, fish ladders, and obstruction removals.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Natural Resources Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Further information on the proposed action may be obtained for Cecil B. Currin, State Conservationist, at the above address and telephone.

Signed in Amherst, Massachusetts on June 15, 2005.

Cecil B. Currin,

State Conservationist.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

[FR Doc. 05–12591 Filed 6–23–05; 8:45 am]

BILLING CODE 3410–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

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

ACTION: Additions to Procurement List.

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

EFFECTIVE DATE: July 24, 2005.

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

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

SUPPLEMENTARY INFORMATION: On April 15, and April 29, 2005, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 19924, and 22297/22298) of proposed additions to the Procurement List.

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

Regulatory Flexibility Act Certification

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

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

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

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

End of Certification

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

Products

Adhesive Roller Mop
NSN: M.R. 1095—Refill
NSN: M.R. 1085—Mop
NPA: Winston-Salem Industries for the Blind, Winston-Salem, North Carolina.
Contracting Activity: Defense Commissary Agency (DeCA), Fort Lee, Virginia.

Services

Service Type/Location: Cleaning Service—

Gutter Cleaning; Bremerton Naval Complex, Bremerton, Washington.
NPA: Skookum Educational Programs, Port Townsend, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Custodial Services; Basewide, Naval Submarine Base, Bangor, Washington.
NPA: Skookum Educational Programs, Port Townsend, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Custodial Services; Department of Homeland Security, Customs & Border Protection; Pier One Ala Moana Blvd., Honolulu, Hawaii.
NPA: Lanakila Rehabilitation Center, Honolulu, Hawaii.
Contracting Activity: Department of Homeland Security, Indianapolis, Indiana.
Service Type/Location: Custodial Services; Jim Creek Radio Station, Jim Creek, Washington.
NPA: Northwest Center for the Retarded, Seattle, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Custodial Services; Naval Undersea Warfare Center Division, Keyport, Washington.
NPA: Skookum Educational Programs, Port Townsend, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Custodial Services; Smokey Point Support Complex, Smokey Point, Washington.
NPA: Northwest Center for the Retarded, Seattle, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Grounds Maintenance; Bangor Naval Submarine Base, Bangor, Washington.
NPA: Peninsula Services, Bremerton, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Grounds Maintenance; Naval Hospital Bremerton; HP01 Boone Road, Bremerton, Washington.
NPA: Peninsula Services, Bremerton, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Grounds Maintenance; Camp Wesley Harris Rifle Range, Bremerton, Washington.
NPA: Peninsula Services, Bremerton, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Grounds Maintenance; Flight Line and Surrounding Runway Areas; NAS Whidbey Island, Washington.
NPA: New Leaf, Inc., Oak Harbor, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Grounds Maintenance; Jackson Park Housing Area, Bremerton, Washington.
NPA: Peninsula Services, Bremerton, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Grounds Maintenance; Outlying Field Area (OLF) near Coupeville, Washington.
NPA: New Leaf, Inc., Oak Harbor, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Hospital Housekeeping Services; Naval Hospital Bremerton; HP01 Boone Road, Bremerton, Washington.
NPA: Skookum Educational Programs, Port Townsend, Washington.
Contracting Activity: Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Janitorial/Custodial; Basewide, Fort Dix, New Jersey
NPA: Occupational Training Center of Burlington County, Mt. Holly, New Jersey.
Contracting Activity: Army Reserve Contracting Center, Fort Dix, New Jersey.
Service Type/Location: Maintenance Service—Re-lamping; Bremerton Naval Complex, Bremerton, Washington.
NPA: Skookum Educational Programs, Port Townsend, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Maintenance Service—Cargo Door; Bremerton Naval Complex, Bremerton, Washington.
NPA: Skookum Educational Programs, Port Townsend, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Painting Service—Street Striping; Bremerton Naval Complex, Bremerton, Washington.
NPA: Skookum Educational Programs, Port Townsend, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Provision & Service of Chemical Toilets; Bremerton Naval Complex, Bremerton, Washington.
NPA: Skookum Educational Programs, Port Townsend, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.
Service Type/Location: Provision & Service of Portable Hand Wash Units; Bremerton Naval Complex, Bremerton, Washington.
NPA: Skookum Educational Programs, Port Townsend, Washington.
Contracting Activity: Naval Facilities Engineering Command, Engineering Field Activity, Northwest, Poulsbo, Washington.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–3296 Filed 6–23–05; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

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

ACTION: Proposed additions to Procurement List.

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

Comments Must Be Received on or Before: July 24, 2005.

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

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

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

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each service will be required to procure the services listed below from nonprofit agencies employing

persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

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

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

2. If approved, the action will result in authorizing small entities to furnish the services to the Government.

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

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Document Destruction,Internal Revenue Service (At the following locations), 3849 Richardt Street, Indianapolis, Indiana; 575 Pennsylvania Street, Indianapolis, Indiana; 7 East Ohio Street, Indianapolis, Indiana.
NPA: Shares Inc., Shelbyville, Indiana.
Contracting Activity: U.S. Treasury, IRS, Chamblee, Georgia.
Service Type/Location: Food Service Attendant, Naval Construction Battalion Center, Building 1050, Gulfport, Mississippi.
NPA: Lakeview Center, Inc., Pensacola, Florida.
Contracting Activity: Fleet and Industrial Supply Center, Jacksonville, Florida.
Service Type/Location: Grounds Maintenance, USDA, Southern Plains Agriculture Research Center, 2881 F&B Road, College Station, Texas.
NPA: World Technical Services, Inc., San Antonio, Texas.
Contracting Activity: USDA, Agriculture Research Service, College Station, Texas.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–3297 Filed 6–23–05; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

(Docket 25–2005)

Foreign–Trade Zone 18 - Application for Subzone, Correction

The **Federal Register** notice (70 FR 31420–31421, 6/1/05), describing the application by the City of San Jose, grantee of FTZ 18, requesting subzone status for Space Systems/Loral, Inc. located in Palo Alto, Menlo Park and Mountain View, California, is corrected as follows.

The U.S. Department of Commerce Export Assistance Center, where the application is available for public review, is located at 152 N. Third Street, Suite 550, San Jose, California 95112.

Comments on the application may be submitted to the Foreign–Trade Zones Board, U.S. Department of Commerce, FCB–Suite 4100W, 1401 Constitution Avenue, NW, Washington, DC 20230, through August 1, 2005.

Dated: June 9, 2005.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–12583 Filed 6–23–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–898]

Notice of Antidumping Duty Order: Chlorinated Isocyanurates from the People's Republic of China

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (''the Department'') and the International Trade Commission (''ITC''), the Department is issuing an antidumping duty order on chlorinated Isocyanurates from the People's Republic of China (''PRC''). On June 17, 2005, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry (Chlorinated Isocyanurates from China and Spain, Investigations Nos. 731–TA–1082–1083 (Final), USITC Publication 3782, June 2005).

EFFECTIVE DATE: June 24, 2005.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva at (202) 482–3208 or Cindy Lai Robinson at (202) 482–3797; AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: The final determination in this investigation was published on May 10, 2005. *See Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005) (''*Final Determination*'').

Scope of the Order

The products covered by this order are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s–triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid ($Cl_3(NCO)_3$), (2) sodium dichloroisocyanurate (dihydrate) ($NaClf_2(NCO)_3 \bullet 2H_2O$), and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). Chlorinated isocyanurates are available in powder, granular, and tableted forms. This order covers all chlorinated isocyanurates.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, and 2933.69.6050 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

On July 1, 2004, Arch Chemicals, Inc. (''Arch''), an importer, argued that its patented, formulated, chlorinated isocyanurates tablet is not covered by the scope of the investigation. On December 10, 2004, the Department found that Arch's patented chlorinated isocyanurates tablet is included within the scope of this antidumping duty investigation. *See Memorandum to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, from Holly A. Kuga, Senior Office Director, Office 4, Re: Scope of the Antidumping Duty Investigations on Chlorinated Isocyanurates from the People's Republic of China and Spain*, dated December 10, 2004, which is on file in the Central Records Unit (''CRU''), Room B–099 of the Main Commerce

building, for a detailed discussion of comments submitted by Arch.

Antidumping Duty Order

On June 17, 2005, the ITC notified the Department of its final determination pursuant to section 735(b)(1)(A)(I) of the Tariff Act of 1930, as amended (''the Act''), that the industry in the United States producing chlorinated isocyanurates is materially injured by reason of less–than-fair–value imports of subject merchandise from the PRC. In addition, the ITC notified the Department of its final determination that critical circumstances do not exist with respect to imports of subject merchandise from the PRC that are subject to the Department's partial affirmative critical circumstances finding. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (''CBP'') to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of chlorinated isocyanurates from the PRC. These antidumping duties will be assessed on all unliquidated entries of chlorinated isocyanurates from the PRC entered, or withdrawn from the warehouse, for consumption on or after December 16, 2004, the date on which the Department published its *Preliminary Determination*. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China*, 69 FR 75293 (December 16, 2004) (''*Preliminary Determination*'').

With regard to the ITC negative critical circumstances determination, we will instruct CBP to lift suspension and to release any bond or other security, and refund any cash deposit made, to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after September 17, 2004, but before December 16, 2004. September 17, 2004, is 90 days prior to December 16, 2004, the date of publication of the *Preliminary Determination* in the **Federal Register**.

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of chlorinated isocyanurates, we extended the four-month period to no more than six months. *See Preliminary Determination*. In the investigation, the six-month period began on the date of the publication of the *Preliminary Determination*, December 16, 2004, and ended on June 13, 2005. Definitive duties are to begin on the date of publication of the ITC's final injury determination. *See* section 737 of the Act. Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of chlorinated isocyanurates from the PRC entered, or withdrawn from warehouse, for consumption on or after June 14, 2005, and before the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will continue on or after this date.

On or after the date of publication of the ITC's notice of final affirmative injury determination in the **Federal Register**, CBP will require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted–average antidumping duty margins noted below. The ''PRC–Wide'' rates apply to all exporters of subject merchandise not specifically listed. The weighted–average dumping margins are as follows:

Manufacturer/Exporter	Margin (percent)
Hebei Jiheng Chemical Co., Ltd.	75.78
Nanning Chemical Industry Co., Ltd.	285.63
Changzhou Clean Chemical Co., Ltd.	137.69
Liaocheng Huaao Chemical Industry Co., Ltd.	137.69
Sinochem Hebei Import & Export Corporation	137.69
Sinochem Shanghai Import & Export Corporation	137.69
PRC -Wide Rate	285.63

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

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

Dated: June 21, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–3299 Filed 6–23–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–814]

Chlorinated Isocyanurates from Spain: Notice of Antidumping Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (''the Department'') and the U.S. International Trade Commission (''the ITC''), the Department is issuing an antidumping duty order on chlorinated isocyanurates from Spain. On June 17, 2005, the ITC notified the Department of its affirmative determination of injury to a U.S. industry (Chlorinated Isocyanurates from the People's Republic of China and Spain, Investigations Nos. 731–TA–1082 and 1083 (Final), Publication 3782 (June 2005)).

EFFECTIVE DATE: June 24, 2005.

FOR FURTHER INFORMATION CONTACT: Thomas Martin and Mark Manning, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3936 or (202) 482–5253, respectively.

SUPPLEMENTARY INFORMATION: The final determination in this investigation was published on May 10, 2005. *See Chlorinated Isocyanurates From Spain: Notice of Final Determination of Sales at Less Than Fair Value*, 70 FR 24506 (May 10, 2005) (''*Final Determination*'').

Scope of the Order

The products covered by this order are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s–triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid (Cl3(NCO)3), (2) sodium dichloroisocyanurate (dihydrate) (NaCl2(NCO)3 2H2O), and (3) sodium dichloroisocyanurate (anhydrous) (NaCl2(NCO)3). Chlorinated isocyanurates are available in powder, granular, and tableted forms. This order covers all chlorinated isocyanurates.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, and 2933.69.6050 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

On July 1, 2004, Arch Chemicals, Inc. (''Arch''), an importer, argued that its patented, formulated, chlorinated isocyanurates tablet is not covered by the scope of the investigation. In the *Final Determination*, the Department found that Arch's patented chlorinated isocyanurates tablet is included within the scope of this antidumping duty investigation. *See* Memorandum from Holly A. Kuga, Senior Office Director, to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, ''Scope of the Antidumping Duty Investigations of Chlorinated Isocyanurates from the People's Republic of China and Spain,'' dated December 10, 2004, adopted without comment in the *Final Determination*.

Antidumping Duty Order

On June 17, 2005, in accordance with section 735(d) of the Tariff Act of 1930, as amended (''the Act''), the ITC notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less–than-fair–value imports of chlorinated isocyanurates from Spain. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (''CBP'') to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or the constructed export price) of the merchandise for all relevant entries of chlorinated isocyanurates from Spain. These antidumping duties will be assessed on all entries of chlorinated isocyanurates from Spain entered, or withdrawn from warehouse, for consumption on or after December 20, 2004, the date on which the Department published its notice of preliminary determination in the **Federal Register**. *See Chlorinated Isocyanurates From Spain: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 69 FR 75902 (December 20, 2004) (''*Preliminary Determination*'').

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of the Spanish exports of subject merchandise, we extended the four-month period to no more than six months. *See Preliminary Determination*. In the investigation, the six-month period beginning on the date of the publication of the *Preliminary Determination* ended on June 17, 2005. Furthermore, section 737 of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of chlorinated isocyanurates from Spain entered, or withdrawn from warehouse, for consumption on or after June 18, 2005, and before the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will continue on or after the date of the publication of the ITC's final injury determination.

Effective on the date of publication of the ITC's final affirmative injury determination, CBP officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted–average antidumping duty margins as noted below. The all others' rate applies to all manufacturers and exporters of subject merchandise not specifically listed. The weighted–average dumping margins are as follows:

Manufacturer/exporter	Weighted–Average Margin (percent)
Aragonesas Delsa S.A.	24.83
All Others	24.83

Pursuant to section 736(a) of the Act, this notice constitutes the antidumping duty order with respect to chlorinated isocyanurates from Spain. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

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

Dated: June 21, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–3300 Filed 6–23–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–813]

Honey from Argentina: Final Results of Countervailing Duty Administrative Review

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

SUMMARY: On December 21, 2004, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on honey from Argentina for the period January 1, 2003, through December 31, 2003. *Honey from Argentina: Preliminary Results of Countervailing Duty Administrative Review*, 68 FR 69660 (December 21, 2004) (*Preliminary Results*). We received no comments from interested parties; therefore, we have made no changes to the net countervailable subsidy rates for the POR. The final net countervailable subsidy rates are listed below in the section entitled ''Final Results of Administrative Review.''

EFFECTIVE DATE: June 24, 2005.

FOR FURTHER INFORMATION CONTACT: Dara Iserson and Thomas Gilgunn, AD/CVD Operations, Office 6, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4052 or (202) 482–4236, respectively.

SUPPLEMENTARY INFORMATION:

Background

In response to requests for an administrative review of the countervailing duty (CVD) order on honey from Argentina from the Government of Argentina (GOA) (respondents) and the American Honey Producers Association and Sioux Honey

Association (petitioners), the Department initiated an administrative review for the period January 1, 2003, through December 31, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 3117 (January 22, 2004) (*Initiation Notice*).

On December 21, 2004, the Department published in the **Federal Register** the preliminary results of the administrative review of the countervailing duty order on honey from Argentina. *See Preliminary Results*. From April 18 through April 20, 2005, the Department conducted verification of the responses of the GOA. On May 9, 2005, the Department released the verification report to interested parties. *See Second Administrative Review of Honey from Argentina*: Verification Report for the Government of Argentina (May 9, 2005) (*Honey Verification Report*). The Department invited comments on the preliminary results and the verification report. Neither the petitioners nor the respondents submitted comments. Therefore, the Department has not made changes to the *Preliminary Results*.

Scope of the Order

The merchandise covered by this order is artificial honey containing more than 50 percent natural honeys by weight, preparations of natural honey containing more than 50 percent natural honeys by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, combs, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to this order is currently classifiable under subheadings 0409.00.00, 1702.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection (CBP) purposes, the Department's written description of the merchandise covered by this order is dispositive.

Final Results of Administrative Review

Neither the petitioners nor respondents commented on the preliminary results or on the verification reports and we found that no changes were warranted based on the results of verification. *See Honey Verification Report*. Therefore, we have made no changes to the net countervailable subsidy rates for the POR.

Listed below are the programs we examined in the review and our findings with respect to each of these programs. For a complete analysis of the programs found to be countervailable, not used, and terminated, see *Preliminary Results*.

I. Programs Determined to be Countervailable

A. Federal Programs

Programs Determined to be Countervailable	Ad Valorem Rate
Regional Productive Revitalization Program ..	0.010 percent
BNA Financing for the Acquisition of Goods of Argentine Origin	0.005 percent

B. Provincial Programs

Programs Determined to be Countervailable	Ad Valorem Rate
Province of San Luis Honey Development Program	0.015 percent
Province of Chaco Line of Credit Earmarked for the Honey Sector	0.015 percent
Buenos Aires Honey Program	0.038 percent

II. Programs Determined to be Not Used

A. Federal Programs

1. Argentine Internal Tax Reimbursement/Rebate Program (Reintegro)
2. BICE Norm 001: Financing of Production of Goods Destined for Export
3. BICE Norm 007: Line of Credit Offered to Finance Industrial Investment Projects to Restructure and Modernize the Argentine Industry
4. BNA Line of Credit to the Agricultural Producers of the Patagonia
5. BNA Pre–Financing of Exports Regime for the Agricultural Sector
6. Production Pole Program for Honey Producers
7. Enterprise Restructuring Program
8. SGRs - Government Backed Loans Guarantees
9. Fundacion Export AR
10. PROAPI

B. Provincial Programs

1. Buenos Aires Honey Program
   a. The Line of Credit for Working Capital
   b. Technical Assistance
2. Province of Entre Rios Honey Program
3. Province of Chubut: Province of Chubut Law No. 4430/98
4. Province of Santiago del Estero Creditos de Confinanzas (Trust Credits)

III. Program Determined to be Terminated

Factor de Convergencia (Convergence Factor)

We will disclose our calculations to the interested parties in accordance with section 351.224(b) of the regulations.

Assessment and Cash Deposit Instructions

In accordance with section 777A(e)(2)(B) of the Act, we have calculated the net countervailable subsidy rates on an aggregate or industry–wide basis for exports of subject merchandise in this administrative review. Accordingly, we determine the total net countervailable subsidy rate to be 0.08 percent *ad valorem* for the POR. This rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1).

Because the countervailable subsidy rate is *de minimis*, the Department will instruct CBP to liquidate shipments of honey from Argentina entered, or withdrawn from warehouse, for consumption on or after January 1, 2003, and on or before December 31, 2003 without regard to countervailing duties. The Department will issue appropriate assessment instructions directly to the CBP within 15 days of publication of these final results of review. Further, since the countervailable subsidy rate is *de minimis*, the Department will instruct CBP to continue to suspend liquidation of entries but to collect no cash deposits of estimated countervailing duties for all shipments of honey from Argentina entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results of administrative review.

Return or Destruction of Propriety Information

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is sanctionable violation.

This administrative review and notice are issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act.

Dated: June 17, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–3298 Filed 6–23–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Environmental Impact Statement (EIS) for the Proposed Approval of Amendments to the Alaska Coastal Management Program

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

ACTION: Notice of intent to prepare an EIS; request for comments.

SUMMARY: NOAA announces its intention to prepare an EIS in accordance with the National Environmental Policy Act of 1969 for the proposed approval of amendments submitted by the State of Alaska to its Coastal Management Program. The State has adopted regulatory changes to its Process for Consistency Review (11 AAC 150), Standards for the Alaska Coastal Management Program (11 AAC 180), and Guidelines of the Alaska Coastal Management Program (11 AAC 185).

DATES: Written comments on the intent to prepare an EIS will be accepted on or before August 5, 2005. Scoping meetings are scheduled as follows:

1. July 25, 2005; 1 p.m.–5 p.m., Inupiat Heritage Center, Barrow, AK.

2. July 27, 2005; 8 a.m.–5 p.m., Egan Convention Center, Anchorage, AK.

3. July 28, 2005; 8 a.m.–5 p.m., Centennial Hall Convention Center, Juneau, AK.

ADDRESSES: Written comments on suggested alternatives and potential impacts should be sent to John R. King, Responsible Program Officer, Coastal Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, SSMC4, Room 11305, 1305 East-West Highway, Silver Spring, MD 20910-3281, (e-mail: *John.King@noaa.gov*) or to Helen Bass, Environmental Protection Specialist, Coastal Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, SSMC4, N/ORM3, Room 11207, 1305 East-West Highway, Silver Spring, MD 20910 (e-mail *helen.bass@noaa.gov*.)

Scoping meetings will be held as follows:

1. Open to public—Monday, July 25, 2005, Inupiat Heritage Center, 5421 North Star Street, Barrow, Alaska, 1–5 p.m.

2. Open to the public—Wednesday, July 27, 2005, Egan Room, Egan Convention Center, 555 W 5th Street, Anchorage, AK, 8 a.m. to 5 p.m.

3. Open to the public—Thursday, July 28, 2005, Centennial Hall Convention Center, 101 Egan Drive, Juneau, AK, 8 a.m. to 5 p.m.

SUPPLEMENTARY INFORMATION: In 2004, the State of Alaska adopted legislation that made substantial revisions to its federally-approved Coastal Management Program. As required under the Coastal Zone Management Act of 1972, as amended (CZMA) and OCRM regulations on amendments to approved state coastal zone management programs (15 CFR part 923, subpart H), states must submit changes to their program and its enforceable policies to OCRM for approval in order to allow continued Federal funding for program implementation and application of Federal consistency under the new enforceable policies. Consequently, Alaska worked with OCRM to submit the program changes. The proposed Federal action under the National Environmental Policy Act of 1969, as amended (NEPA), 42 USC 4321 *et seq.*, is OCRM's approval of the incorporation of the revised program and its enforceable policies into the Alaska Coastal Management Program (ACMP)

The program changes that Alaska has adopted are substantial. The purposes behind adopting the amendments were to improve the State's consistency review process both in timing and predictability, reduce duplication of permit review with uneven application of vague standards, and provide certainty for capital commitments.

This environment impact statement evaluates alternatives and environmental consequences for only two actions that are available to OCRM: (1) Approve the program amendments as part of the State's Federally-approved coastal management program, and (2) do not approved the program amendments, or status quo. The State has already adopted these revised regulations, thus, the status quo would mean that the new statutes and regulations would not be part of the State's federally-approved coastal management program.

The purpose of the scoping meetings is to identify the scope of issues that will be addressed in the EIS and to identify potential impacts on the quality of the human environment and potential alternatives. Public participation is invited by providing written comments to NOS and attending the scoping meetings.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Bass at least 5 days prior to the meeting date.

Dated: June 21, 2005.

Mitchell Luxenberg,

Acting Director, Management and Budget, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 05–12630 Filed 6–23–05; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

AGENCY: Notice.

ACTION: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by [July 25, 2005].

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Part 229, Taxes, and related clauses at 252.229; OMB Control Number 0704–0390.

Type of Request: Extension.

Number of Respondents: 23.

Responses per Respondent: 1.

Annual Responses: 23.

Average Burden per Response: 4 hours.

Annual Burden Hours: 92.

Needs and Uses: DoD uses this information to determine if DoD contractors in the United Kingdom have attempted to obtain relief from customs duty on vehicle fuels in accordance with contract requirements.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Lewis Oleinick.

Written comments and recommendations on the proposed information collection should be sent to Mr. Oleinick at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings, WHS/ESCD/ Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202–4326.

Dated: June 15, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–12482 Filed 6–23–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

AGENCY: Department of Defense.

ACTION: Notice

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 25, 2005.

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Part 216, Types of Contracts, and related clauses in Part 252.216; OMB Control Number 074–0259.

Type of Request: Extension.

Number of Respondents: 204.

Responses per Respondent: 1.94.

Annual Responses: 395.

Average Burden per Response: 4.03 hours.

Annual Burden Hours: 1,592.

Needs and Uses: The clauses at DRARS 252.216–7000, 252.216–7001, and 252.216–7003 require contractors with fixed-price economic price adjustment contracts to submit information to the contracting officer regarding changes in established material prices or wage rates. The contracting officer uses this information to make appropriate adjustments to contract prices.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Lewis Oleinick. Written comments and recommendations on the proposed information collection should be sent to Mr. Oleinick at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings, WHS/ESCD/ Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202–4326.

Dated: June 15, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Office, Department of Defense.

[FR Doc. 05–12506 Filed 6–23–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB review; Comment Request

AGENCY: Department of Defense.

ACTION: Notice

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 25, 2005.

Title, Form, and OMB Number: Health Insurance Claim form; UB–92 HCFA–1450; OMB Number 0720–0013.

Type of Request: Extension.

Number of Respondents: 7,836.

Responses per Respondent: 268.

Annual Responses: 2,100,000.

Average Burden per Response: 15 minutes

Annual Burden Hours: 525,000.

Needs and Uses: This information collection is necessary for a medical institution to claim benefits under the defense Health Program, TRICARE, which includes the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). The information collected will be used by TRICARE/ CHAMPUS to determine beneficiary eligibility, other health insurance liability, certification that the beneficiary received care, and that the provider is authorized to receive TRICARE/CHAMPUS payments. The form will be used by TRICARE/ CHAMPUS and its contractors to determine the amount of benefits to be paid to TRICARE/CHAMPUS institutional providers.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits

OMB Desk Officer: Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms.Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings, WHS/ESD/ Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202–4326.

Dated: June 15, 2005.

Patricia L.Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–12507 Filed 6–23–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare a Supplement to the 2003 Environmental Impact Statement for Introduction of the F/A–18 E/F (Super Hornet) Aircraft to the East Coast of the United States

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to section (102)(2)(c) of the National Environmental Policy Act (NEPA) of 1969, and the regulations implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), the Department of the Navy (Navy) intends to prepare a Supplemental Environmental Impact Statement (SEIS) for the Introduction of the F/A–18 E/F Super Hornet Aircraft to the East Coast of the United States. The SEIS will provide additional analysis of the environmental consequences associated with the construction and operation of an Outlying Landing Field (OLF) to support Field Carrier Landing Practice (FCLP) operations of Super Hornet squadrons stationed at Naval Air Station (NAS) Oceana, Virginia, and Marine Corps Air Station (MCAS) Cherry Point, North Carolina.

FOR FURTHER INFORMATION CONTACT: To be included on the Navy's distribution list for the SEIS, requests should be made online through the project Web site *http://www.efaircraft.ene.com* under ''distribution list'' or directed in writing to: Mr. Dan Cecchini, Code EV42, Naval Facilities Engineering Command (NAVFAC) Atlantic, 6506 Hampton BLVD, Norfolk, VA 23508, fax: (757) 322–4984.

SUPPLEMENTARY INFORMATION: In July 2003, the Navy completed the Final Environmental Impact Statement (EIS) for the Introduction of F/A–18 E/F (Super Hornet) Aircraft to the East Coast of the United States. In the Final EIS, the Navy evaluated the environmental consequences of homebasing 10 Super Hornet fleet squadrons (120 aircraft) and one Fleet Replacement Squadron (FRS) (24 aircraft) at various locations on the East Coast of the United States. Additionally, in the Final EIS, the Navy evaluated the environmental consequences associated with constructing and operating a new OLF to support FCLP operations of the Super Hornet squadrons.

The Assistant Secretary of the Navy for Installations and Environment reviewed the Final EIS, and after carefully weighing the operational, social, economic, and environmental consequences of the proposed action, determined the Navy would homebase eight Super Hornet squadrons (and the FRS) at NAS Oceana, two squadrons at MCAS Cherry Point, and construct an OLF in Washington County, North Carolina. The Record of Decision was published in the **Federal Register** on September 10, 2003, (68 FR 53353). The decision to construct and operate an OLF in Washington County implemented the preferred OLF alternative Site C, identified in the Final EIS.

The National Audubon Society, North Carolina Wildlife Federation, Defenders of Wildlife, and Washington and Beaufort Counties filed a lawsuit challenging the Navy's decision on the basis that the Navy's NEPA analysis was inadequate. On February 18, 2005, the U.S. District Court for the Eastern District of North Carolina held that the Final EIS was deficient and enjoined the Navy from taking any further activity associated with the planning, development, or construction of the OLF at Site C until the Navy fully complied with the National Environmental Policy Act (NEPA) regarding construction and operation of an OLF.

The Navy filed an appeal of the District Court's decision with the Fourth Circuit Court of Appeals. The Navy determined that the need for a new OLF, whether at Site C or elsewhere, is so urgent and critical that the Navy must proceed simultaneously with the appeal while initiating the SEIS. Should the Fourth Circuit find on appeal that the Navy fully complied with NEPA, the Navy may elect to discontinue the SEIS process, in whole, or in part.

The SEIS will address those areas identified by the District Court to be deficient. The U.S. Fish and Wildlife Service, with special expertise in the area of migratory waterfowl and wildlife refuges, will be asked to participate as a cooperating agency pursuant to 40 CFR 1501.6. The five alternative OLF sites in northeastern North Carolina that were evaluated in the Final EIS and that support the homebasing of the Super Hornets at NAS Oceana and MCAS Cherry Point will be considered in the SEIS. Those sites include Site A in Perquimans County, Site B in Bertie County, Site C in Washington County, Site D in Hyde County, and Site E in Craven County, North Carolina.

To receive a copy of the Draft SEIS, please provide your name and address via the project Web site *http://www.efaircraft.ene.com* or in writing to the point of contact identified in this notice. Project-related information and an electronic version of the Draft SEIS, when completed, will also be available on the project Web site *http://www.efaircraft.ene.com.* Public hearings will be held in the vicinity of each of the alternative OLF sites during the 45-day public and agency review period. Dates, locations, and times for the public hearings will be announced in the **Federal Register** and local media.

Dated: June 20, 2005.

I. C. Le Moyne Jr.,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 05–12486 Filed 6–23–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government, as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy. U.S. Patent No. 6,903,676 entitled ''Integrated Radar, Optical Surveillance, and Sighting System'', U.S. Patent No. 6,902,316 entitled ''Non-Invasive Corrosion Sensor'', U.S. Patent Application No. 11/144,849 entitled ''Improved Pyrotechnic Thermite Composition'', and U.S. Patent Application No. 11/144,850 entitled ''Smokeless Flash Powder''.

ADDRESSES: Requests for copies of the inventions cited should be directed to the Naval Surface Warfare Center, Crane Div., Code 054, Bldg 2, 300 HWY 361, Crane, IN 47522–5001 and must include the patent number.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Bailey, Naval Surface Warfare Center, Crane Div., Code 054, Bldg 2, 300 HWY 361, Crane, IN 47522–5001, telephone 812–854–1865. An application for license may be downloaded from: *http://www.crane.navy.mil/newscommunity/techtrans_CranePatents.asp.*

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: June 14, 2005.

I. C. Le Moyne Jr.,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 05–12493 Filed 6–23–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government, as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy. U.S. Patent No. 6,879,011 entitled ''Magnetically Shielded Circuit Board'' and U.S. Patent Application No. 11/108,150 entitled ''Method for Field Calibrating an Ion Spectrometer''.

ADDRESSES: Requests for copies of the inventions cited should be directed to the Naval Surface Warfare Center, Crane Div., Code 054, Bldg 1, 300 HWY 361, Crane, IN 47522–5001 and must include the patent number.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Bailey, Naval Surface Warfare Center, Crane Div., Code 054, Bldg 1, 300 HWY 361, Crane, IN 47522–5001, Telephone (812) 854–1865. An application for license may be downloaded from: *http://www.crane.navy.mil/newscommunity/techtrans_CranePatents.asp.*

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: June 14, 2005.

I. C. Le Moyne Jr.

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 05–12494 Filed 6–23–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Office of Safe and Drug-Free Schools; Overview Information; Alcohol and Other Drug Prevention Models on College Campuses; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.184N.

DATES: *Applications Available:* June 24, 2005.

Deadline for Transmittal of Applications: August 1, 2005.

Deadline for Intergovernmental Review: August 31, 2005.

Eligible Applicants: Institutions of higher education (IHEs) that offer an associate or baccalaureate degree. Additionally, an IHE must not have received an award under this grant competition (CFDA 84.184N) during the previous five fiscal years (fiscal years 2000 through 2004).

Estimated Available Funds: $750,000. Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2006 based on the list of unfunded applications from this competition.

Estimated Range of Awards: $50,000–$125,000.

Estimated Average Size of Awards: $75,000.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 15 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: We seek to support projects addressing high-risk drinking and drug use which can become practical models for replication and adaptation in other college communities. The goals of this program are to identify models of effective campus-based alcohol and other drug prevention programs and disseminate information about these programs to other colleges and universities where similar efforts may be adopted.

Priority: This priority is from the notice of final priority and eligibility requirements for this program, published elsewhere in this issue of the **Federal Register**.

Absolute Priority: For FY 2005 and any subsequent year in which we make awards on the basis of the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is: Under this priority the Department provides funding to Institutions of higher education (IHEs) that have been implementing effective alcohol and other drug prevention programs on their campuses. An IHE that receives funding under this priority must identify, enhance, further evaluate, and disseminate information about an effective alcohol or other drug prevention program being implemented on its campus. To meet the priority, applicants must provide in their application—

(1) A description of an alcohol or other drug prevention program that has been implemented for at least two full academic years on the applicant's campus;

(2) Evidence of the effectiveness of the program on the applicant's campus;

(3) A plan to enhance and further evaluate the program during the project period; and

(4) A plan to disseminate information to assist other IHEs in implementing a similar program.

Program Authority: 20 U.S.C. 7131.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, 99, and 299.

(b) The notice of final priority and eligibility requirements, published elsewhere in this issue of the **Federal Register**.

II. Award Information

Type of Award: Discretionary Grants.

Estimated Available Funds: $750,000.

Estimated Range of Awards: $50,000–$125,000.

Estimated Average Size of Awards: $75,000.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 15 months.

III. Eligibility Information

1. *Eligible Applicants:* Institutions of higher education (IHEs) that offer an associate or baccalaureate degree. Additionally, an IHE must not have received an award under this grant competition (CFDA 84.184N) during the previous five fiscal years (fiscal years 2000 through 2004).

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address To Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. Fax: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.184N.

Copies of the application package for this competition can also be found at: *http://www.ed.gov/about/offices/list/osdfs/programs.html.*

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to one of the contact persons listed in Section VII of this notice under **FOR FURTHER INFORMATION CONTACT**.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

3. *Submission Dates and Times:* Applications Available: June 24, 2005.

Deadline for Transmittal of Applications: August 1, 2005.

Applications for grants under this program may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV.6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: August 31, 2005.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under the Alcohol and Other Drug Prevention Models on College Campuses Program

may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

We have been accepting applications electronically through the Department's e-Application system since FY 2000. In order to expand on those efforts and comply with the President's Management Agenda, we are continuing to participate as a partner in the new government wide Grants.gov Apply site in FY 2005. Alcohol and Other Drug Prevention Models on College Campuses Program-CFDA Number 84.184N is one of the programs included in this project.

If you choose to submit your application electronically, you must use the Grants.gov Apply site (Grants.gov). Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us. We request your participation in Grants.gov.

You may access the electronic grant application for Alcohol and Other Drug Prevention Models on College Campuses Program at: *http://www.grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted with a date/time received by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. We will not consider your application if it was received by the Grants.gov system later than 4:30 p.m. on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was submitted after 4:30 p.m. on the application deadline date.
- If you experience technical difficulties on the application deadline date and are unable to meet the 4:30 p.m., Washington, DC time, deadline, print out your application and follow the instructions in this notice for the submission of paper applications by mail or hand delivery.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that your application is submitted timely to the Grants.gov system.
- To use Grants.gov, you, as the applicant, must have a D-U-N-S Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five business days to complete the CCR registration.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- You may submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Any narrative sections of your application must be attached as files in a .DOC (document), .RTF (rich text) or .PDF (Portable Document) format.
- Your electronic application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.184N),
400 Maryland Avenue, SW.,
Washington, DC 20202–4260; or

By mail through a commercial carrier:

U.S. Department of Education,
Application Control Center ''Stop 4260, Attention: (CFDA Number 84.184N), 7100 Old Landover Road,
Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education,
Application Control Center,
Attention: (CFDA Number 84.184N),
550 12th Street, SW., Room 7041,
Potomac Center Plaza, Washington,
DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424) the CFDA

number—and suffix letter, if any ''of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this program are in 34 CFR 75.210 and in the application package for this competition.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grants.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* The Secretary may choose to develop performance measures for the Alcohol and Other Drug Prevention Models on College Campuses Program in accordance with the Government Performance and Results Act (GPRA). If indicators are developed, grantees will be asked to provide information that relates to participant outcomes and project management.

VII. Agency Contacts

For Further Information Contact: Vera Messina, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E258, Washington, DC 20202–6450. Telephone: (202) 260–8273 or by e-mail: *vera.messina@ed.gov* or Ruth Tringo, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E338, Washington, DC 20202–6450. Telephone: (202) 260–2838 or by e-mail: *ruth.tringo@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–888–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact persons listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 21, 2005.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. 05–12588 Filed 6–23–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Alcohol and Other Drug Prevention Models on College Campuses

AGENCY: Office of Safe and Drug-Free Schools, Department of Education.

ACTION: Notice of final priority and eligibility requirements.

SUMMARY: The Assistant Deputy Secretary for Safe and Drug-Free Schools announces a priority and eligibility requirements under the Alcohol and Other Drug Prevention Models on College Campuses grant competition. We may use the priority and eligibility requirements for competitions in FY 2005 and later years. We take this action to focus Federal financial assistance on an identified national need. We intend the priority and eligibility requirements to support the identification and dissemination of models of effective alcohol and other drug prevention at institutions of higher education (IHEs).

DATES: The priority and eligibility requirements are effective July 25, 2005.

FOR FURTHER INFORMATION CONTACT: Vera Messina, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E258, Washington, DC 20202–6450. Telephone: (202) 260–8273 or via Internet: *vera.messina@ed.gov;* or Ruth Tringo, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E338, Washington, DC 20202–6450. Telephone: (202) 260–2838 or via Internet: *ruth.tringo@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: The Department of Education seeks to support projects that address high-risk drinking and drug use and that can become practical models for replication and adaptation in other college communities. The goals of this program are to identify models of effective campus-based alcohol and other drug prevention programs and disseminate information about these programs to other colleges and universities where similar efforts may be adopted.

We published a notice of proposed priority and eligibility requirements for this program in the **Federal Register** on April 8, 2005 (70 FR 17984).

Other than minor editorial changes, there are no differences between the notice of proposed priority and eligibility requirements and this notice of final priority and eligibility requirements.

Public Comment

In the notice of proposed priority and eligibility requirements, we invited comments on the proposed priority and eligibility requirements. We did not receive any substantive comments.

Note: This notice does not solicit applications. In any year in which we choose

to use the priority and eligibility requirements, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Priority

Under this priority the Department provides funding to institutions of higher education (IHEs) that have been implementing effective alcohol and other drug prevention programs on their campuses. An IHE that receives funding under this priority must identify, enhance, further evaluate, and disseminate information about an effective alcohol or other drug prevention program being implemented on its campus. To meet the priority, applicants must provide in their application—

(1) A description of an alcohol or other drug prevention program that has been implemented for at least two full academic years on the applicant's campus;

(2) Evidence of the effectiveness of the program on the applicant's campus;

(3) A plan to enhance and further evaluate the program during the project period; and

(4) A plan to disseminate information to assist other IHEs in implementing a similar program.

Eligibility Requirements

Only institutions of higher education (IHEs) that offer an associate or baccalaureate degree will be eligible under this program. Additionally, to be eligible, an IHE must not have received an award under this grant competition (CFDA 84.184N) during the previous five fiscal years (fiscal years 2000 through 2004).

Executive Order 12866

This notice of final priority and eligibility requirements has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of final priority and eligibility requirements are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of final priority and eligibility requirements, we have determined that the benefits of the final priority and eligibility requirements justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Program Authority: 20 U.S.C. 7131.

(Catalog of Federal Domestic Assistance Number 84.184N Office of Safe and Drug-Free Schools—Alcohol and Other Drug Prevention Models on College Campuses)

Dated: June 21, 2005.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. 05–12589 Filed 6–23–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Assistive Technology Act of 1998, as Amended—National Activities—National Assistive Technology Public Internet Site; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.224B–2.

Dates: Applications Available: June 24, 2005.

Deadline for Transmittal of Applications: July 25, 2005.

Deadline for Intergovernmental Review: September 22, 2005.

Eligible Applicants: Public or private nonprofit or for-profit organizations, including institutions of higher education, that—

(1) Emphasize research and engineering;

(2) Have a multidisciplinary research center; and

(3) Have demonstrated expertise in—

(a) Working with assistive technology and intelligent agent interactive information dissemination systems;

(b) Managing libraries of assistive technology and disability-related resources;

(c) Delivering to individuals with disabilities education, information, and referral services, including technology-based curriculum-development services for adults with low-level reading skills;

(d) Developing cooperative partnerships with the private sector, particularly with private-sector computer software, hardware, and Internet services entities; and

(e) Developing and designing advanced Internet sites.

Estimated Available Funds: $100,000.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Assistive Technology Act of 1998, as amended

(AT Act), authorizes support for activities that increase the availability of, funding for, access to, provision of, and training about assistive technology (AT) devices and AT services. Section 6 of the AT Act provides for national activities to improve the administration of the AT Act. One national activity that is authorized by the AT Act is the renovation, updating, and maintenance of a National Assistive Technology Public Internet Site (National AT Internet Site). The National AT Internet Site will provide to the public comprehensive, up-to-date information on resources related to AT and programs supported under the AT Act.

Priority: We are establishing this priority for the FY 2005 grant competition only, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA).

Absolute Priority: For FY 2005, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is: *National Assistive Technology Public Internet Site.*

Under this priority, a project must renovate, update, and maintain an Internet site that contains the following features:

(1) *Availability of information at any time.* The site must be designed so that any member of the public may obtain information posted on the site at any time.

(2) *Innovative automated intelligent agent.* The site must be constructed with an innovative automated intelligent agent that is a diagnostic tool for assisting users in problem definition and the selection of appropriate AT devices and AT services resources.

(3) *Resources.* (a) *Library on assistive technology.* The site must include access, either directly or through links, to a comprehensive working library on AT for all environments, including home, workplace, transportation, and other environments.

(b) *Information on accommodating individuals with disabilities.* The site must include access, either directly or through links, to evidence-based research and best practices concerning how AT can be used to accommodate individuals with disabilities in the areas of education, employment, health care, community living, and telecommunications and information technology.

(c) *Resources for a number of disabilities.* The site must include, either directly or through links, resources relating to the largest possible number of disabilities, including resources relating to low-level reading skills.

(4) *Links to private-sector resources and information.* To the extent feasible, the site must be linked to relevant private-sector resources and information, under agreements developed between the recipient of the grant, contract, or cooperative agreement and cooperating private-sector entities.

(5) *Links to public-sector resources and information.* To the extent feasible, the site must be linked to relevant public-sector resources and information, such as the Internet sites of the Office of Special Education and Rehabilitative Services of the Department of Education, the Office of Disability Employment Policy of the Department of Labor, the Small Business Administration, the Architectural and Transportation Barriers Compliance Board, the Technology Administration of the Department of Commerce, the Jobs Accommodation Network funded by the Office of Disability Employment Policy of the Department of Labor, and other relevant sites.

(6) *Minimum library components.* At a minimum, the site must maintain updated information on and provide links, if available, to—

(a) Device demonstration programs funded under the AT Act and, to the extent practicable, not funded under the AT Act, where individuals may try out AT devices;

(b) Device loan programs funded under the AT Act and, to the extent practicable, not funded under the AT Act, where individuals may borrow AT devices;

(c) Device reutilization programs funded under the AT Act and, to the extent practicable, not funded under the AT Act, that provide for the exchange, repair, recycling, or other reutilization of AT devices;

(d) Alternative financing programs or State financing systems operated through, or independently of, State AT programs, and other sources of funding for AT devices;

(e) Protection and advocacy for assistive technology (PAAT) programs;

(f) Cooperative volume-purchasing programs funded under the AT Act or, to the extent practicable, not funded under the AT Act;

(g) Other projects funded under section 6 of the AT Act;

(h) Relevant State and Federal programs, and other resources, that provide or increase access to AT devices and services; and

(i) Various programs, including programs with tax credits, available to employers for hiring or accommodating employees who are individuals with disabilities.

(7) *Stakeholder input.* The project must include a plan for designing and implementing the National AT Internet Site with the input of—

(a) Directors of statewide AT programs;

(b) Directors of alternative financing programs;

(c) Directors of PAAT programs;

(d) Individuals with disabilities who use AT and understand the barriers to the acquisition of that technology and AT services;

(e) Family members, guardians, advocates, and authorized representatives of those individuals;

(f) Relevant employees from Federal departments and agencies, other than the Department of Education;

(g) Representatives of businesses; and

(h) Venders and public and private researchers and developers.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Ordinarily, this practice would have applied to the absolute priority for the National AT Public Internet Site. Section 437(d)(1) of GEPA (20 U.S.C. 1232(d)(1)), however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under section 6 of the AT Act and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forego public comment on the proposed absolute priority under section 437(d)(1). This absolute priority will apply to the FY 2005 grant competition only.

Program Authority: 29 U.S.C. 3001 *et seq.*

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $100,000.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Public or private nonprofit or for-profit organizations, including institutions of higher education, that—

(1) Emphasize research and engineering;

(2) Have a multidisciplinary research center; and

(3) Have demonstrated expertise in—

(a) Working with assistive technology and intelligent agent interactive information dissemination systems;

(b) Managing libraries of assistive technology and disability-related resources;

(c) Delivering to individuals with disabilities education, information, and referral services, including technology-based curriculum-development services for adults with low-level reading skills;

(d) Developing cooperative partnerships with the private sector, particularly with private-sector computer software, hardware, and Internet services entities; and

(e) Developing and designing advanced Internet sites.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.224B–2.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 60 pages, using the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

Our reviewers will not read any pages of your application that—

- Exceed the page limit if you apply these standards; or
- Exceed the equivalent of the page limit if you apply other standards.

3. *Submission Dates and Times:*

Applications Available: June 24, 2005.

Deadline for Transmittal of Applications: July 25, 2005.

Applications for grants under this competition may be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants system, or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: September 22, 2005.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the Applicable Regulations section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.* If you choose to submit your application to us electronically, you must use e-Application available through the Department's e-Grants system, accessible through the e-Grants portal page at: *http://e-grants.ed.gov.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

- Your participation in e-Application is voluntary.
- You must complete the electronic submission of your grant application by 4:30 p.m., Washington, DC time, on the application deadline date. The e-Application system will not accept an application for this competition after 4:30 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.
- The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and between 7 p.m. on Wednesdays and 6 a.m. on Thursdays, Washington, DC time, for maintenance. Any modifications to these hours are posted on the e-Grants Web site.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Any narrative sections of your application must be attached as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format.
- Your electronic application must comply with any page limit requirements described in this notice.
- Prior to submitting your electronic application, you may wish to print a copy of it for your records.
- After you electronically submit your application, you will receive an

automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the ED 424 to the Application Control Center after following these steps:

(1) Print ED 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the ED 424.

(4) Fax the signed ED 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you are prevented from electronically submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If the system is down and therefore the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application.

Extensions referred to in this section apply only to the unavailability of the Department's e-Application system. If the e-Application system is available, and, for any reason, you are unable to submit your application electronically or you do not receive an automatic acknowledgment of your submission, you may submit your application in paper format by mail or hand delivery in accordance with the instructions in this notice.

b. *Submission of Paper Applications by Mail.* If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.224B–2), 400 Maryland Avenue, SW., Washington, DC 20202–4260;

or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.224B–2), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.* If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.224B–2), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the ED 424 the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 and are in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* The Government Performance and Results Act (GPRA) of 1993 directs Federal departments and agencies to improve the effectiveness of their programs by engaging in strategic planning, setting

outcome-related goals for programs, and measuring program results against those goals. The goal of the National AT Internet Site is to provide the public with comprehensive, up-to-date information on resources related to AT and programs supported under the AT Act. In order to assess the success of the grantee in meeting this goal, in addition to the annual performance report provided by the grantee, a biannual review of the site will be conducted by a panel of individuals with relevant expertise. This panel will report to the Rehabilitation Services Administration and the grantee on the—(1) Effectiveness of the site at linking visitors to appropriate resources related to AT; (2) comprehensiveness and relevance of resources and information available on the site; (3) availability of content or features unique to the site; (4) effectiveness at supporting and promoting programs supported under sections 4, 5, and 6 of the AT Act and other AT resources not funded under the AT Act; (5) responsiveness to the input of stakeholders; (6) responsiveness to the recommendations of previous biannual reviews; and (7) other factors relevant to determining the performance of the grantee.

VII. Agency Contact

For Further Information Contact: Jeremy Buzzell, U.S. Department of Education, 400 Maryland Avenue, SW., room 5025, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7319 or by e-mail: *jeremy.buzzell@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 16, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–12592 Filed 6–23–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records—Evaluation of the Impact of Supplemental Literacy Interventions in Freshman Academies

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education (Department) publishes this notice of a new system of records entitled ''Evaluation of the Impact of Supplemental Literacy Interventions in Freshman Academies'' (18–13–12). This evaluation, which is also called the Adolescent Literacy Project, has been commissioned by the National Center for Education Evaluation and Regional Assistance at the Department's Institute of Education Sciences (IES). It is being conducted by MDRC in collaboration with the American Institutes for Research (AIR). IES has been collaborating with the Department's Office of Vocational and Adult Education (OVAE) to coordinate the study of supplemental literacy interventions within OVAE's Smaller Learning Communities (SLC) program.

The study will address the following questions:

(1) Do specific supplemental reading programs that support personalized and intensive instruction for striving ninth-grade readers significantly improve reading proficiency?

(2) What are the effects of supplemental reading programs on in-school outcomes such as attendance and course-taking behavior, and on longer-term outcomes such as student performance on State assessments in the tenth or eleventh grade?

(3) Which students benefit most from participation in the programs?

The system will contain information about two cohorts of approximately 3,200 high school freshmen each in SLCs in eight to twelve school districts yet to be determined. Half of these students will be participants in a supplemental literacy program, and half will be in a control group. The system will include these students' names, addresses, demographic information such as race/ethnicity, age, gender, and educational background, their results on literacy assessments, some of their school records data such as attendance, state test results, course performance, and classes taken, and their responses to a survey about their attitude toward reading and their reading and writing activities during the school year. The system will also include responses to survey and interview questions from teachers of these students, and possibly other school staff working with the literacy classes, about their backgrounds and the supplemental literacy interventions.

DATES: The Department seeks comment on the new system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on the proposed routine uses for the system of records referenced in this notice on or before July 25, 2005.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on June 21, 2005. This system of records will become effective at the later date of—(1) the expiration of the 40 day period for OMB review on August 1, 2005 or (2) July 25, 2005, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about the proposed routine uses to Dr. Ricky Takai, Associate Commissioner, Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502D, Washington, DC 20208. Telephone: (202) 208–7083. If you prefer to send comments through the Internet, use the following address: *comments@ed.gov*.

You must include the term ''Supplemental Literacy Interventions'' in the subject line of the electronic message.

During and after the comment period, you may inspect all comments about this notice in room 502D, 555 New

Jersey Avenue, NW., Washington, DC, between the hours of 8 a.m. and 4:30 p.m., eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Dr. Ricky Takai. Telephone: (202) 208–7083. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a) (Privacy Act) requires the Department to publish in the **Federal Register** this notice of a new system of records maintained by the Department. The Department's regulations implementing the Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act applies to information about individuals that contain individually identifiable information and that is retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a ''record,'' and the system, whether manual or computer-based, is called a ''system of records.'' The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the OMB and Congress whenever the agency publishes a new system of records.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 21, 2005.

Grover Whitehurst,

Director, Institute of Education Sciences.

For the reasons discussed in the preamble, the Director of the Institute of Education Sciences, U.S. Department of Education, publishes a notice of a new system of records to read as follows:

18–13–12

SYSTEM NAME:

Evaluation of the Impact of Supplemental Literacy Interventions in Freshman Academies (The Adolescent Literacy Project).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

(1) Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502D, Washington, DC 20208.

(2) MDRC, 16 East 34th Street, New York, NY 10016.

(3) American Institutes for Research, 1000 Thomas Jefferson Street, NW., Washington, DC 20007.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on adolescents, teachers, and project staff participating in the literacy interventions in the Adolescent Literacy Project. The goal of this study is to establish and evaluate the effects of two supplemental literacy programs for students who enter ninth grade with reading skills well below grade level. A distinctive aspect of this project is that the schools mounting the literacy programs will be ones that already operate Smaller Learning Communities (SLCs) that address the transition freshman students are making into high school, sometimes referred to as ''Freshman Academies.'' Freshman Academies should provide a more supportive environment within which the supplemental literacy interventions can be implemented and sustained for this study.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of information about two cohorts of approximately 3,200 high school freshmen each, one in the 2005–2006 school year and the other in the 2006–2007 school year, in SLC in eight to twelve school districts yet to be determined. Half of these students will be participants in supplemental literacy program, and half will be in a control group. The system will include these students' names, addresses, demographic information such as race/ethnicity, age, gender, and educational background, their results on literacy assessments, some of their school records data such as attendance, state test results, course performance, and classes taken, and their attitude toward reading and their reading and writing activities during the school year. The system will also include responses to survey and interview questions from teachers of these students, and possibly other school staff working with the literacy classes. These surveys and interviews will request information about the teachers' backgrounds, professional experience, and training, as well as their observations and impressions of the supplemental literacy interventions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The evaluation being conducted is authorized under sections 171(b) and 173 of the Education Sciences Reform Act of 2002 (ESRA) (20 U.S.C. 9561(b) and 9563). The SLC program is authorized under Title V, Part D, Subpart 4 of the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C. 7249), as amended by the No Child Left Behind Act of 2001 (Pub. L. 107–110).

PURPOSE(S):

The information in this system is used for the following purpose: To study promising organizational and instructional strategies that will be used in the SLC program, as authorized by the ESEA, as amended. In particular, this system is necessary to provide information for analyses of the effectiveness of specific literacy interventions for ninth graders that will be used in SLCs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was

collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement. Any disclosure of individually identifiable information from a record in this system must also comply with the requirements of section 183 of the ESRA (20 U.S.C. 9573) providing for confidentiality standards that apply to all collections, reporting and publication of data by IES.

(1) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the U.S. Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(2) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(3) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this system notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Department maintains records on CD-ROM, and the contractor and subcontractor maintain data for this system on computers and in hard copy.

RETRIEVABILITY:

Records in this system are indexed by a number assigned to each individual that is cross referenced by the individual's name on a separate list.

SAFEGUARDS:

All physical access to the Department's site and to the sites of the Department's contractor and subcontractor, where this system of records is maintained, is controlled and monitored by security personnel. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a ''need to know'' basis, and controls individual users'' ability to access and alter records within the system. The contractor, MDRC, and its subcontractor, AIR, have established similar sets of procedures at their sites to ensure confidentiality of data. Their systems ensure that information identifying individuals is in files physically separated from other research data. They will maintain security of the complete set of all master data files and documentation. Access to individually identifiable data will be strictly controlled. At each site all data will be kept in locked file cabinets during nonworking hours, and work on hardcopy data will take place in a single room, except for data entry. Physical security of electronic data will also be maintained. Security features that protect project data include password-protected accounts that authorize users to use the MDRC or AIR system but to access only specific network directories and network software; user rights and directory and file attributes that limit those who can use particular directories and files and determine how they can use them; e-mail passwords that authorize the user to access mail services and additional security features that the network administrators establish for projects as needed. The contractor and subcontractor employees who ''maintain'' (collect, maintain, use, or disseminate) data in this system shall comply with the requirements of the confidentiality standards in section 183 of the ESRA (20 U.S.C. 9573).

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the Department's Records Disposition Schedules, Part 3, Items 2b and 5a.

SYSTEM MANAGER AND ADDRESS:

Associate Commissioner, Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502D, Washington, DC 20208.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the systems manager. Your request must meet the requirements of regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to your record in the system of records, contact the system manager. Your request must meet the requirements of regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations at 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

This system consists of information about two cohorts of approximately 3,200 high school freshmen each in SLCs in eight to twelve school districts yet to be determined. The system will include information taken directly from the students. It will also include information from the students' education records, such as attendance, State test results, course performance, and classes taken. The system will also include responses to survey and interview questions from teachers of these students, and possibly other school staff working with the literacy classes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 05–12590 Filed 6–23–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection package to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The package requests a three-year extension of OMB Control Number 1910–0100, entitled, Printing and Publishing Activities. The Department of Energy is required to submit an annual report to the Joint Committee on Printing (JCP) regarding its printing activities. The

Department reports on information gathered and compiled from its facilities nationwide on the usage of in-house printing and duplicating facilities as well as all printing procedures from external vendors.

DATES: Comments regarding this collection must be received on or before July 25, 2005. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Written comments should be sent to: DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503.

Comments should also be addressed to:

Sharon A. Evelin, U.S. Department of Energy, M/S IM–11, 19901 Germantown Road, Germantown, Maryland, 20874, or by fax at 301–903–9061 or by e-mail at *Sharon.evelin@hq.doe.gov,* and to Dallas Woodruff, Team Leader Printing Specialist, US Department of Energy, 1000 Independence Ave., SW., M/S ME–421, Washington, DC 20585, or by fax at 202–586–0753 or by e-mail at *dallas.woodruff@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: The individuals listed in the above **ADDRESSES.**

SUPPLEMENTARY INFORMATION: This package contains: (1) *OMB No.:* 1910–0100; (2) *Package Title:* Printing and Publishing Activities; (3) *Purpose:* The Department of Energy collects data from its printing and duplicating facilities nationwide regarding its inventory and printing procurement activities. This information is reported to the Joint Committee on Printing. See U.S. Code Title 44, sections 101–103. (4) *Estimated Number of Respondents:* 336; (5) *Estimated Total Burden Hours:* 947 (6) *Number of Collections:* The package contains 4 information and/or recordkeeping requirements.

Statutory Authority: Rules pursuant to Title 44 U.S. Code sections 101–103.

Issued in Washington, DC on June 17, 2005.

Lorretta Bryant,

Acting Director, Records Management Division, Office of the Chief Information Officer.

[FR Doc. 05–12520 Filed 6–23–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10482–000]

Mirant NY-Gen LLC; Notice Rejecting Request for Rehearing

June 17, 2005.

On April 18, 2005, the Commission issued an order denying the licensee's application to amend the recreation plan for the Swinging Bridge Project No. 10482.[1] On May 16, 2005, the Woodstone Lakes Development, LLC (Woodstone Lakes) submitted a request for rehearing to the Director of the Division of Hydropower Administration and Compliance.

Pursuant to section 313(a) of the Federal Power Act, 16 U.S.C. 825l(a), a request for rehearing may be filed only by a party to the proceeding. In order for Woodstone Lakes to be a party to the proceeding, it must have timely filed a motion to intervene pursuant to Rule 214 of the Rules of Practice and Procedure, 18 CFR 385.214.[2] Since Woodstone Lakes did not file a motion to intervene, its request for rehearing must be rejected.[3]

This notice constitutes final agency action. Request for rehearing by the Commission of this rejection notice must be filed within 30 days of the date of issuance of this notice, pursuant to 18 CFR 385.713.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3292 Filed 6–23–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP05–380–000, CP05–381–000, and CP05–382–000]

Point Comfort Pipeline Company, L.P.; Notice of Application

June 17, 2005.

Take notice that on June 10, 2005, Point Comfort Pipeline Company, L.P. (Point Comfort), Three Riverway, Suite 525, Houston, Texas 77056 filed an application, pursuant to section 7(c) of the Natural Gas Act (NGA), for authorization to construct, own and operate the Point Comfort Pipeline and related facilities, and for approval of its Pro Forma Tariff and proposed initial rates for service. Point Comfort also requests blanket certificates authorizing it to engage in certain routine activities under part 157, subpart F and for authority to transport natural gas under part 284, subpart G of the Commission's regulations.

The Point Comfort Pipeline facilities would consist of an approximately 27-mile-long, 36-inch-diameter pipeline in Calhoun and Jackson Counties, Texas connecting the proposed Calhoun LNG import terminal (filed on March 18, 2005 in Docket No. CP05–91–000) to interconnects with interstate and intrastate pipelines and two industrial facilities located near the proposed pipeline route.

The Point Comfort Pipeline facilities would also include two approximately 0.25-mile-long lateral pipelines, above ground pig launcher and receiver facilities, metering and regulation facilities and a supervisory control and data acquisition system. The Point Comfort Pipeline facilities are designed to transport a maximum average daily throughput of 1.0 billion cubic feet per day of natural gas.

This application is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions concerning this application should be directed to Counsel for Point Comfort Pipeline, L.P., Tania S. Perez, King & Spalding LLP, 1185 Avenue of the Americas, New York, NY 10036, at (212) 556–2161 or fax (212) 556–2222 or *tperez@kslaw.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with

[1] *Mirant NY-Gen LLC,* 111 FERC ¶ 61,077. The proposed amendment would have closed a boat launch and expanded a recreation area.

[2] *See Pacific Gas and Electric Company,* 40 FERC ¶ 61,035 (1987). Notice of the application in this proceeding was issued on November 5, 2004, setting December 6, 2004 as the deadline for filing interventions.

[3] In addition, Woodstone Lakes did not file its request for rehearing with the Commission Secretary as required by Rule 2001 of the Commission's Rules of Practice and Procedure. 18 CFR 385.2001.

the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. Unless filing electronically, a party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: July 8, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3293 Filed 6–23–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG05–67–000, et al.]

Blue Breezes II LLC, et al.; Electric Rate and Corporate Filings

June 15, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Blue Breezes II LLC

[Docket No. EG05–67–000]

Take notice that on May 23, 2005, Blue Breezes II LLC (Applicant) submitted an application for Exempt Wholesale Generator status. Applicant states that it intends to construct a 1.25 MW wind project in Faribault County, Minnesota. Applicant further states that it will own and operate the project.

Applicant states that the filing has been served on the Securities Exchange Commission and Minnesota Public Utilities Commission.

Comment date: 5 p.m. Eastern Time on June 29, 2005.

2. Blue Breezes LLC

[Docket No. EG05–68–000]

Take notice that on May 23, 2005, Blue Breezes, LLC (Applicant) submitted an application for Exempt Wholesale Generator status. Applicant states that it intends to construct a 1.25 MW wind project in Faribault County, Minnesota. Applicant further states that it will own and operate the project.

Applicant states that a copy of the filing has been served on the Securities Exchange Commission and the Minnesota Public Utilities Commission.

Comment date: 5 p.m. Eastern Time on June 29, 2005.

3. PJM Interconnection, L.L.C.

[Docket No. ER05–10–003]

Take notice that on June 1, 2005, PJM Interconnection, L.L.C. (PJM) submitted an errata to its May 31, 2005 compliance filing in the above-referenced docket number consisting of amendments to the PJM Open Access Transmission Tariff and the Amended and Restated Operating Agreement of PJM to specify that offers for regulation service by American Electric Power Company and Virginia Electric Power Company or their affiliates in the PJM West/South Regulation Zone shall be cost-based and to enumerate the components of such cost-based offers.

Comment Date: 5 p.m. on June 27, 2005.

4. Black Hills Colorado, LLC; Black Hills Power, Inc.; Black Hills Wyoming, Inc.; Fountain Valley Power, LLC; Harbor Cogeneration Company, LLC; Las Vegas Cogeneration II, LLC

[Docket Nos. ER05–930–001, ER04–1208–001, ER03–802–003, ER01–1784–006, ER99–1248–005, and ER03–222–005]

Take notice that on June 6, 2005, Black Hills Corporation on behalf of Black Hills Colorado, LLC; Black Hills Pepperell Power Associates, Inc.; Black Hills Power, Inc.; Black Hills Wyoming, Inc.; Fountain Valley Power, LLC; Harbor Cogeneration Company LLC; and Las Vegas Cogeneration II, LLC (collectively, the Black Hills Utilities), filed an amended and restated versions of the market-based rate wholesale power sales rates schedules of the Black Hills Utilities in compliance with the Commission's order in *Black Hills Colorado, LLC*, et al., 111 FERC ¶ 61, 170 (2005).

Comment Date: 5 p.m. on June 27, 2005.

Standard Paragraph

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (19 CFR 385.211 and § 385.214) on or before 5 p.m. Eastern Time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the

eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protests to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available to 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 TYY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–3273 Filed 6–23–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC05–95–000, *et al.*]

Calpine Construction Finance Company, L.P., *et al.*; Electric Rate and Corporate Filings

June 17, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Calpine Construction Finance Company, L.P. and Alabama Power Company

[Docket No. EC05–95–000]

Take notice that on June 14, 2005, Calpine Construction Finance Company, L.P. (Calpine) and Alabama Power Company (Alabama Power) jointly filed with the Commission, an application for authorization under section 203 of the Federal Power Act for a transfer from Calpine to Alabama Power of limited jurisdictional facilities, consisting of a 230 kV switching station, which interconnects a Calpine generating facility (the Hillabee Energy Center) to the Alabama Power transmission system.

Comment Date: 5 p.m. Eastern Time on June 28, 2005.

2. West Texas Renewables Limited Partnership

[Docket No. EG05– 72–000]

Take notice that on June 15, 2005, West Texas Renewables (Westex), 3300 South Moss Lake Road, Big Spring, Texas 79720, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Westex owns a wind generation facility with a maximum output of 6.6 MW located in Howard County, Texas.

Comment Date: 5 p.m. Eastern Time on July 6, 2005.

3. Cook Inlet Power, L.P. and Cook Inlet Energy Supply, L.L.C.

[Docket Nos. ER05–997–001 and ER05–998–001]

Take notice that on June 15, 2005, Cook Inlet Power, L.P. (CIP) and Cook Inlet Energy Supply, L.L.C. (CIES) submitted an amendment to its May 20, 2005 filing Notice of Cancellation of their market-based rate tariffs to request an effective date of May 21, 2005.

Comment Date: 5 p.m. on June 27, 2005.

4. Celerity Energy of New Mexico, LLC

[Docket No. ER05–1064–001]

Take notice that on June 15, 2005, Celerity Energy of New Mexico, LLC (Celerity-New Mexico) submitted for filing in accordance with § 35.15 of the rules of practice and procedure of the Commission, 18 CFR 35.15, an amendment to a notice of cancellation of its FERC Electric Tariff, Original Volume No. 1, which had been filed in Docket No. ER01–1183–002 on June 2, 2005. The instant filing Celerity-New Mexico, seeks to amend the notice of cancellation to request a June 3, 2005 effective date.

Comment Date: 5 p.m. on June 22, 2005.

Standard Paragraph

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (19 CFR 385.211 and 385.214) on or before 5 p.m. Eastern Time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to long on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protests to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available to 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 TYY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–3288 Filed 6–23–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER00–2268–003, ER00–2268–005, ER00–2268–006, ER00–2268–007, ER00–2268–008, ER00–2268–010, ER00–2268–012, ER00–2268–013, EL05–10–000, EL05–10–002, EL05–10–004, ER99–4124–001, ER99–4124–003, ER99–4124–004, ER99–4124–005, ER99–4124–006, ER99–4124–008, ER99–4124–010, ER99–4124–011, EL05–11–000, EL05–11–002, EL05–10–004, ER00–3312–002, ER00–3312–004, ER00–3312–005, ER00–3312–006, ER00–3312–007, ER00–3312–009, ER00–3312–011, ER00–3312–012, EL05–12–000, EL05–12–002, EL05–12–004, ER99–4122–004, ER99–4122–006, ER99–4122–007, ER99–4122–008, ER99–4122–009, ER99–4122–011, ER99–4122–013, ER99–4122–014, EL05–13–000, EL0513–002, EL05–13–004, and ER03–352–003]

Pinnacle West Capital Corporation, Arizona Public Service Company, Pinnacle West Energy Corporation, APS Energy Services Company, Inc., and GenWest LLC; Notice of Meeting

June 17, 2005.

Take notice that a meeting will be held on Monday, June 27, 2005, at 10 a.m. (EDT), in a room to be designated at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The purpose of the meeting will be to discuss the revised compliance filings made in the above referenced proceedings, as well as matters related to staff's data request issued on June 8, 2005, in these proceedings.

Participation in this meeting will be limited to interested parties who have requested and been granted access to critical energy infrastructure information (CEII) in accordance with 18 CFR 388.113(d). The CEII request form may be found at *http://www.ferc.gov/help/how-to/ceii-req-form.doc.* All CEII requests must be received no later than 5 p.m. (EDT) on June 22, 2005. Requesters will be required to sign a non-disclosure agreement prior to obtaining access to CEII. Representatives of the Pinnacle West Companies will be granted access in accordance with 18 CFR 388.113(d)(1) without having to file a formal CEII request or non-disclosure agreement.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 208–1659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For additional information regarding the meeting, please contact Cynthia Henry at *Cynthia.Henry@ferc.gov* no later than 5 p.m. (EDT) Thursday, June 23, 2005, for further information on participating in the meeting.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3290 Filed 6–23–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM04-9-000]

Electronic Notification of Commission Issuances; Notice That the Commission Secretary Will End Duplicate Paper Service of Commission Issuances

June 17, 2005.

Take notice that on June 21, 2005, the Secretary of the Commission will no longer send paper copies of Commission issuances to persons who receive electronic service of those documents. The Commission indicated in Order No. 653, issued February 10, 2005, that ''in the early stages of the eService system, the Secretary will continue to send copies of Commission issuances by postal mail. This will continue for three months from the time this Final Rule becomes effective, after which notification will be solely by e-mail to contacts who are fully eRegistered, unless a waiver or exemption applies.'' *Electronic Notification of Commission Issuances*, 110 FERC ¶ 61,110 (2005); *order on reh'g*, 111 FERC ¶ 61,021 (2005). The three-month period ends June 21.

The Commission encourages any party intervening in Commission proceedings to ensure that all contacts for the party and for a law firm that may represent the party have created and validated eRegistration accounts. The eFiling system allows persons filing a motion to intervene to specify all of the parties to the motion and all representatives and other contacts for the parties.

Contacts for entities filing applications, petitions, or requests with the Commission should also have validated eRegistration accounts even if the application, petition, or request itself cannot be submitted to the Commission electronically. This will enable the Commission's Registry staff to select the eRegistration account for each contact so that the contact's e-mail address will appear on the service list.

All persons with eRegistration accounts should maintain those accounts to reflect current address and other information. If an account holder's e-mail address changes, and the account holder wants to preserve links to existing service lists and eSubscriptions, then that person should edit the e-mail address in the existing account instead of creating a new account. Persons should create new accounts only when, as a result of a move to another company or firm, there is no need to preserve links to service lists and eSubscriptions linked to the previous account.

For additional guidance on using FERC Online procedures for eRegistration, eFiling, and eService, refer to FERC Online Guidelines at *http://www.ferc.gov/docs-filing/fol-guidelines.pdf.*

Magalie R. Salas,

Secretary.

[FR Doc. E5–3289 Filed 6–23–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6664–6]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 06/13/2005 Through 06/17/2005

Pursuant to 40 CFR 1506.9.

EIS No. 20050244, Final Supplement, NPS, CA, Merced Wild and Scenic River Revised Comprehensive Management Plan, Amend and Supplement Information, Yosemite National Park, El Portal Administrative Site, Tuolume, Merced, Mono, Mariposa and Madera Counties, CA, Wait Period Ends: 07/25/2005, Contact: Mark Butler 209–379–1371.

EIS No. 20050245, Final EIS, COE, CA, Prado Basin Water Supply Feasibility Study, To Increase Conservation of Surplus Water at Prado Dam and Flood Control Basin, Orange County Water District, Orange, Riverside and San Bernardio Counties, CA, Wait Period Ends: 07/25/2005, Contact: Alex Watt 213–452–3860.

EIS No. 20050246, Final EIS, COE, NE, Cornhusker Army Ammunition Plant (CHAAP) Land Disposal Industrial Tracts, Proposed Disposal and Reuse of Tracts 32, 33, 34, 35, 36, 47, 61, 62,

Hall County, NE, Wait Period Ends: 07/25/2005, Contact: Randal P. Sellers 402–221–3054.

EIS No. 20050247, Draft EIS, SFW, AZ, Cabeza Prieta National Wildlife Refuge, Comprehensive Conservation Plan, Wilderness Stewardship Plan, Implementation, Ajo, AZ, Comment Period Ends: 08/15/2005, Contact: John Slown 505–248–7458.

EIS No. 20050248, Draft EIS, COE, TX, Upper Trinity River Basin Project, To Provide Flood Damage Reduction, Ecosystem Improvement, Recreation and Urban Revitalization, Trinity River, Central City, Forth Worth, Tarrant County, TX, Comment Period Ends: 08/08/2005, Contact: Dr. Rebecca Griffith 817–886–1820.

EIS No. 20050249, Draft EIS, BLM, ID, Cotterel Wind Power Project and Draft Resource Management Plan Amendment, To Build a 190–240 megawatt, Wind-Powered Electrical Generation Facility, Right-of-Way Application, City of Burley, Towns of Albion and Malta, Cassia County, ID, Comment Period Ends: 09/22/2005, Contact: Scott Barker 208–677–6699.

EIS No. 20050250, Draft EIS, AFS, OR, Ashland Forest Resiliency Project, To Recover from Large-Scale High-Severity Wild Land Fire, Upper Bear Analysis Area, Ashland Ranger District, Rogue River-Siskiyou National Forest, Jackson County, OR, Comment Period Ends: 08/08/2005, Contact: Linda Duffy 541–552–2900.

EIS No. 20050251, Draft EIS, AFS, CA, Watdog Project, Proposes to Reduce Fire Hazards, Harvest Trees, Using Group Selection Methods, Feather River Ranger District, Plumas National Forest, Butte and Plumas Counties, CA, Comment Period Ends: 08/08/2005, Contact: Katherine Worn 530–534–6500.

EIS No. 20050252, Final EIS, NPS, CO, Colorado National Monument General Management Plan, Implementation, Mesa County, CO, Wait Period Ends: 07/25/2005, Contact: Bruce Noble 970–858–3617, Ext. 300.

EIS No. 20050253, Draft Supplement, COE, MD, Poplar Island Restoration Project (PIERP) To Evaluate the Vertical and/or Lateral Expansion, Dredging Construction and Placement of Dredged Materials, Chesapeake Bay, Talbot County, MD, Comment Period Ends: 08/08/2005, Contact: Mark Mendelsohn 410–962–9499.

EIS No. 20050254, Final Supplement, NOA, 00, Amendment to the Fishery Management Plans (FMPs), Amendment 2 for the Spiny Lobster Fishery; Amendment 1 for the Queen Conch Resources; Amendment 3 for the Reef Fish Fishery; Amendment 2 Corals and Reef Associated Invertebrates, U. S. Carbbean to Address Required Provisions MSFCMA, Puerto Rico and the U.S. Virgin Island, Wait Period Ends: 07/25/2005, Contact: Dr. Roy Crabtree 727–824–5301.

EIS No. 20050255, Final EIS, BLM, 00, Programmatic—Wind Energy Development Program, To Address Stewardship, Conservation and Resource Use on BLM-Administered Lands, Right-of-Way Grants, Western United States, Wait Period Ends: 07/25/2005, Contact: Ray Brady 202–452–7773.

Dated: June 21, 2005.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 05–12529 Filed 6–23–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6664–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 1, 2005 (70 FR 16815).

Draft EISs

EIS No. 20050157, ERP No. D–AFS–J65441–MT, Middle East Fork Hazardous Fuel Reduction Project, Implementation of Three Alternatives, Bitterroot National Forest, Sula Ranger District, Ravalli County, MT.

Summary

EPA supports the proposed action, but expressed environmental concerns about increased sediment loads and consistency with the restoration strategy in the draft Bitterroot Headwaters TMDL. EPA recommended additional watershed restoration measures such as road decommissioning and other mitigation to reduce these impacts.

Rating EC2

EIS No. 20050162, ERP No. D–CGD–G03027–00, Pearl Crossing Liquefied Natural Gas (LNG) Deepwater Port Terminal and Pipeline Project, Proposes to Construct a Liquefied Natural Gas (LNG) Receiving, Storage, and Regasification Facility, Gulf of Mexico, Cameron and Calcasieu Parishes, LA and San Patricio County, TX.

Summary

EPA expressed objections to the open rack re-gasification system due to adverse environmental impacts to Gulf waters and habitat. EPA believes that these impacts can be corrected by the project modifications or other feasible technology, and requested additional information to evaluate and resolve the outstanding issues.

Rating EO2

EIS No. 20050166, ERP No. D–AFS–K65281–CA, Brown Project, Proposal to Improve Forest Health by Reducing Overcrowded Forest Stand Conditions, Trinity River Management Unit, Shasta-Trinity National Forest, Weaverville Ranger District, Trinity County, CA.

Summary

EPA expressed environmental concerns about the proposed alternative and impacts to water quality, old-growth and late-successional forest, and soil erosion, and requested additional information on consultation for effects to fisheries and impacts to air quality.

Rating EC2

EIS No. 20050196, ERP No. D–NPS–J61106–UT, Burr Trail Modification Project, Proposed Road Modification within Capitol Reef National Park, Garfield County, UT.

Summary

EPA has no objections to the preferred alternative.

Rating LO.

EIS No. 20050179, ERP No. DS–AFS–J65419–MT, Gallatin National Forest, Updated Information, Main Boulder Fuels Reduction Project, Implementation, Gallatin National Forest, Big Timber Ranger District, Big Timber, Sweetgrass and Park Counties, MT.

Summary

The Supplemental DEIS has addressed impacts to the northern goshawk, the issue of fire risk, and increased public and firefighter safety. EPA continues to have environmental concerns about potential effects on water quality, fisheries and riparian functions and habitats and recommends the Final EIS include mitigation measures to address these impacts.

Rating EC2.

Final EISs

EIS No. 20050145, ERP No. F–FHW–H40178–MO, I–64/US 40 Corridor, Reconstruction of the Existing 1–64/US 40 Facility with New Interchange Configurations and Roadway, Funding, City of St. Louis, St. Louis County, MO.

Summary

EPA's previous issues were resolved; therefore, EPA has no objection to the proposed action.

EIS No. 20050169, ERP No. F–BLM–J65413–MT, Dillon Resource Management Plan, Provide Direction for Managing Public Lands within the Dillion Field Office, Implementation, Beaverheard and Madison Counties, MT.

Summary

The Final EIS addressed most of EPA's concerns while balancing multiple use objectives with protection, restoration, and enhancement of resources. However, we continue to recommend additional management direction to protect water quality, fisheries and riparian habitat and restore watershed functions.

EIS No. 20050170, ERP No. F–DOE–K06007–CA, Site-wide Continued Operation of Lawrence Livermore National Laboratory (LLNL) and Stockpile Stewardship and Management, Implementation, Alameda and San Joaquin Counties, CA.

Summary

EPA previous issues have been adequately addressed; therefore, EPA has no objection to the action as proposed.

EIS No. 20050178, ERP No. F–FHW–G40173–LA, I–49 South Lafayette Regional Airport to LA–88 Route US–90 Project, Upgrading Existing US–90 from the Lafayette Regional Airport to LA–88, Funding, Iberia, Lafayette and St. Martin Parishes, LA.

Summary

No formal comment letter was sent to the preparing agency.

EIS No. 20050218, ERP No. F–NPS–L61227–OR, Crater Lake National Park General Management Plan, Implementation, Klamath, Jackson and Douglas Counties, OR.

Summary

No formal letter was sent to the preparing agency.

Dated: June 21, 2005.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 05–12555 Filed 6–23–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7928–9]

State Allotment Percentages for the Drinking Water State Revolving Fund Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The 1996 Safe Drinking Water Act (SDWA) Amendments established a Drinking Water State Revolving Fund (DWSRF) program and authorized $9.6 billion to be appropriated for the program through fiscal year 2003. Congress directed that allotments for fiscal year 1998 and subsequent years would be distributed among States based on the results of the most recent Drinking Water Infrastructure Needs Survey and Assessment. In this notice, the Environmental Protection Agency (EPA) is announcing revised DWSRF program State allotment percentages in accordance with the results from the most recent 2003 Drinking Water Infrastructure Needs Survey and Assessment (Needs Assessment), which was released on June 14, 2005. The revised State allotment percentages affect DWSRF program appropriations for fiscal years 2006 through 2009. Beginning in fiscal year 1998, EPA established a formula that allocates funds to the States based directly on each State's proportional share of the total need for States, provided that each State receives a minimum share of one percent of the funds available to the States, as required by the SDWA. EPA has made the determination that it will continue to use this method for allocating DWSRF program funds. The findings from the 2003 Needs Assessment will change the percentage of the DWSRF program funding received by some States in prior years. This change reflects an increase or decrease in these States' share of the total needs for States and will allow appropriations disbursements to more accurately reflect the needs of the States to reach the public health objectives of the SDWA. The Agency believes that the 2003 Needs Survey and Assessment more accurately captures needs for necessary long-term rehabilitation and replacement of deteriorating infrastructure that were under-reported in the earlier surveys.

DATES: This notice is effective June 24, 2005.

FOR FURTHER INFORMATION CONTACT: For technical inquiries, contact Jeff McPherson, Drinking Water Protection Division, Office of Ground Water and Drinking Water (4606M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–6878; fax number: (202) 564–3757; e-mail address: *mcpherson.jeffrey@epa.gov.* Copies of this document and information on the Drinking Water Infrastructure Needs Survey and Assessment and the DWSRF program can be found on EPA's Office of Ground Water and Drinking Water Web site at *http://www.epa.gov/safewater/.*

SUPPLEMENTARY INFORMATION: The 1996 Safe Drinking Water Act (SDWA) Amendments established a Drinking Water State Revolving Fund (DWSRF) program and authorized $9.6 billion to be appropriated for the program through fiscal year 2003. Through federal fiscal year 2005, Congress has appropriated $7.8 billion for the DWSRF program. Congress directed that allotments for fiscal year 1998 and subsequent years be distributed among States based on the results of the most recent Drinking Water Infrastructure Needs Survey and Assessment (SDWA section 1452(a)(1)(D)(ii)), which must be conducted every four years. The first survey, which reflected 1995 data, was released in February 1997 and the second survey, which reflected 1999 data, was released in February 2001. The 2003 Drinking Water Infrastructure Needs Survey and Assessment, which was conducted over the last two years, was released on June 14, 2005 (EPA 816–R–05–001). The survey and assessment was completed in cooperation with the States. The States participated in both the design and development of the survey. The survey examined the needs of water systems and used these data to extrapolate needs to each State. The survey included all of the nation's 1,342 largest systems (those serving over 40,000 people) and a statistical sample of 2,553 systems serving 3,301—40,000 people. For the 1999 Needs Assessment, EPA conducted site visits to approximately 600 small community water systems and 100 not-for-profit noncommunity water systems. The EPA believes that the needs captured from the site visits in 1999 represented a fair and complete assessment of these systems' 20-year needs. Findings from 1999 were very similar to the findings in 1995,

indicating that the systems needs did not change significantly over a four-year period. Therefore, EPA decided it could estimate the 2003 needs for small community water systems and not-for-profit noncommunity water systems by adjusting the 1999 needs to 2003 dollars.

The sample design for the survey produces a statistically valid State-by-State estimate of need. The 2003 Needs Assessment presents State-by-State needs in several ways. For each State, the Needs Assessment provides a bottom-line estimate of the total need, which reflects the capital costs for all drinking water infrastructure projects allowed for inclusion in the Survey. The Needs Assessment also presents capital needs for each State by system size, by category of need (*i.e.*, treatment, distribution and transmission, storage, source, and ''other''), by existing SDWA regulation, and by current and future need. Current needs are projects that a system considers a high priority for near-term implementation to enable a water system to continue to deliver safe drinking water. The Needs Assessment also allocated the $0.9 billion need for the recently promulgated Arsenic Rule. The EPA used the total national cost for the Arsenic Rule from the Economic Analysis to allocate the Rule's implementation cost to each State based on the occurrence data for the number of systems with arsenic over 10 ppb.

The 2003 Needs Assessment found that the total national need is $276.8 billion (Table 1). This estimate represents the needs of the approximately 53,000 community water systems and 21,400 not-for-profit noncommunity water systems that are eligible to receive DWSRF program assistance. These systems are found in all 50 States, the District of Columbia, Puerto Rico, on American Indian lands and in Alaska Native Villages, and the Virgin Island and Pacific Island territories.

TABLE 1.—2003 DRINKING WATER INFRASTRUCTURE NEEDS SURVEY AND ASSESSMENT 20–YEAR NEEDS

Type of need	Need (billions)
States	$263.8
Territories	0.6
American Indian and Alaska Native Villages	2.4
Costs for Proposed and Recent Regulations (does not include the recently promulgated Arsenic Rule)	9.9
Total National Need	$276.8

Note: Numbers may not total due to rounding.

The total national need also includes $9.9 billion in capital needs associated with recently promulgated (excluding the Arsenic Rule) and future regulations, as identified in EPA Economic Analyses accompanying the rules. Although these needs are included in the total national need, they were not apportioned to the States based upon the unanimous recommendation of the State representatives who participated in the survey design. The States expressed concern that the methods available for allocating the costs of these regulations would not represent the true costs of compliance on a State level. The total State need, which is the figure that EPA will use to calculate the State allotments, includes only the needs of the 50 States, the District of Columbia, and Puerto Rico. The 2003 Needs Assessment estimates that the total State need is $263.8 billion.

Allocation Method

On October 31, 1996, EPA solicited public comment on six options for using the results of the first Drinking Water Infrastructure Needs Survey and Assessment to allocate DWSRF program funds to the States (61 FR 56231). On March 18, 1997, EPA announced its decision to allocate DWSRF program funds for fiscal years 1998 through 2001 appropriations based on each State's proportional share of the total eligible needs for the States as derived from the 1995 Needs Assessment (62 FR 12900). EPA used this same method when allocating DWSRF program funds for fiscal years 2002 through 2005, utilizing the results of the 1999 Needs Assessment. EPA has made the determination that it will continue to use this method for allocating DWSRF program funds for fiscal years 2006 through 2009 appropriations, utilizing the results of the 2003 Needs Assessment. The funds available to the States will be the level of funds appropriated by Congress, less the national set-asides, which includes an allocation for American Indian and Alaska Native Village water systems. Of the funds available to States, the SDWA includes specific allocations for the Pacific Islands, the Virgin Islands, and the District of Columbia. Each State will receive an allotment of DWSRF program funds based on each State's proportional share of the total State need ($263.8 billion), provided that each State receives a minimum allocation of one percent of the funds available to States, as required by the SDWA.

The 2003 Needs Assessment found that 22 States, Puerto Rico, and the District of Columbia each had less than one percent of the total national need (in aggregate, 8 percent of the total national need); however, for 2006 to 2009, each of these States will be eligible for one percent of the annual DWSRF funds made available to states (or, in aggregate, 24 percent of the total DWSRF funds made available to states). The discrepancy between these States' allocations percentages and their proportional needs as identified in the 2003 Assessment may be due, in part, to a number of these States participating in the needs assessment effort to a lesser degree than the other States.

The total State need includes all documented projects collected by the Needs Assessment. In general, a project was included in the Needs Assessment if project documentation demonstrated that meeting the need would address the public health objectives of the SDWA. The total State need includes both projects that are currently needed and future projects that will be needed over the next 20 years in four general categories: treatment, source, storage, and transmission and distribution. The formula based on the total need makes no distinction between the four categories—that is, it assigns an equal weight to all categories of need. Also, projects to correct immediate public health threats (e.g., replacing a deteriorated filter plant) are given the same weight as less critical needs (e.g., replacing a storage tank that is expected to reach the end of its useful life in five years). With the exception of the Arsenic Rule, capital costs associated with recently promulgated and future regulations were included in the total

national need but not distributed to individual states. Costs associated with the Arsenic Rule were allocated to each State based on occurrence data. The Needs Assessment excluded capital projects that are ineligible for DWSRF program assistance, such as dams, reservoirs and projects needed solely for growth.

Allocation of Funds

Table 2 contains each State's expected DWSRF program allotment based on an appropriation of $850,000,000 and national set-aside assumptions. The appropriation amount is based on the President's budget request of $850,000,000 for fiscal year 2006. The national set-asides for fiscal year 2006 include funds for American Indian and Alaska Native Village water systems at the level of 1.5 percent of the total appropriation. (SDWA Section 1452(i)). The amount will be $12,750,000 for Indian Tribes and Alaska Native Villages if funds are appropriated at the level of the President's 2006 budget request. Additional national set-asides for fiscal year 2006 include $2,000,000 for monitoring for unregulated contaminants. If funds are appropriated for the DWSRF program at the level of $850,000,000 and if the anticipated national set-asides do not change, the total funds available to the States, the District of Columbia, and Territories would equal $835,250,000. Because the percentages are based on the total funds available for allotment to the States, they can be used for general planning purposes for future years. Once the appropriated amount and national set-asides are known, a State's allotment can be estimated by subtracting the national set-asides from the total funds available for allotment and then applying the appropriate percentage shown below. EPA will annually notify each State of their allotment from a specific fiscal year's appropriation after the final budget has been passed.

The findings from the 2003 Needs Assessment will change the individual allotment percentage of the DWSRF program funds received by some States when compared to their current allotment percentage. This change reflects an increase or decrease in these States' proportion of the total State need. The variation in needs occurred principally as a result of the data submitted by individual water systems, but also in part due to refinements in the survey methods. With the collection of data from nearly 4,000 water systems and over 128,600 projects submitted, a change in some States' allotments represents an inevitable consequence of conducting a survey of this scale.

TABLE 2.—DISTRIBUTION OF DRINKING WATER STATE REVOLVING FUND ALLOTMENTS

State	Percent	Amount allotted
Alabama	1.00	$8,352,500
Alaska	1.00	8,352,500
Arizona	2.84	23,704,100
Arkansas	1.26	10,487,900
California	8.15	68,108,400
Colorado	1.76	14,714,300
Connecticut	1.00	8,352,500
Delaware	1.00	8,352,500
Florida	4.52	37,724,800
Georgia	2.81	23,461,900
Hawaii	1.00	8,352,500
Idaho	1.00	8,352,500
Illinois	4.08	34,068,800
Indiana	1.40	11,655,600
Iowa	1.25	10,405,500
Kansas	1.00	8,352,500
Kentucky	1.05	8,759,400
Louisiana	1.42	11,833,100
Maine	1.00	8,352,500
Maryland	1.38	11,493,200
Massachusetts	2.68	22,365,800
Michigan	3.46	28,893,000
Minnesota	1.80	15,038,600
Mississippi	1.00	8,352,500
Missouri	1.94	16,217,400
Montana	1.00	8,352,500
Nebraska	1.00	8,352,500
Nevada	1.00	8,352,500
New Hampshire	1.00	8,352,500
New Jersey	2.21	18,484,300
New Mexico	1.00	8,352,500
New York	4.45	37,184,400
North Carolina	3.37	28,109,400
North Dakota	1.00	8,352,500
Ohio	3.00	25,040,200
Oklahoma	1.61	13,484,400
Oregon	1.46	12,213,900
Pennsylvania	3.37	28,133,00
Puerto Rico	1.00	8,352,500
Rhode Island	1.00	8,352,500
South Carolina	1.00	8,352,500
South Dakota	1.00	8,352,500
Tennessee	1.04	8,668,600
Texas	8.24	68,814,200
Utah	1.00	8,352,500

TABLE 2.—DISTRIBUTION OF DRINKING WATER STATE REVOLVING FUND ALLOTMENTS—Continued

State	Percent	Amount allotted
Vermont	1.00	8,352,500
Virginia	1.06	8,892,600
Washington	2.14	17,906,900
West Virginia	1.00	8,352,500
Wisconsin	1.94	16,169,700
Wyoming	1.00	8,352,500
District of Columbia	1.00	8,352,500
Other Areas *	0.33	2,756,300
Total	100.00	835,250,000

Dated: June 17, 2005.

Benjamin H. Grumbles,

Assistant Administrator, Office of Water.

[FR Doc. 05–12660 Filed 6–23–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2005–0162; FRL–7719–2]

Carbofuran Risk Assessment; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's environmental fate and effects risk assessment for the pesticide carbofuran, and opens a public comment period on this document. EPA is developing an Interim Reregistration Eligibility Decision (IRED), for carbofuran through the full, 6-Phase public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments, identified by docket identification (ID) number OPP–2005–0162, must be received on or before August 23, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Stephanie Plummer, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–0076; fax number: (703) 308–8005; e-mail address: *plummer.stephanie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2005–0162. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing 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. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. 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. EPA's policy is that EPA will not edit your comment, and 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.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2005–0162. The 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.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0162. In contrast to EPA's electronic public docket, EPA's 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, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0162.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0162. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Background

A. What Action is the Agency Taking?

EPA is making available the environmental fate and effects risk assessment for carbofuran. A human health risk assessment is expected to be issued for public comment later in the summer 2005. Carbofuran is an N-methyl carbamate insecticide and nematicide used to control foliar and soil pests on food and non-food crops.

The Agency developed this ecological risk assessment as part of its public process for making pesticide reregistration eligibility and tolerance reassessment decisions. Through these programs, EPA is ensuring that pesticides meet current standards under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

Carbofuran works as a cholinesterase inhibitor and is used to treat pests of food and non-food crops as either a flowable or granular formulation. It is registered for food uses which include alfalfa, artichoke, banana, barley, coffee, corn (field, pop, and sweet); cotton seed, curcubits (cucumber, melons, and squash); grapes, oats, pepper, plantain, potato, sorghum, soybean, spinach, sugar beet, sugarcane, sunflower, and wheat. Carbofuran is registered for non-food uses which include agricultural fallow land, cotton, ornamental and/or shade trees, ornamental herbaceous plants, ornamental non-flowering plants, ornamental woody shrubs and vines, pine, and tobacco. Carbofuran is applied by aircraft or ground equipment by methods that include broadcast, banded, in furrow, and drip irrigation. An estimated 1.5 million lbs. of carbofuran are used annually.

EPA is providing an opportunity, through this notice, for interested parties to provide comments and input on the Agency's ecological risk assessment for carbofuran. Such comments and input could address, for example, the availability of additional data to further refine the risk assessment, such as data pertaining to use information and ecological risk, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific pesticide.

EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to carbofuran, compared to the general population.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** of May 14, 2004 (69 FR 26819) (FRL–7357–9), explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. EPA plans to review carbofuran through the full, 6-Phase public participation process.

Comments should be limited to issues raised within the risk assessment and associated documents. Failure to comment during Phase 3 will not limit a commenter's opportunity to participate in any later notice. All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the closing date. Comments will become part of the Agency Docket for carbofuran. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product-specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 15, 2005.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–12446 Filed 6–23–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2005–0035; FRL–7722–4

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSC, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from May 11, 2005 to June 8, 2005, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the docket identification (ID) number OPPT–2005–0035 and the specific PMN number or TME number, must be received on or before July 25, 2005.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter

of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket ID number OPPT–2005–0035. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing 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. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number and specific PMN number or TME number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. 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. EPA's policy is that EPA will not edit your comment, and 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.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPPT–2005–0035. The 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.

ii. *E-mail.* Comments may be sent by e-mail to *oppt.ncic@epa.gov*, Attention: Docket ID Number OPPT–2005–0035 and PMN Number or TME Number. In contrast to EPA's electronic public docket, EPA's 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, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid

the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *By hand delivery or courier*. Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number OPPT–2005–0035 and PMN Number or TME Number. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the specific PMN number you are commenting on in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from May 11, 2005 to June 8, 2005, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 47 PREMANUFACTURE NOTICES RECEIVED FROM: 05/11/05 TO 06/08/05

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–05–0545	05/12/05	08/09/05	CBI	(G) Manufacture of protective devices	(G) Urethane polymer
P–05–0546	05/12/05	08/09/05	CBI	(G) Open non-dispersive (coating)	(G) Alkyl resin
P–05–0547	05/13/05	08/10/05	Degussa Corporation	(S) Polymer powder for shapes manufactured by compression molding	(G) Aromatic polyimide
P–05–0548	05/13/05	08/10/05	CBI	(G) Plastics additive	(G) Alkyl carboxylate salt
P–05–0549	05/16/05	08/13/05	Forbo Adhesives, LLC	(G) Hot melt polyurethane adhesive	(G) Isocyanate functional polyester polyether urethane polymer
P–05–0550	05/16/05	08/13/05	CBI	(G) Additive of ink material	(G) Acrylic ester copolymer
P–05–0551	05/16/05	08/13/05	CBI	(G) Polymerization emulsifier	(G) Polyalkylene glycol alkyl ether, reaction products with allyl glycidyl ether
P–05–0552	05/17/05	08/14/05	CBI	(G) Machine seals, wheels and rollers	(G) Aromatic polyurethane polymer
P–05–0553	05/17/05	08/14/05	Ethox Chemicals, LLC	(G) Surface coating	(S) Oxirane, methyl-, polymer with oxirane, monoacetate, 2-hexyldecyl ether
P–05–0554	05/18/05	08/15/05	CBI	(G) Dispersants, curing synergysts, adhesives	(G) Polybutadiene imide

I. 47 PREMANUFACTURE NOTICES RECEIVED FROM: 05/11/05 TO 06/08/05—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–05–0555	05/18/05	08/15/05	Mitsuya Boeki USA, Inc.	(G) Curing agent	(S) Dodecanedioic acid, dihydrazide
P–05–0556	05/19/05	08/16/05	CBI	(G) Pigment dispersant	(G) Polyurethane derivative
P–05–0557	05/20/05	08/17/05	Gharda Chemicals LTD.	(S) Molding and extrusion; compounding	(G) Polyetherethersulfonesulfone block copolymer
P–05–0558	05/20/05	08/17/05	CBI	(G) Component for the coloration of polyester fiber	(G) Trisubstituted-phenylazo-propenylamino-methoxy-phenyl-acetamide
P–05–0559	05/23/05	08/20/05	Ashland Inc., Environmental Health and Safety	(G) Adhesive, coating, ink	(G) .beta.-ketoester, polymer with (chloromethyl)oxirane polymer with 4,4′-(1-methylethylidene)bis[phenol] 2-propenoate, 1,6-hexanediyl di-2-propenoate, .alpha.-hydro-.omega.-[(1-oxo-2-propenyl)oxy]poly(oxy-1,2-ethanediyl) ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), oxybis(methyl-2,1-ethanediyl) di-2-propenoate and 2-phenoxyethyl 2-propenoate, reaction products with alkylamine
P–05–0560	05/23/05	08/20/05	Ashland Inc., Environmental Health and Safety	(G) Adhesive, coating, ink	(G) .beta.-ketoester, polymer with (chloromethyl)oxirane polymer with 4,4′-(1-methylethylidene)bis[phenol] 2-propenoate, 1,6-hexanediyl di-2-propenoate, .alpha.-hydro-.omega.-[(1-oxo-2-propenyl)oxy]poly(oxy-1,2-ethanediyl) ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), oxybis(methyl-2,1-ethanediyl) di-2-propenoate and 2-phenoxyethyl 2-propenoate, reaction products with alkanolamine
P–05–0561	05/23/05	08/20/05	Ashland Inc., Environmental Health and Safety	(G) Adhesive, coating, ink	(G) 2-propenoic acid, 1,6-hexanediyl ester, polymer with (chloromethyl)oxirane polymer with 4,4′-(1-methylethylidene)bis[phenol] 2-propenoate, .alpha.-hydro-.omega.-[(1-oxo-2-propenyl)oxy]poly(oxy-1,2-ethanediyl) ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), oxybis(methyl-2,1-ethanediyl) di-2-propenoate, .beta.-diketone and 2-phenoxyethyl 2-propenoate, reaction products with alkylamine
P–05–0562	05/23/05	08/20/05	Ashland Inc., Environmental Health and Safety	(G) Adhesive, coating, ink	(G) 2-propenoic acid, 1,6-hexanediyl ester, polymer with (chloromethyl)oxirane polymer with 4,4′-(1-methylethylidene)bis[phenol] 2-propenoate, .alpha.-hydro-.omega.-[(1-oxo-2-propenyl)oxy]poly(oxy-1,2-ethanediyl) ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), oxybis(methyl-2,1-ethanediyl) di-2-propenoate, .beta.-diketone and 2-phenoxyethyl 2-propenoate, reaction products with alkanolamine

I. 47 PREMANUFACTURE NOTICES RECEIVED FROM: 05/11/05 TO 06/08/05—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–05–0563	05/23/05	08/20/05	Ashland Inc., Environmental Health and Safety	(G) Adhesive, coating, ink	(G) .beta.-ketoester, polymer with (chloromethyl)oxirane polymer with 4,4′-(1-methylethylidene)bis[phenol] 2-propenoate, 1,6-hexanediyl di-2-propenoate, .alpha.-hydro-.omega.-[(1-oxo-2-propenyl)oxy]poly(oxy-1,2-ethanediyl) ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), oxybis(methyl-2,1-ethanediyl) di-2-propenoate, .beta.-diketone and 2-phenoxyethyl 2-propenoate, reaction products with alkylamine
P–05–0564	05/23/05	08/20/05	Ashland Inc., Environmental Health and Safety	(G) Adhesive, coating, ink	(G) .beta.-ketoester, polymer with (chloromethyl)oxirane polymer with 4,4′-(1-methylethylidene)bis[phenol] 2-propenoate, 1,6-hexanediyl di-2-propenoate, .alpha.-hydro-.omega.-[(1-oxo-2-propenyl)oxy]poly(oxy-1,2-ethanediyl) ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (3:1), oxybis(methyl-2,1-ethanediyl) di-2-propenoate, .beta.-diketone and 2-phenoxyethyl 2-propenoate, reaction products with alkanolamine
P–05–0565	05/23/05	08/20/05	CBI	(G) Lubricant additive	(G) N-alkylated para-amino diphenylamine
P–05–0566	05/23/05	08/20/05	CBI	(G) Open, non-dispersive (resin)	(G) Hexanediol polycarbonate-based polyurethane-polyurea
P–05–0567	05/23/05	08/20/05	CBI	(G) Open, non-dispersive (resin)	(G) Hexanediol polycarbonate-based polyurethane-polyurea
P–05–0568	05/25/05	08/22/05	Firmenich inc.	(S) Isolated intermediate	(S) Acetic acid, chloro-, 1-(3,3-dimethylcyclohexyl)ethyl ester
P–05–0569	05/25/05	08/22/05	3M company	(S) Moisture curing hot melt adhesive	(G) Polyurethane prepolymer
P–05–0570	05/26/05	08/23/05	CBI	(G) Catalyst	(G) Ammonium multi-metal hydroxide oxide compound
P–05–0571	05/26/05	08/23/05	Meadwestvaco Corporation - Specialty Chemicals Division	(S) Acrylic support resin for printing inks	(G) Acrylate, polymer with styrene and methylamino chloride compounds
P–05–0572	05/26/05	08/23/05	CBI	(G) Catalyst	(G) Ammonium multi-metal nitrate oxide compound
P–05–0573	05/31/05	08/28/05	CBI	(G) Industrial Specialty Coating	(S) Poly(oxy-1,4-butanediyl), .alpha.-hydro-.omega.-hydroxy-, polymer with 2,4-diisocyanato-1-methylbenzene and .alpha., .alpha.′-[(1-methylethylidene) di-4,1-phenylene]bis[.omega.-hydroxypoly(oxy-1,2-ethanediyl)], 2-hydroxy-3-phenoxypropylacrylate-blocked
P–05–0574	05/27/05	08/24/05	CBI	(G) Laminating adhesive	(G) Polyurethane polymer
P–05–0575	05/27/05	08/24/05	CBI	(G) Maintenance coating binder	(G) Acrylic polymer
P–05–0576	05/31/05	08/28/05	Hanse Chemie USA, Inc.	(S) Modifier to impact resistance	(S) Silane, trimethoxyphenyl-, hydrolysis products with silica
P–05–0577	05/31/05	08/28/05	Hanse Chemie USA, Inc.	(S) Modifier to impact resistance	(S) Silane, trimethoxypropyl-, hydrolysis products with silica
P–05–0578	06/01/05	08/29/05	The Dow Chemical Company	(S) Polymer used in sealant manufacture	(G) Isocyanate functional poly carbomoyl (polyalkylene oxide)
P–05–0579	06/01/05	08/29/05	CIBA Specialty Chemicals Corporation	(S) Light stabilizer for use in coatings	(G) 2-[4-(4,6-bis-biphenyl]-4-yl-[1,3,5]triazin-2-yl]-3-hydroxy-phenoxy]-, alkyl acid isoaklyl ester
P–05–0580	06/01/05	08/29/05	CBI	(G) Coating resin	(G) Acrylic acid polymer with vinylated benzenes and substituted propanediol trimethacrylate
P–05–0581	06/01/05	08/29/05	CBI	(G) Coating resin	(G) 2-propenoic acid, polymer with substituted propanediol triacrylated
P–05–0582	06/02/05	08/30/05	The Dow Chemical Company	(G) Coating	(G) Aspartic ester
P–05–0583	06/02/05	08/30/05	Cytec Industries Inc.	(G) Polymeric flow and foam control additive for industrial coatings	(G) Acrylic modified polyester

I. 47 PREMANUFACTURE NOTICES RECEIVED FROM: 05/11/05 TO 06/08/05—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–05–0584	06/02/05	08/30/05	CBI	(S) Polyurethane coating	(G) Aqueous polyurethane dispersion
P–05–0585	06/03/05	08/31/05	CBI	(S) Solution acrylic resin is used as a component in a protective coating (paint)	(S) 2-propenoic acid, 2-methyl-, polymer with butyl 2-methyl-2-propenoate, 1,1-dimethylethyl 2-methyl-2-propenoate and 2-hydroxyethyl 2-methyl-2-propenoate, tert-bu peroxide-initiated
P–05–0586	06/03/05	08/31/05	Cytec Surface Specialties Inc.	(S) Wetting agent for industrial coatings	(G) 2-propenoic acid, 2-methyl-, 2-hydroxyethyl ester, homopolymer, ester with [3-[(carboxyamino)methyl]-3,5,5-trimethylcyclohexyl]carbamic acid mono[2-(2-butoxyethoxy)ethyl]ester, [3-[(carboxyamino)methyl]-3,5,5-trimethylcyclohexyl]carbamic acid mono[2-(dimethylamino)ethyl] ester and alkyl polyester homopolymer hydrogen(methyl-1,3-phenylene)bis[carbamate]
P–05–0587	06/02/05	08/30/05	CBI	(G) Pulp fiber treatment	(S) Endo-1,4-.beta.-xylanase
P–05–0588	06/06/05	09/03/05	CBI	(G) Consumer use - highly dispersive use as an ingredient in personal care products; industrial use - open non-dispersive use for the manufacture of products containing pmn substance; commercial use - open dispersive use when products used by professionals on clients	(S) Cycloheptadecenone
P–05–0589	06/06/05	09/03/05	CBI	(G) Consumer use - highly dispersive use as an ingredient in personal care products; industrial use - open non-dispersive use for the manufacture of products containing pmn substance; commercial use - open dispersive use when products used by professionals on clients	(S) Cyclohexanol, 4-(3-meythylbutyl)-
P–05–0590	06/06/05	09/03/05	CBI	(G) 1. Odor eliminator additive. 2. Laser system additive, 3. Teat dip additive.	(G) Substituted benzenesulfonamide
P–05–0591	06/08/05	09/05/05	BASF Corporation	(G) Component used in the manufacture of polyurethane parts	(G) Hexanedioic acid, polymer with aliphatic diols and diisocyanate

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 43 NOTICES OF COMMENCEMENT FROM: 05/11/05 TO 06/08/05

Case No.	Received Date	Commencement Notice End Date	Chemical
P–04–0003	05/25/05	12/01/04	(S) Pichia pastoris strain gs115
P–02–0283	05/19/05	05/03/05	(S) D-glucopyranose, homopolymer, 2-ethylhexyl glycosides
P–02–1002	05/11/05	04/27/05	(S) Benzene, diethenyl-, polymer with ethenylbenzene and ethenylethylbenzene, phosphonomethylated sulfonated
P–02–1017	05/26/05	05/23/05	(G) Cationic polyether
P–03–0548	05/24/05	05/17/05	(G) Ethoylated alkyl alcohol
P–03–0604	05/09/05	04/21/05	(G) Fluorinated methacrylated monomer
P–03–0650	05/24/05	05/17/05	(G) Organosulfate calcium hydroxy complex
P–04–0203	06/06/05	05/16/05	(G) Alkanediols, polymer with carboxylic acid anhydrides, reacted with branched alcohol and carboxylic acid.
P–04–0439	05/18/05	05/06/05	(S) Propanedioic acid, 1-(3,3-dimethylcyclohexyl)ethyl ethyl ester; propanedioic acid, 3,3,7-trimethylcycloheptyl ethyl ester
P–04–0483	06/02/05	05/24/05	(G) Functionalized poly(meth)acrylic acid
P–04–0525	05/11/05	04/18/05	(G) Alkyl modified silicone
P–04–0537	05/31/05	05/17/05	(G) Fluorochemical ester
P–04–0596	06/02/05	05/25/05	(G) Alkoxyphenol

II. 43 NOTICES OF COMMENCEMENT FROM: 05/11/05 TO 06/08/05—Continued

Case No.	Received Date	Commencement Notice End Date	Chemical
P–04–0627	06/01/05	05/12/05	(G) Unsaturated polyester benzoate
P–04–0730	06/01/05	05/09/05	(S) Terpenes and terpenoids, turpentine-oil, 3-carene fraction, polymers with phenol
P–04–0806	05/24/05	04/29/05	(G) Phosphonic acid, alkyl-, alkyl ester
P–04–0837	05/11/05	04/12/05	(G) Blocked aliphatic polyurethane resin
P–04–0894	06/07/05	05/13/05	(S) Inulin, carboxymethyl ether, sodium salt
P–04–0905	05/25/05	05/12/05	(G) Polymer of vinyl heterocycle
P–04–0939	06/08/05	05/25/05	(G) Polysiloxane, aminoalkyl terminated polymers with urea functionality alkylbenzene
P–04–0957	05/31/05	05/16/05	(S) 2-propenoic acid, 2-methyl-, polymer with butyl 2-propenoate, ethenylbenzene, methyl 2-methyl-2-propenoate and 2-methylpropyl 2-methyl-2-propenoate
P–04–0958	05/31/05	05/16/05	(S) 2-propenoic acid, 2-methyl-, polymer with butyl 2-propenoate, ethenylbenzene, methyl 2-methyl-2-propenoate and 2-methylpropyl 2-methyl-2-propenoate, ammonium salt
P–05–0011	05/27/05	05/17/05	(S) Phosphinic acid, diethyl-, zinc salt
P–05–0031	06/06/05	05/06/05	(S) Soybean oil, mixed esters with pentaerythritol and tung oil
P–05–0033	05/11/05	04/12/05	(G) Substituted benzene
P–05–0035	06/06/05	05/15/05	(G) Substituted aryl acetonitrile
P–05–0108	06/03/05	05/11/05	(S) 2-propenoic acid, 2-methyl-, polymer with 2-hydroxyethyl 2-methyl-2-propenoate and methyl 2-methyl-2-propenoate, 2,2′-azobis[2-methylpropanenitrile]-initiated
P–05–0142	05/12/05	04/29/05	(G) Alkyl acrylate, polymer with alkyl acrylate, alkylacrylamide, and alkyl acid
P–05–0160	05/24/05	04/26/05	(G) Polyethylene glycol esters of fatty acids
P–05–0161	05/24/05	04/25/05	(G) Polyethylene glycol esters of fatty acids
P–05–0226	05/13/05	05/04/05	(G) Polyalkoxylated aromatic colorant
P–05–0237	05/18/05	04/26/05	(G) Hexamethylene diisocyanate/carbonate/caprolactone/ether prepolymer
P–05–0260	05/19/05	05/10/05	(G) Aminoalkoxypolysiloxane
P–05–0261	06/06/05	05/22/05	(G) Phenol-substituted amide
P–05–0279	05/25/05	05/11/05	(G) Polyurethane polymer
P–05–0284	05/18/05	05/08/05	(G) Styrene acrylate copolymer
P–05–0300	06/01/05	05/06/05	(G) Niobium organic compound
P–05–0305	05/19/05	05/10/05	(S) Tall-oil pitch, sapond., sterol-low
P–05–0307	05/16/05	05/12/05	(S) Ruthenium, [1,3-bis(2,4,6-trimethylphenyl)-2-imidazolidinylidene]dichloro(phenylmethylene) (tricyclohexylphosphine)-, (sp-5-41)-
P–05–0308	05/27/05	05/25/05	(S) 2-propenoic acid, polymer with ethenylbenzene and (1-methylethenyl)benzene, compound with 2-aminoethanol
P–05–0334	05/31/05	05/23/05	(S) Aluminum hydroxycarbonate
P–05–0337	06/06/05	06/01/05	(G) Diphenylcaprylmethicone
P–92–0979	06/02/05	05/24/05	(G) Blocked aromatic polyisocyanate

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: June 16, 2005.

Vicki A. Simons,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 05–12574 Filed 6–23–05; 8:45 am]

BILLING CODE 6560–50–S

GENERAL SERVICES ADMINISTRATION

Office of Governmentwide Policy; Cancellation of an Optional Form by the Office of Personnel Management (OPM)

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) canceled OF 86A, Personal Data (Warning) (3½ x 1″ Label) since it is no longer needed.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

DATES: Effective June 24, 2005.

Dated: June 16, 2005.

Barbara M. Williams,

Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 05–12487 Filed 6–23–05; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–New]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper

performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection, Regular;

Title of Information Collection: Adolescent Family Life Pregnancy Prevention Core Evaluation;

Form/OMB No.: OS–0990–New;

Use: The Office of Adolescent Pregnancy Programs (OAPP) has developed core data collection tools to assist programs that have received Adolescent Family Life (AFL) demonstration grants with evaluating the programs and services provided as a part of their grant activies. These would be available to support both its prevention and care demonstration projects. The data collection tool for AFL prevention grantees will provide information on grantee progress in three areas: Reducing sexual risk behaviors, strengthening parents and families, and strengthening school and community supports.

Frequency: Reporting, Annually;

Affected Public: Individuals or households, Not-for-profit institutions;

Annual Number of Respondents: 41,500;

Total Annual Responses: 83,000;

Average Burden Per Response: 30 minutes;

Total Annual Hours: 41,500;

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access the HHS Web site address at *http://www.hhs.gov/oirm/infocollect/pending/* or e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *naomi.cook@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the Desk Officer at the address below: OMB Desk Officer: John Kraemer, OMB Human Resources and Housing Branch, Attention: (OMB #0990–NEW), New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: June 17, 2005.

Robert E. Polson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 05–12489 Filed 6–23–05; 8:45 am]

BILLING CODE 4168–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–New]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection, Regular;

Title of Information Collection: Adolescent Family Life Care Core Evaluation;

Form/OMB No.: OS–0990–New;

Use: The Office of Adolescent Pregnancy Programs (OAPP) provide services to pregnant and parenting adolescents. The proposed instruments developed for this evaluation permit measurement of standardized core outcomes for parents and their children across sites.

Frequency: Reporting, Annually;

Affected Public: Individuals or households, Not-for-profit institutions;

Annual Number of Respondents: 6,300;

Total Annual Responses: 12,600;

Average Burden Per Response: 30 minutes;

Total Annual Hours: 12,600;

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access the HHS Web site address at *http://www.hhs.gov/oirm/infocollect/pending/* or e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *naomi.cook@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the Desk Officer at the address below: OMB Desk Officer: John Kraemer, OMB Human Resources and Housing Branch, Attention: (OMB #0990–NEW), New Executive Office Building, Room 10235, Washington DC 20503.

Dated: June 17, 2005.

Robert E. Polson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 05–12490 Filed 6–23–05; 8:45 am]

BILLING CODE 4168–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Grants and Cooperative Agreements; Notice of Availability

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office on Women's Health.

ACTION: Notice.

Funding Opportunity: Request for Applications for Improving, Enhancing, and Evaluating Outcomes of Comprehensive Heart Health Care Programs for High-Risk Women.

Announcement Type: Competitive Cooperative Agreement—FY 2005 Initial announcement.

Funding Opportunity Number: Not applicable.

OMB Catalog of Federal Domestic Assistance: The OMB Catalog of Federal Domestic Assistance number is 93.012.

DATES: *Application Deadline:* July 25, 2005.

Anticipated Award Date: September 1, 2005.

SUMMARY: The Office on Women's Health (OWH) within the United States Department of Health and Human Services (DHHS) is interested in improving, enhancing, and evaluating outcomes of comprehensive heart health care programs for high-risk women. Under this announcement, OWH anticipates making up to five new awards, through the cooperative agreement grant mechanism, to provide funding to improve and enhance existing women's heart health care programs in hospitals, clinics, and/or health centers and to enable the programs to track and evaluate outcome data. Each grantee shall enhance an existing women's heart health care program so that it provides a continuum of heart health care services through the integration of the following five interrelated components: Education and Awareness, Screening and Risk

Assessment, Diagnostic Testing and Treatment, Lifestyle Modification and Rehabilitation, and Tracking and Evaluation. Grantees shall also target high-risk women in at least one of the following groups: Women aged 60 years or older, racial and ethnic minority women, and/or women who live in rural communities (particularly rural communities in the South and Appalachian region).

The goal of these programs will be to reduce heart disease mortality and morbidity among women and to increase the number of high-risk women who receive quality heart health care services, including education, prevention, screening, diagnosis, treatment and rehabilitation. These programs will offer comprehensive heart health care services that are women-centered, culturally competent, multi-disciplinary, continuous and integrated.

I. Funding Opportunity Description

1. Authority

This program is authorized by section 1703(a) of the Public Health Service Act.

2. Purpose

Through the cooperative agreement grant mechanism, OWH is interested in improving and enhancing existing women's heart health care programs and enabling the programs to track and evaluate outcome data. The goal of these programs will be to reduce heart disease mortality and morbidity among women and to increase the number of high-risk women who receive quality heart health care, including education, prevention, screening, diagnosis, treatment and rehabilitation. These programs will be demonstration projects; as such, they will provide the evidence necessary to evaluate whether comprehensive women's heart health care programs are effective in improving heart disease outcomes in high-risk women.

3. Project Outcomes

At minimum, grantees must be able to demonstrate the following desired program outcomes among women who participate in the program or among the community served:

Education/Knowledge

- Increase the proportion of women who are aware of the early warning symptoms and signs of a heart attack and the importance of accessing rapid emergency care by calling 911 (Target = 50%)
- Increase the proportion of women with diabetes who receive formal diabetes education (Target = 60%)
- Increase the proportion of women appropriately counseled about health behaviors (Target for physical activity = 58%; Target for diet and nutrition = 56%; Target for smoking cessation = 72%)
- Increase the proportion of women who are aware that heart disease is the #1 killer of women (Target = 75%)

Prevention/Risk Factors

- Increase the proportion of women with high blood pressure whose blood pressure is under control (Target = 50%)
- Reduce the proportion of women with high total blood cholesterol (Target = 17%)
- Increase the proportion of women with diabetes whose condition has been diagnosed (Target = 80%)
- Reduce the proportion of women who are obese (Target = 15%)
- Increase the proportion of women who engage regularly, preferably daily, in moderate physical activity for at least 30 minutes per day. (Target = 30%)

Treatment

- Increase the proportion of eligible women with heart attacks who receive fibrinolytics within an hour of symptom onset (Target = 6%)
- Increase the proportion of eligible women with heart attacks who receive percutaneous intervention (PCI) within 90 minutes of symptom onset (Target = 0.67%)
- Increase the proportion of women with coronary heart disease who have their LDL-cholesterol level treated to a goal of less than or equal to 100 mg/dL (Target pending)

The targets for these outcomes are based on the targets set for the objectives of Healthy People 2010. More information on the Healthy People 2010 objectives may be found at *http://www.health.gov/healthypeople*.

4. Requirements

In order to apply for the award, applicants must already have a basic women's heart health care program in place. The award shall not be used to fund direct health care services or equipment for patients (e.g., diagnostic tests, screening equipment, treatment, etc.). Rather, funds should be used to strengthen infrastructure, track and evaluate outcome data, conduct community outreach and educational activities, improve the coordination and continuity of care, and reduce fragmentation of heart health care services that already exist within the health care facility. For example, funds can be used to hire a program coordinator, set up a data tracking system, acquire or produce educational materials, etc.

The grantee shall enhance the existing women's heart health care program so that it provides a continuum of quality heart health care services to all women in the community, while specifically targeting high-risk women in at least one of the following groups: Women aged 60 years or older, racial and ethnic minority women, and/or women who live in rural communities (particularly rural communities in the South and Appalachian region). Each program must also be enhanced to offer comprehensive heart health care services that are women-centered, culturally competent, multi-disciplinary, continuous and integrated.

The women's heart health care program must be identifiable to patients and health professionals. Key staff and health care providers involved in the program must be knowledgeable about the differences between heart disease prevention, diagnosis and treatment in women and men. The grantee should use the award to train other health care providers affiliated with the program to understand these differences. Adult high-risk women shall be the primary focus of this program; however, family members who request services through the program must also be accommodated. All high-risk women shall be eligible to participate in the program, regardless of race, religion, or age.

In order to apply for the award, applicants must have the framework for at least three of the following five components already in place: Education and Awareness, Screening and Risk Assessment, Diagnostic Testing and Treatment, Lifestyle Modification and Rehabilitation, and Tracking and Evaluation. The award should be used to implement the other two components and to enhance the components that are already in place. The framework for all five components must be in place by the third month of funding. After the initial three months, each component must become a continuous, ongoing process throughout the entire period of funding.

Component #1—Education and Awareness

Education and awareness activities must be conducted in the community and/or at the health care facility several times throughout the year. Activities may include health fairs, seminars, CME courses, etc. The goal of these activities will be to educate women and their health care providers about heart disease in women and in the targeted group(s) of high-risk women. During these activities, participants must receive educational materials that contain information on statistics, risk factors, prevention and healthy lifestyle changes, warning signs and symptoms,

diagnosis, screening, treatment, and rehabilitation. The prevention information in these materials must be based on the latest AHA/ACA Evidence-Based Guidelines for Cardiovascular Disease Prevention in Women (1). Grantees may also use or adapt materials from the National Heart, Lung, and Blood Institute's (NHLBI) Heart Truth Campaign (*http://www.nhlbi.nih.gov/health/hearttruth/*) and other NHLBI materials.

The OWH will provide the grantee with materials from the Heart Truth Professional Education Campaign, which can be used or adapted for the health professional educational activities. These materials will be available for use in the Fall of 2005. They will include (1) curriculum materials for medical students and allied health professional students, (2) grand round presentations (traditional slides and a web-based interactive version) for cardiologists, primary care physicians, and allied health professionals, and (3) web-based interactive multiple unit learning modules for training and self study.

Component #2—Screening and Risk Assessment

Women who participate in the educational activities must be encouraged to complete a self-administered heart disease risk and knowledge assessment tool, which will be distributed and collected by the grantee. Each woman who completes the risk and knowledge assessment tool must receive a summary report with personalized heart disease risk information and a follow-up phone call. During the phone call, women must be invited to a follow-up consultation at the women's heart health care program or encouraged to make an appointment with their own primary care doctor. During the consultation, each woman should receive a more detailed risk assessment including appropriate screening tests, as indicated by the latest evidence-based practice guidelines.

Component #3—Diagnostic Testing and Treatment

A follow-up appointment must be scheduled for women requiring diagnostic testing and women requiring interventions, as indicated by the latest evidence-based practice guidelines. Women who attend a follow-up appointment shall undergo a physical examination and diagnostic tests, if necessary. Those women needing interventions should receive prescriptions for appropriate medication, counseling on appropriate heart healthy lifestyle changes, and follow-up appointments with specialists, if necessary.

Component #4—Lifestyle Modification and Rehabilitation

Follow-up of women requiring risk factor modification interventions is required. Group or individual classes on such topics as hypertension, diabetes, nutrition, exercise, and smoking cessation can be offered as part of the program. The program must also include comprehensive cardiac rehabilitation services specifically for high-risk women who are diagnosed with coronary heart disease. Women requiring cardiac rehabilitation services should be actively encouraged to take advantage of the services, including monitored physical exercise and activity, education, counseling, and risk factor management. The program must also address the barriers to participation and compliance experienced by women (2, 3).

Component #5—Tracking and Evaluation

The program must track, evaluate and report on data from Components 1–4. Baseline and follow-up data from risk and knowledge assessments, screenings, diagnostic tests, treatment plans, and interventions must be collected, entered into a central database, and analyzed. The data collected must be able to demonstrate, at minimum, the desired program outcomes listed above in section I.3.

II. Award Information

Under this announcement OWH anticipates making, through the cooperative agreement grant mechanism, up to five new 12-month awards by September 1, 2005. Approximately $750,000 is available to make awards of up to $150,000 total cost (direct and indirect) for the initial 12-month period. Cost sharing and matching funds is not a requirement of this grant. The actual number of awards made will depend upon the quality of the applications received and amount of funds available for the program. The government is not obligated to make any awards as a result of this announcement. The anticipated start date for new awards is September 1, 2005 and the anticipated period of performance is September 1, 2005 through August 31, 2006.

Under the cooperative agreement, the duties of the grantee and the federal government are described below. The OWH will provide the technical assistance and oversight necessary for the implementation, conduct, and assessment of program activities. The federal government shall be free to use program materials both during and after the period of performance. The grantee may copyright any work that is developed, or for which ownership was purchased, under the award, but DHHS reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

The grantee shall complete all requirements described in the Funding Opportunity Description. The grantee shall also:

- Prepare a work plan, task outline, and schedule of activities within one month of award.
- Prepare quarterly progress reports that outline the status and progression of the program.
- Participate in monthly conference calls with OWH and other awardees of this grant.
- Attend a post-award orientation meeting in Washington, DC within two months of award. (Travel funds for this meeting must come out of the total award funding and should be included in the applicant's budget justification.)
- Develop materials (*e.g.* flyers, pamphlets, Web site, etc.) to promote the program within the community.
- Prepare or obtain culturally competent educational materials on heart disease in women, including information on statistics, risk factors, prevention, warning signs and symptoms, diagnosis, screening, treatment, and rehabilitation.
- Prepare a directory of local heart resources available in the community, including cardiologists, dieticians, diabetes experts, weight loss and exercise programs, and health care alternatives for uninsured and underinsured women.
- Prepare a draft consent form in lay-language, obtain appropriate institutional IRB approval, if applicable, and obtain consent from all program participants.
- Develop or obtain a self-administered heart disease risk and knowledge assessment tool and a summary report format.
- Develop or obtain tracking and evaluation materials, including tools and surveys for collecting data on heart disease risk factors, screenings, diagnostic tests, treatment plans, interventions, and health outcomes.
- Develop or obtain a centralized database for storing and analyzing the tracking and evaluation data.
- Prepare a draft of the final report six weeks prior to the end date of award. The report should describe all project activities for the entire year and include

an analysis of the tracking and evaluation data.

• Incorporate mutually agreed upon edits from the OWH into the final report by the end date of award.

• Adhere to all program requirements specified in this announcement and the Notice of Grant Award.

• Submit a final Financial Status Report.

The Federal Government will:

• Conduct pre-award site visits of applicants with scores in the funding range prior to final selection of awardees, as needed.

• Conduct site visits of the funded programs, as needed.

• Review and approve work plan, task outline, and schedule of activities.

• Review quarterly progress reports.

• Conduct the monthly conference calls with grantees.

• Conduct a post-award orientation meeting in Washington, DC within two months of award.

• Review and approve materials to promote the program within the community.

• Review and approve the educational brochures and materials on heart disease in women.

• Provide the grantee with the Heart Truth Professional Education Campaign materials.

• Review the directory of local heart resources available in the community.

• Review and approve the self-administered heart disease risk and knowledge assessment tool and summary report format.

• Participate in the development of tracking and evaluation materials.

• Review draft of the final report and provide comments and edits to be incorporated into the final document.

III. Eligibility Information

1. Eligible Applicants

Applicants must be a public or private hospital, clinic, or health center providing heart health care services to women. Academic health centers and State, county, and local health departments are eligible for funding under this announcement. Programs that will be implemented in medically underserved areas, enterprise communities, and empowerment zones as well as community health centers funded under Section 330 of the Public Health Service Act are encouraged to apply. Native American tribal organizations, faith-based organizations, and organizations serving rural or frontier communities are also encouraged to apply.

In order to apply for the award, applicants must already have a basic women's heart health care program in place. Applicants must also have the framework for three of the five components described in the funding opportunity description (Education and Awareness, Screening and Risk Assessment, Diagnostic Testing and Treatment, Lifestyle Modification and Rehabilitation, Tracking and Evaluation) already in place.

If funding is requested in an amount greater than the ceiling of the award range ($150,000 for a 12-month budget period), the application will be considered non-responsive and will not be entered into the review process. The application will be returned with notification that it did not meet the submission requirements. Applications that are not complete or do not conform to or address the criteria of this announcement will be considered non-responsive and will not be entered into the review process. The application will be returned with notification that it did not meet the submission requirements. An organization may submit no more than one proposal for the program announced in this notice of funding availability. Organizations submitting more than one proposal will be deemed ineligible. The proposal will be returned without comment.

2. Cost Sharing or Matching Funds

Cost sharing, matching funds, and cost participation is not a requirement of this grant.

3. Other

Preference will be given to organizations serving rural or frontier communities and/or Native American tribal organizations. To increase the likelihood of funding organizations serving rural or frontier communities and/or Native American tribal organizations, OWH will award 5 bonus points to applicants meeting these criteria.

IV. Application and Submission Information

1. Address To Request Application Package

Application kits may be requested by calling (301) 594–0758 or writing to: Ms. Karen Campbell, Director, Office of Public Health and Science (OPHS) Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852. Applications must be prepared using Form OPHS–1.

2. Content and Form of Application Submission

Applicants are required to submit an original ink-signed and dated application and two photocopies. The application should be organized in accordance with the format presented in the Program Guidelines. The original and each copy must be stapled and/or otherwise securely bound. All pages must be numbered clearly and sequentially. The application must be typed on plain 8 ½″ x 11″ white paper, using a 12 point font, and contain 1″ margins all around. The Project Narrative, excluding the appendices, is limited to a total of thirty (30) pages—the fronts and backs of 15 pieces of paper. The first 30 pages of the proposal will be considered; any pages exceeding this length will be removed from the proposal and will not be evaluated. Staff resumes, letters of support, budget justifications, samples of educational materials, samples of survey instruments and data collection forms, and research results and references may be included as part of an appendix and will not count toward the thirty pages limit. The application must also include a detailed budget justification, including a narrative and computation of expenditures for one year. The budget justification does not count toward the 30 pages limit.

An outline for the minimum information to be included in the ''Project Narrative'' section is presented below.

A. Statement of Need

The applicant should demonstrate the need for improving, enhancing, and evaluating outcomes of the women's heart health care program. The statement of need should include a description of the population served by the applicant, including relevant demographic and risk factor information. The applicant should also describe the group(s) of high-risk women that will be targeted and the rationale for choosing the group(s).

B. Program Plan

The applicant must describe, in detail, its approach for accomplishing each of the requirements identified in the funding opportunity description. The program plan must discuss each component (Education and Awareness, Screening and Risk Assessment, Diagnostic Testing and Treatment, Lifestyle Modification and Rehabilitation, and Tracking and Evaluation) of the program in the order in which it appears in the funding opportunity description. The proposal should describe the three components of the program that are already in place as well as the components that will be added and/or strengthened using the award. The applicant should discuss how all five components will be

integrated to improve the coordination and continuity of care and reduce fragmentation of heart health care services. The applicant should also discuss how barriers to receiving and utilizing health care will be addressed in each component of the program, including options available for underinsured and uninsured women, transportation issues, child care, etc.

The applicant should identify potential problems and intended solutions. The applicant is free to recommend and describe other procedures that it believes will more effectively achieve the stated objectives, but needs to carefully relate alternatives and rationales to the approach recommended in the funding opportunity description.

C. Experience and Commitment of Key Personnel

The applicant must identify key personnel involved in the project based on the requirements described in funding opportunity description and other personnel adequate to support the administrative, logistical, financial, and scientific coordination aspects of the project within the time limits of the grant. The applicant must provide information on which task(s) each of the key personnel will perform and the rationale for that assignment. Resumes for all proposed personnel must be submitted with the application in the appendices. The applicant should also describe the network of multi-disciplinary health care providers that will be available to provide the services required in the funding opportunity description, including any partnerships established with specialists in the community. The applicant must demonstrate that key staff and health care providers involved in the program are knowledgeable on (1) the differences between heart disease prevention, screening, diagnosis, treatment and rehabilitation in men and women and (2) heart disease in the targeted high-risk group(s).

D. Management Plan

The applicant should develop and propose a Management Plan. This plan includes a program schedule that lays out tasks and a time-line and identifies significant milestones for the accomplishment of the project. Specific staff responsibilities must be detailed in this schedule along with the number of hours that each person will devote to each task. The plan must provide, at a minimum, details pertaining to the five program components as they are outlined in the funding description. The applicant should keep in mind that the framework for all five components must be in place by the third month of funding. After the initial three months, each component must become a continuous, ongoing process throughout the entire period of funding.

E. Past Performance

Each applicant should describe its experience and success in implementing and managing the existing women's heart health care program, including any tracking and evaluation data already collected and analyzed. Each applicant should also describe any other relevant previous experience, which may include, but is not limited to, the implementation of (1) a similar comprehensive women's or men's health program in any health area (e.g. heart disease, cancer, osteoporosis, etc.), (2) educational activities aimed at improving the awareness of health issues in women and men, and (3) any health programs targeting the chosen group(s) of high-risk women. The applicant should also include a description of itself, its support personnel, contractors, and partners, and the quality of cooperation between organization, staff, key personnel, and clients. Finally, the applicant should describe any training received by its staff members on how to implement and evaluation a women's heart health care program.

F. Appendices

Include documentation and other supporting information in this section, including staff resumes, letters of support, samples of survey instruments and data collection forms, and research results and references.

3. Submission Dates and Times

To be considered eligible for review, applications must be received by the Office of Public Health and Science (OPHS), Office of Grants Management by 5 p.m. EST on July 25, 2005. Applications will be considered as meeting the deadline if they are received on or before the deadline date. The application due date requirement in this announcement supersedes the instructions in the OPHS–1. Electronic submissions through the Grants.gov Website Portal provides for applications to be submitted electronically. Information about the system is available on the Grants.gov Web Site, *http://www.grants.gov.* Applications submitted by facsimile transmission (FAX) or any other electronic format are ineligible for review and will not be accepted. Applications that do not meet the deadline will be considered ineligible and will be returned to the applicant unread.

4. Intergovernmental Review

This program is subject to the Public Health Systems Reporting Requirements. Under these requirements, a community-based non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). Applicants shall submit a copy of the application face page (SF–424) and a one page summary of the project, called the Public Health System Impact Statement. The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions.

Community-based, non-governmental applicants are required to submit, no later than the Federal due date for receipt of the application, the following information to the head of the appropriate state and local health agencies in the area(s) to be impacted: (a) a copy of the face page of the application (SF 424), (b) a summary of the project (PHSIS), not to exceed one page, which provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with the appropriate state or local health agencies. Copies of the letters forwarding the PHSIS to these authorities must be contained in the application materials submitted to the DHHS/OWH.

This program is also subject to the requirements of Executive Order 12372 that allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit to be made available under this notice will contain a listing of States that have chosen to set up a review system and will include a State Single Point of Contact (SPOC) in the State for review. Applicants (other than federally recognized Indian tribes) should contact their SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC in each affected State. A complete list of SPOCs may be found at the following Web site: *www.whitehouse.gov/omb/grants/spoc.html.* The due date for State process recommendations is 60 days after the application deadline. The OWH does not guarantee that it will

accommodate or explain its responses to State process recommendations received after that date. (See ''Intergovernmental Review of Federal Programs,'' Executive Order 12372, and 45 CFR Part 100 for a description of the review process and requirements.)

5. Funding Restrictions

The award shall not be used to fund direct health care services or equipment for patients (e.g. diagnostic tests, screening equipment, treatment, etc.). Rather, funds should be used to strengthen infrastructure, track and evaluate outcome data, improve the coordination and continuity of care, and reduce fragmentation of heart health care services that already exist within the health care facility.

Grant funds may be used to cover costs of:

- Personnel
- Consultants
- Grant related office supplies and software
- Grant related travel (domestic only)
- Educational, promotional and evaluation materials
- Other grant related costs

Grant funds may not be used for:

- Building alterations or renovations
- Construction
- Screening supplies or equipment
- Incentives and prizes
- Food
- Fund raising activities
- Medical care, diagnostic tests, treatment or therapy
- Political education and lobbying
- Other activities that are not grant related

Guidance for completing the budget can be found in the Program Guidelines, which are included with the complete application kits.

6. Other Submission Requirements

All applicants are required to obtain a Data Universal Numbering System (DUNS) number as preparation for doing business electronically with the Federal Government. The DUNS number must be obtained prior to applying for OWH funds. The DUNS number is a nine-character identification code provided by the commercial company Dun & Bradstreet, and serves as a unique identifier of business entities. There is no charge for requesting a DUNS number, and you may register and obtain a DUNS number by either of the following methods:

Telephone: 1–866–705–5711.

Web site: *https://www.dnb.com/product/eupdate/requestOptions.html.*

Be sure to click on the link that reads, ''DUNS Number Only'' at the right hand, bottom corner of the screen to access the free registration page. Please note that registration via the web site may take up to 30 business days to complete.

V. Application Review Information

1. Criteria

The technical review of applications will consider the following 5 factors:

A. Factor 1: Program Plan (30 Points)

This factor will be evaluated by rating the applicant's approach to accomplishing each of the requirements identified in the funding opportunity description as demonstrated by the following:

- Demonstrated understanding of the scope, goals, and objectives of the work required and the applicability and clarity of the overall approach
- Discussions detailing how each of the requirements will be performed and the appropriateness of all proposed methodologies and analyses
- Discussions detailing how each of the five program components will be implemented (or enhanced) and integrated to provide continuity of care
- Discussions detailing how the program will be women-centered, culturally competent, and multi-disciplinary
- Discuss describing how barriers to receiving and utilizing health care will be addressed in each component of the program, including options available for underinsured and uninsured women, transportation issues, child care, etc.
- Identification of potential problems and intended solutions
- Potential for the success of the proposed program plan to achieve and demonstrate the program outcomes described in the funding opportunity description.

B. Factor 2: Statement of Need (20 Points)

The evaluation of this factor will be based on the following:

- Demonstrated need for improving, enhancing, and evaluating outcomes of the women's heart health care program
- Clarity of description of the population served by the applicant including total population, percent women, race/ethnicity data, age distribution, incidence of heart disease morbidity and mortality, prevalence of heart disease risk factors, and current utilization of heart health care services
- Clarity of the description of the group(s) of high-risk women that will be targeted and the rationale for choosing the group(s)
- Demonstrated understanding of the unique issues and concerns of women and of the targeted group(s) of high-risk women
- Demonstrated understanding of the differences between heart disease prevention, screening, diagnosis, treatment and rehabilitation in men and women.

C. Factor 3: Experience and Commitment of Key Personnel (20 Points)

This factor covers the qualifications of key personnel proposed to perform the work and the amount of effort estimated for each person. This evaluation is based on the following:

- Experience, education, and professional credentials of proposed key personnel on similar projects and in related fields
- Appropriateness of each person's skills for performing the requirements in the funding opportunity description
- Adequacy of the multi-disciplinary network of health care providers that will be available to provide the required services
- Degree to which key staff and health care providers involved in the program are knowledgeable on the differences between heart disease prevention, screening, diagnosis, treatment, and rehabilitation in men and women
- Degree to which key staff and health care providers involved in the program are knowledgeable on heart disease in the targeted high-risk group(s).

D. Factor 4: Management Plan (20 Points)

The applicant's staffing, scheduling, and logistics plans will be evaluated for their effectiveness in committing personnel and resources to achieve the program goals within the time frames set-forth. This evaluation is based on the following:

- Realism of the proposed timeline and the personnel and resources assigned to complete each requirement
- Appropriateness of the proposed number of hours estimated for each requirement and each staff member
- Adequacy of organizational structure
- Adequacy of proposed plan to identify and solve potential problems
- Adequacy of proposed plan to monitor and report on program progress and ensure effective communication between program staff members and the OWH.

E. Factor 5: Past Performance (10 Points)

This factor will be evaluated by considering the number, size, complexity, and success of similar

projects that the applicant has previously successfully implemented. The applicant should describe its experience and success in implementing and managing the existing women's heart health care program, including any tracking and evaluation data already collected and analyzed. Other relevant previous experience may include, but is not limited to, the implementation of (1) A similar comprehensive women's or men's health program in any health area (*e.g.* heart disease, cancer, osteoporosis, etc.), (2) educational activities aimed at improving the awareness of health issues in women and men, and (3) any health programs targeting the chosen group(s) of high-risk women. Finally, the applicant should describe any training received by its staff members on how to implement a women's heart health care program.

Also evaluated will be the applicant's past adherence to schedules and budgets, effectiveness of program management, willingness to cooperate when difficulties arise, and general compliance with the terms of grants.

2. Review and Selection Process

Applications should be submitted to: Ms. Karen Campbell, Director, Office of Public Health and Science (OPHS) Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852. Technical assistance on budget and business aspects of the application may be obtained from the Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, telephone: (301) 594–0758.

Questions regarding programmatic information and/or requests for technical assistance in the preparation of the Project Narrative should be directed in writing to Dr. Suzanne Haynes, Senior Science Advisor, Office on Women's Health, U.S. Department of Health and Human Services, 200 Independence Avenue, SW., Rm 719E, Washington, DC 20201, e-mail: *shaynes@osophs.dhhs.gov*.

Applications will be screened upon receipt. Those that are judged to be incomplete or arrive after the deadline will be returned without review or comment. If funding is requested in an amount greater than the ceiling of the award range ($150,000 for a 12-month budget period), the application will be considered nonresponsive and will not be entered into the review process. The application will be returned with notification that it did not meet the submission requirements.

Applicants that are judged to be in compliance will be notified by the Office of Grants Management. Accepted applications will be reviewed for technical merit in accordance with DHHS policies. Applications will be evaluated by a technical review panel. Applicants are advised to pay close attention to the specific program requirements and general instructions in the application kit and to the definitions provided in this notice.

Applications will be evaluated by a technical review panel composed of experts in the fields of program management, heart disease and health care, community outreach and health education, and community-based research. Consideration for award will be given to applicants that best demonstrate the potential to design a program that achieves the program goals stated in this announcement. The Federal Government may conduct pre-award site visits of applicants with scores in the funding range prior to final selection.

Funding decisions will be made by the OWH, and will take into consideration the recommendations and ratings of the review panel, pre-award site visits, program needs, geographic location, and stated preferences. To increase the likelihood of funding organizations serving rural or frontier communities and/or Native American tribal organizations, OWH will award 5 bonus points to applicants meeting these criteria.

VI. Award Administration Information

1. *Award Notices:* Within two weeks of the review of all applications, all applicants will receive a letter from the OWH stating whether they are likely to be or have not been approved for funding. For those likely to be funded, the letter is not an authorization to begin performance of grant activities. Applicants selected for funding support will receive a Notice of Grant Award signed by the Director of the OPHS Office of Grants Management. This is the authorizing document and it will be sent electronically and followed up with a mailed copy.

2. *Administrative and National Policy Requirements:* (1) In accepting this award, the grantee stipulates that the award and any activities thereunder are subject to all provisions of 45 CFR parts 74 and 92, currently in effect or implemented during the period of this grant. (2) Requests that require prior approval from the awarding office (See Chapter 8, PHS Grants Policy Statement) must be submitted in writing to the OPHS Grants Management Officer. Only responses signed by the OPHS Grants Management Officer are to be considered valid. Grantees who take action on the basis of responses from other officials do so at their own risk. Such responses will not be considered binding by or upon the OWH. (3) Responses to reporting requirements, conditions, and requests for postaward amendments must be mailed to the attention and address of the Grants Management Officer indicated below in ''Contacts.'' All correspondence should include the Federal grant number (item 4 on the Notice of Grant Award) and requires the signature of an authorized business official and/or the project director. Failure to follow this guidance will result in a delay in responding to your correspondence. (4) The DHHS Appropriations Act requires that, when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees shall clearly state the percentage and dollar amount of the total costs of the program or project which will be financed with Federal money and the percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources. (5) A notice in response to the President's Welfare-to-Work Initiative was published in the **Federal Register** on 5/16/97. This initiative is designed to facilitate and encourage grantees to hire welfare recipients and to provide additional training and/or mentoring as needed. The text of the notice is available electronically on the OMB home page at *http://www.whitehouse.gov/wh/eop/omb*.

3. *Reporting:* A successful applicant will submit quarterly progress reports, a final report, and a final Financial Status Report in the format established by the OWH, in accordance with provisions of the general regulations which apply under ''Monitoring and Reporting Program Performance,'' 45 CFR parts 74 and 92. The purpose of the quarterly and final reports is to provide accurate and timely program information to program managers and to respond to Congressional, Departmental, and public requests for information about the program. An original and two copies of the quarterly progress reports must be submitted by December 2, March 2, and June 2. A draft of the final report must be submitted by July 24. The report should describe all project activities for the entire year and include an analysis of the tracking and evaluation data. OWH will review the draft. Suggested revisions will be discussed individually during a conference call with each grantee. The mutually agreed upon revisions must be incorporated into the final report by the end date of the award.

VII. Agency Contact(s)

For application kits and information on budget and business aspects of the application, please contact: Ms. Karen Campbell, Director, OPHS Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, MD 20857. Telephone: 301–594–0758. E-mail: *kcampbell@osophs.dhhs.gov*.

Questions regarding programmatic information and/or requests for technical assistance in the preparation of the ''Project Narrative'' should be directed in writing to: Dr. Suzanne Haynes, Senior Science Advisor, Office on Women's Health, U.S. Department of Health and Human Services, 200 Independence Avenue, SW., Rm 719E, Washington, DC 20201. E-mail: *shaynes@osophs.dhhs.gov*.

VIII. Other information

1. Background

A. OWH

The Office on Women's Health (OWH) in the United States Department of Health and Human Services (DHHS) coordinates the efforts of all the DHHS agencies and offices involved in women's health. OWH works to improve the health and well-being of women and girls in the United States through its innovative programs by educating health professionals and motivating behavior change in consumers through the dissemination of health information. To that end, the OWH has established public/private partnerships that address the major killer of women—cardiovascular disease. One such partnership is with the National Heart, Lung, and Blood Institute's (NHLBI) Heart Truth Campaign, which is targeting women aged 40–60 years and their health care providers, through a national educational campaign.

B. Women and Heart Disease

Heart disease is the leading cause of death for women in the United States (4). Compared to men, women have higher heart disease mortality, higher morbidity following a heart attack, lower awareness of heart disease, and have a higher prevalence of most major risk factors for heart disease.

- In 2002, about 15,000 more women died of heart disease than men in the United Sates (5).
- Thirty-eight percent of women die within one year of having a heart attack compared to 25% of men who have heart attacks (4).
- About 35% of women and 18% of men heart attack survivors will have another heart attack within six years (4).
- About 46% of women become disabled with heart failure within 6 years of having a heart attack compared to 22% of men (4).
- Perioperative complications and mortality after percutaneous angioplasty and coronary artery bypass surgery are also higher in women than in men (6).
- More women than men in the United States have the following five major risk factors for heart disease: High blood pressure, high cholesterol, diabetes, physical inactivity, and obesity (7).

Some experts speculate that the difference in heart disease outcomes and risk factor prevalence between women and men may be due, in part, to a lack of awareness among women and their physicians of the risks for heart disease in women, and less aggressive use of treatments and preventive therapies for women than for men (6, 8).

- A 2003 national survey conducted by the American Heart Association found that 35% of women cite breast cancer as their greatest health threat while only 13% of women believe that their greatest health threat is heart disease (9).
- Women often fail to make the connection between risk factors, such as high blood pressure and high cholesterol, and their own chance of developing heart disease.
- Physicians tend to rate women as being at lower risk for heart disease than men even when the men and women have very similar risk profiles (10).
- A study of over 29,000 routine physician office visits found that women were counseled less often than men about exercise, nutrition, and weight reduction (11).
- The results of the 2003 national survey found that only 38% of women reported that their doctors had ever discussed heart disease with them (9).

Women and health care providers are often ill-informed about the differences between male and female signs, symptoms, and risk factors for heart disease (8, 9, 12, 13).

- The most common heart attack symptoms in women are different than those in men; women are more likely than men to experience ''atypical'' symptoms such as nausea, indigestion, palpitations, dyspnea and fatigue, and they are less likely than men to experience chest pain (14).
- The association between diabetes and heart disease is stronger in women than in men; diabetes increases a woman's risk of developing heart disease by 3 to 7 times, compared to 2 to 3 times in men (15).
- New evidence indicates that C-reactive protein may be a stronger risk factor in men than in women (16).
- The Women's Health Initiative study found that a common menopausal hormone therapy offered to women—estrogen plus progestin—increased the risk of heart disease in postmenopausal women (17).

There are also differences among men and women in heart disease prevention, diagnosis and treatment options and recommendations.

- The American Heart Association (AHA) and the American College of Cardiology (ACA) now recommend that women keep their HDL level at 50 mg/dL, compared with a recommended level of 40 mg/dL for men (1).
- New evidence indicates that aspirin therapy does not have the same heart protective effect in women as it does in men (18).
- The accuracy of exercise EKG and exercise thallium (with either conventional or SPECT imaging) for the diagnosis of heart disease is lower in women than in men due to both poor sensitivity and specificity (6).
- Some evidence indicates that clopidogrel is more effective in men than in women at reducing the risk of cardiovascular events and death among patients with acute coronary syndromes (6).
- For a comprehensive summary of prevention recommendations in women, see the Evidence-Based Guidelines for Cardiovascular Disease Prevention in Women recently published by the AHA and the ACA (1).
- For a comprehensive summary of diagnosis and treatment options in women, see the Evidence Report/Technology Assessment: Results of a Systematic Review of Research on Diagnosis and Treatment of Coronary Heart Disease in Women published in 2003 by the Agency for Healthcare Research and Quality (6).

Recent research has shown disparities in prevention, diagnosis and treatment for heart disease among women as compared to men.

- In one study, men were more likely than women to undergo noninvasive cardiac tests as well as invasive cardiac procedures after being diagnosed with unstable angina (19).
- A recent prospective cohort study of 8353 high-risk women from the southeastern U.S. found that only about one-third of women with high lipids received lipid-lowering drugs (20).
- Women are also less likely than men to receive appropriate drug therapy after a heart attack such as acute heparin, angiotensin-converting enzyme

inhibitors, and glycoprotein IIb/IIIa inhibitors (13, 21).

• In another study conducted in the UK, women were 39% less likely than men to be correctly diagnosed with a heart attack (22).

• Women are significantly less likely than men to be referred to a cardiac rehabilitation program once they have been diagnosed with heart disease; women are also less likely to enroll in and complete cardiac rehabilitation programs (23–26).

C. High-Risk Groups

Some groups of women have higher rates of heart disease mortality than other women and/or a higher prevalence of factors that increase the risk of heart disease mortality and morbidity. These high-risk groups of women include women aged 60 years or older, racial and ethnic minority women, and/or women who live in some rural communities (particularly rural communities in the South and Appalachian region) (5, 7, 9, 23, 24, 27–48).

i. Older Women

• The incidence of heart disease increases with age, and over 83% of people who die of heart disease are age 65 years or older (27).

• The risk of high blood pressure also increases with age; about 80% of women age 65 years and older have high blood pressure (27).

• After menopause, heart disease rates in women are 2 to 3 times that of women the same age before menopause (7).

• In addition, levels of HDL cholesterol decrease after menopause while levels of LDL cholesterol increase, which increases the risk of developing coronary artery disease.

• Only 18% of women age 65 years and older report engaging in regular leisure time physical activity compared to 59% of the total population of women (28).

• Older heart disease patients are less likely to receive guideline-recommended medical therapies such as beta-blockers, thrombolysis, statins, and angiotensin-converting enzyme inhibitors (29–32).

• Older women are also less likely than younger women to participate in cardiac rehabilitation programs after having a heart attack (23, 24).

ii. Racial and Ethnic Minority Women

African American women have the highest age-adjusted heart disease death rate of any female race/ethnicity group in the United State. Compared to white women, racial and ethnic minority women have a higher prevalence of many major risk factors for heart disease.

• In 2002, the heart disease death rate was 263.2 per 100,000 for African American women compared to 192.1 per 100,000 for white women and 197.2 per 100,000 for all women combined (5).

• About 57% of Hispanic/Latino women, 56% of American Indians/Alaska Native women, 42.6% of Asian/Pacific Islander women and 55% of African American women do not exercise, compared to 38% of white women (7, 33–35).

• About 72% of Mexican-American women, 77% of African American women and 61% of American Indians/Alaska Native women are overweight or obese, compared to 57% of white women (7, 33, 34).

• About 37% of American Indians/Alaska Native women smoke compared to 21% of white women (7, 34).

• Other CVD risk factors such as diabetes mellitus and high blood pressure are also more prevalent among minority women than among white women (7, 33, 34).

• About 26% of Hispanic/Latino women and 27% of Asian American women have not had a blood pressure screening in the past 12 months, compared to 20% of white women (36).

Disparities also exist in prevention, screening and treatment for heart disease among certain racial and ethnic minority women compared to white women.

• Studies have shown that African American women are less likely than white women to receive statin therapy even though African American women have higher rates of high cholesterol (37, 38).

• In one study of 700,000 elderly Medicare beneficiaries with ischemic heart disease, African American and Native American underwent invasive diagnostic and surgical revascularization far less often than whites, and Asian Americans were 50% less likely to be admitted to a hospital than whites (39).

• In another recent study of patients hospitalized with heart attack, the time it took for African Americans, Asian/Pacific Islanders and Hispanics to receive both fibrinolytic therapy and percutaneous coronary intervention was significantly longer compared with white patients (40).

• Several studies of heart attack patients have shown that African Americans, Asian Americans and Hispanics are less likely than whites to undergo angioplasty, cardiac catheterization, and bypass surgery (41–44).

• African American women are also significantly less likely than white women to be referred to a cardiac rehabilitation program once they have had a heart attack (45).

Heart disease awareness is also lower among certain racial and ethnic minority groups of women than among white women.

• In the 2003 national survey conducted by the American Heart Association, fewer African-American and Hispanic women than white women correctly cited heart disease as the leading cause of death among women (9).

• The survey also showed that white women were more likely than women in other racial/ethnic groups to correctly identify the major risk factors for heart disease.

iii. Rural Populations: South and Appalachian Region

According to the Rural Healthy People 2010 Companion Document to Healthy People 2010, rural populations ''are faced with certain behaviors, attitudes, and access challenges that may contribute to their heightened risks of coronary heart disease and stroke (46).''

• Access challenges cited in the document include ''long travel distances to comprehensive post discharge care for heart failure, limited access to screening services, variances in utilization of antithrombolytic therapy, availability of technology and specialists, and limited access to cardiac rehabilitation services (46).''

• Other challenges include a decreased awareness of heart disease risk, particularly among older rural women, and an increased prevalence of heart disease risk factors. Women who live in rural counties in the South and Appalachian region have higher rates of heart disease mortality than any other counties in the United States (47, 48).

• Women living in rural areas have higher rates of smoking and obesity than women living in urban areas (48).

D. Women's Heart Health Programs

Clearly there is much improvement needed at all levels of women's heart health care, particularly for high-risk groups of women (*e.g.* women aged 60 years or older, racial and ethnic minority women, and women who live in rural communities). OWH believes that implementing comprehensive women's heart health programs within hospitals, clinics, and other health care centers may help to improve heart disease prevention, diagnosis, and treatment in women. Such programs address the unique issues and concerns

of women and take into account the differences between heart disease in women and men. While there is limited data to date on the ability of these programs to improve heart disease awareness and care in women, some promising results have been reported.

- After the Women's Heart Program was implemented at Our Lady of Lourdes Regional Medical Center in Lafayette, Louisiana, non-invasive heart disease testing increased by 32% (49).
- In addition, 38% of patients increased their physical activity and 24% lost weight.
- Prior to the program's existence, Lafayette women identified cancer as their greatest health risk. In 2001, they identified heart disease as their greatest risk.

2. Definitions

For the purposes of this cooperative agreement program, the following definitions are provided:

Community-based: The locus of control and decision-making powers is located at the community level, representing the service area of the community or a significant segment of the community.

Community health center: A community-based organization that provides comprehensive primary care and preventive services to medically underserved populations. This includes but is not limited to programs reimbursed through the Federally Qualified Health Centers mechanism, Migrant Health Centers, Primary Care Public Housing Health Centers, Healthcare for the Homeless Centers, and other community-based health centers.

Culturally competent: Information and services provided at the educational level and in the language and cultural context that are most appropriate for the individuals for whom the information and services are intended.

Continuous: An ongoing set of services that include a complete array of heart health care, from education to screening to diagnosis to treatment and rehabilitation, without interruption.

Frontier community: Community or area with low population density that is usually fewer than 6–7 persons per square mile.

High-risk women: Groups of women that have higher rates of heart disease mortality than other women and/or a higher prevalence of factors that increase the risk of heart disease mortality and morbidity. Major risk factors for heart disease include smoking, high blood pressure, high LDL cholesterol, obesity, diabetes, physical inactivity, age, and family history of heart disease. Information on high risk or risks for heart disease can be found online at *http://circ.ahajournals.org/cgi/content/full/109/5/672* and *http://www.guidelines.gov/summary/summary.aspx?doc_id=3487&nbr=2713&string=lipid*.

Integrated: The goal of this approach is to unite the strengths of the various areas of women's health care, and create a more informed, less fragmented, and efficient system of care for women that can be replicated in other populations and communities.

Multi-disciplinary: An approach that is based on the recognition that women's health crosses many disciplines, and that women's health issues need to be addressed across multiple disciplines, such as, geriatrics, cardiology, mental health, reproductive health, nutrition, endocrinology, physiology, immunology, rheumatology, dental health, etc.

Racial and Ethnic Minority Women: American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, and Native Hawaiian or Other Pacific Islander. (Revision to the Standards for the Classification of Federal Data on Race and Ethnicity, **Federal Register**, Vol. 62, No. 210, pg. 58782, October 30, 1997.)

Rural community: All territory, population, and housing units located outside of urban areas and urban cluster.

Target: Put forth effort to ensure that members of a specific group of women are aware of the program and that components of the program are designed to be effective in reaching those populations. This includes creating program materials that are culturally competent for that specific group of women. This also includes training staff and health professionals to understand the unique needs, behaviors, cultures and concerns of members of the specific group of women. Targeting does not mean excluding other groups of women from the program.

Women-centered heart health care services: Services and health care providers that (1) take into account the differences between heart disease in men and women, prevention, screening, diagnosis, treatment and rehabilitation and (2) address the needs and concerns of women in an environment that is welcoming to women, fosters a commitment to women, treats women with dignity, and empowers women through respect and education.

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Dated: June 16, 2005.

Wanda K. Jones,

Deputy Assistant Secretary for Health (Women's Health).

[FR Doc. 05–12519 Filed 6–23–05; 8:45 am]

BILLING CODE 4130–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Request for Applications for the National Centers of Excellence in Women's Health (CoE) and the National Community Centers of Excellence in Women's Health (CCOE)—Ambassadors for Change Program

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science.

ACTION: Notice.

Announcement Type: Competitive Cooperative Agreement—FY 2005 Initial announcement.

Funding Opportunity Number: Not applicable.

Catalog of Federal Domestic Assistance: The Catalog of Federal Domestic Assistance number is 93.013.

Authority: This program is authorized by 42 U.S.C. 300u–2(a).

DATES: To receive consideration applications must be received by the Office of Grants Management, Office of Public Health and Science (OPHS), Department of Health and Human Services (DHHS), no later than 5 p.m. eastern daylight time no later than July 25, 2005.

SUMMARY: The National Centers of Excellence in Women's Health and the National Community Centers of Excellence in Women's Health programs provide funding to academic health centers and community-based organizations to enhance their women's health program through the integration

of these components: (1) Leadership development for women, (2) training for lay, allied health, and professional health care providers, (3) public education and outreach with special emphasis on outreach to minority women, (4) comprehensive health service delivery that includes gender and age-appropriate preventive services and allied health professionals as members of the comprehensive care team, and (5) basic science, clinical and community-based research. In addition, the community centers must replicate their National Community Center of Excellence in Women's Health (CCOE) model in another community.

I. Funding Opportunity Description

The goals of the Ambassador for Change program are to:

1. Increase the number of health professionals, including allied health professionals, trained to work with underserved and diverse women and to increase their leadership and advocacy skills.

2. Increase the number of women, especially American Indian or Alaska Native, Black or African American, Hispanic or Latino, Asian, or Native Hawaiian or Other Pacific Islander who pursue health careers and increase the leadership skills and opportunities for women in the community and for women faculty in academic settings.

3. Eliminate health disparities for women who are underserved due to age, gender, race/ethnicity, education, income, or disability.

4. Reduce the fragmentation of women's health services and access barriers by using a framework that coordinates and integrates comprehensive health services. Comprehensive health services include gender and age-appropriate preventive services and allied health professionals on the service delivery team.

5. Increase the women's health knowledge base by conducting gender-based research and by involving the community in identifying and conducting research related to and responsive to the health needs and issues of concern to underserved and minority women in the target community.

6. Empower women, especially underserved and minority women, as health care consumers and decision-makers.

The primary purpose of the CoE/CCOE—Ambassadors for Change program is the continuation of the ''one-stop shopping'' or ''centers without walls'' models of women's health care that have been developed by these organizations at a new, more progressive and focused leadership level, and the provision of advice and guidance to other organizations interested in developing or implementing these unique models of care. The success of these programs, the expertise of the Centers' staff, and the pool of diverse women who may be available to participate in research, including, *e.g.,* improving health education material to their communities, behavior studies, clinical trials, make these centers a valuable resource to the OWH and other agencies within the Department.

The Ambassadors for Change must continue to: (1) Develop and/or strengthen a framework to bring together a comprehensive array of services for women; (2) train a cadre of diverse health care providers that include allied health professionals and community health workers; (3) promote leadership/career development for diverse women in the health professions, including allied health professions and community health workers, and women/girls in the community; (4) enhance public education and outreach activities in women's health with an emphasis on gender-specific and age-appropriate prevention and/or reduction of illness or injuries that appear controllable through increased knowledge that leads to a modification of behavior; (5) participate in any national evaluation of the CoE and/or CCOE program; (6) conduct basic, clinical and community-based research in women's health; (7) conduct process, impact, and outcome evaluations of their program; and (8) provide advice and guidance to other organizations interested in learning more about the OWH CoE and CCOE programs.

At a minimum, each Ambassador for Change awardee must maintain a physically-identifiable clinical care center for the delivery of comprehensive, interdisciplinary health care that includes gender and age-appropriate preventive services for women. The clinical care center must have permanent signage that identifies it as a National Center of Excellence in Women's Health or a National Community Center of Excellence in Women's Health supported by the U.S. Department of Health and Human Services. The clinical care center must be devoted to women-friendly, women-centered, women-relevant care delivered from a multidisciplinary, holistic, and culturally and linguistically appropriate perspective. The clinical care center must also have a women's health clinical intake form, referral and tracking system, and procedures for identifying and counting the women served by the program and for tracking the cost of services provided to women who receive interdisciplinary care through the program. Sites must be able to differentiate the care provided to women counted as CoE or CCOE patients compared to other patients.

II. Award Information

The CoE/CCOE—Ambassadors for Change program will be supported through the cooperative agreement mechanism. Using this mechanism, the OWH anticipates making up to six new 3-year awards in FY 2005. The anticipated start date for new awards is September 30, 2005, and the anticipated period of performance is September 30, 2005, through September 29, 2008. Approximately $225,000 is available to make awards between $25,000–$50,000 total cost (direct and indirect) for a 12-month budget period. The total amount that may be requested by academic health centers is $25,000 and the total amount that may be requested by community-based organizations is $50,000. (**Note:** Noncompeting continuation awards (up to the maximum total cost allowed for each type of organization per year) will be made subject to satisfactory performance and availability of funds.)

CoE/CCOE—Ambassadors for Change programs will continue to be recognized by the OWH as National Centers of Excellence in Women's Health and National Community Centers of Excellence in Women's Health with all the privileges granted these programs by the OWH. As such, the Ambassadors for Change will continue to attend the CoE/CCOE Center Directors' meetings, have the opportunity to participate in joint projects initiated and funded by the OWH, remain on the list serve to continue to have access to information and funding opportunities, be a full-participating member of the CoE/CCOE Research Coordinating Center (if applicable), be site visited as needed, be listed on the OWH Web site with links to their CoE/CCOE Web site, and have their products/activities listed on the virtual resource center.

Under previous program announcements, the OWH funded three new CCOE programs in FY 2000. These are the CCOE programs eligible to apply for this award. The OWH also funded four new CCOE programs in FY 2001, five new programs in FY 2002, and two new programs in 2004. A total of 14 CCOE programs have been funded to date.

Under the contract mechanism, the OWH also funded six new CoEs in 1996. The three whose options years were renewed through September 2005 are eligible to apply for this award. The

OWH also is currently funding 18 additional CoEs: Four funded since 1997, five funded since 1998, six funded since 2003 and three funded since 2004.

The OWH will provide the technical assistance and oversight necessary for the implementation, conduct, and assessment of the Ambassador for Change program activities.

The applicant shall:

1. Implement the program described in the application.

2. Conduct a process, impact, and outcome evaluation of their program.

3. Participate in and pay for attendance at the two annual meetings of the CoE and CCOE Center Directors and the joint CoE/CCOE Center Directors' meetings.

4. Participate in any national evaluations of the CoE and CCOE programs following the guidance provided by the OWH contractor.

5. Maintain the CoE or CCOE Web site.

6. Display permanent signage designating the facility as a National Center of Excellence in Women's Health or National Community Center of Excellence in Women's Health.

7. Participate in special meetings (*i.e.*, CoE/CCOE Working Group meetings) and projects/funding opportunities identified and/or offered by the OWH.

8. Adhere to all program requirements specified in the Notice of Grant Award.

9. Submit required annual technical and financial reports by the due dates stated in this announcement and the Notice of Grant Award. The technical report must include a discussion of the process, impact, and outcome evaluation of their program.

10. Participate in the projects of the Research Coordinating Center (if applicable).

The Federal Government will:

1. Participate in at least two annual meetings with the CoE/CCOE Center Directors and/or Program Coordinators.

2. Participate in a national evaluation of the CoE or CCOE programs using guidance provided by the OWH contractor.

3. Review and decide on requested project modifications.

4. Site visit CoE/CCOE facilities, as needed.

5. Review all reports submitted by the grantees.

6. Facilitate review and clearance of all Center publications to insure adherence to DHHS policies.

The DHHS is committed to achieving the health promotion and disease prevention Objectives of Healthy People 2010 and the HealthyUS Initiative. Emphasis will be placed on aligning the CoE/CCOE—Ambassadors for Change activities and programs with the DHHS Secretary's four priority areas—heart disease, cancer, diabetes, and HIV/AIDS with an increased emphasis on adolescents, elderly women, mental health, and violence against women—and with the Healthy People 2010: Goal 2—eliminating health disparities due to age, gender, race/ethnicity, education, income, disability, or living in rural localities. More information on the Healthy People 2010 objectives may be found on the Healthy People 2010 Web site: *http://www.health.gov/healthypeople* Another reference is the Healthy People 2000 Review—1998–99. One free copy may be obtained from the National Center for Health Statistics (NCHS), 6525 Belcrest Road, Room 1064, Hyattsville, MD 20782 or telephone (301) 458–4636 (DHHS Publication No. (PHS) 99–1256). This document may also be downloaded from the NCHS Web site: *http://www.cdc.gov/nchs.* Also, Steps to a HealthierUS, a program of the Department to help implement the Healthy U.S. initiative, advances the goal of helping Americans live longer, better, and healthier lives. It lays out DHHS priorities and programs for Steps to a HealthierUS, focusing attention on the importance of prevention and promising approaches for promoting healthy environments.

III. Eligibility Information

1. *Eligible Applicants.* Eligible applicants are OWH funded National Centers of Excellence in Women's Health (CoE) whose funding ends in September 2005 without remaining option years and National Community Centers of Excellence in Women's Health (CCOE) programs whose funding ends in September 2005.

2. *Cost Sharing or Matching Funds.* Cost sharing, matching funds, and cost participation is not a requirement of this grant.

IV. Application and Submission Information

1. *Address to Request Application Package:* Application kits may be requested by calling (301) 594–0758 or writing to Ms. Karen Campbell, Director, Office of Grants Management, Office of Public Health and Science, Department of Health and Human Services, 1101 Wootten Parkway, Suite 550, Rockville, MD 20852. Applications must be prepared using Form OPHS–1.

2. *Content and Form of Application and Submission:* At a minimum, each application for a cooperative agreement grant funded under this announcement must:

- Present a plan to continue integrating all components of the program. The CCOEs are not required to continue the replication component but preference will be given to programs that plan to continue to provide technical assistance to their replication site. Additionally, CCOEs that actively participate in the Research Coordinating Center (RCC) projects will be considered as fulfilling the requirements for the research component. A statement of willingness to participate in the RCC activities must be included in the application, if applicable.
- Discuss a plan to continue the involvement of the CoE or CCOE advisory board and their role as it relates to the Ambassadors for Change program.
- Be a sustainable organization capable of providing coordinated and integrated women's health services in the targeted community. The applicant will need to define the components of comprehensive, multi-disciplinary care, demonstrate that they are culturally, linguistically, and gender and age appropriate, and show that they have a clear and sustainable framework for providing those services.
- Present a plan to provide support, advice, and guidance to CoEs, CCOEs, and the Demonstration CoEs, through a variety of training opportunities, such as the ELAM program, promotoras trainings, discussions at Center Directors' meetings, etc. These activities may be supported by outside funding or sponsors in keeping with the government partnership ethics guidance.
- If applicable, detail/specify the roles and resources/services that each partner organization bring to the program, the duration and terms of agreement as confirmed by a signed agreement between the applicant organization and each partner, and describe how the partner organizations will operate within the Ambassador for Change structure. (For the CCOEs only: The partnership agreement(s) must name the individual who will work with the Ambassador program, describe their function, and state their qualifications. The documents, specific to each organization (form letters are not acceptable), must be signed by individuals with the authority to represent and bind the organization and be submitted as part of the grant application.)
- Describe in detail plans for the local process, impact, and outcome evaluation of the program and how information obtained from the evaluation will be used to enhance the program. The applicant must also

indicate their willingness to participate in a national evaluation of the program to be conducted under the leadership of the OWH contractor.

The Project Narrative must not exceed a total of 20 double-spaced pages, excluding the appendices. The original and each copy must be stapled and/or otherwise securely bound. The application should be organized in accordance with the format presented in the Program Guidelines. An outline for the minimum information to be included in the ''Project Narrative'' section is presented below. Applicants must pay particular attention to structuring the narrative to respond clearly and fully to each review Factor and associated review criteria.

I. Background
- A. Overview of CoE/CCOE program
- B. Primary area(s) of expertise to be offered through the Ambassadors for Change program
- C. Goal and purpose of the program

II. Implementation Plan
- A. Describe the level of effort to be maintained for the CoE/CCOE program components
- B. Describe how will the components be integrated with a reduced level of activity
- C. Describe plans to provide support, advice, and guidance to the CoEs, CCOEs, and Demonstration CoEs

III. Management Plan
- A. Key project staff, their resumes, and a staffing diversity chart for budgeted staff and those affiliated with the new CoE/CCOE Ambassador for Change program
- B. Staff responsibilities
- C. CoE or CCOE Advisory Board

IV. Local CoE or CCOE Evaluation Plan
- A. Purpose
- B. Design/methodology
- C. Use of results

Appendices
- A Required Forms (Assurance of Compliance Form, etc.)
- B. Key Staff Resumes
- C. Staffing Diversity Chart
- D. Other attachments

3. *Submission Dates and Times.* To be considered for review, applications must be received by the Office of Grants Management, Office of Public Health and Science, by 5 p.m. eastern daylight time on July 25, 2005. Applications will be considered as meeting the deadline if they are received on or before the deadline date. The application due date requirement in this announcement supercedes the instructions in the OPHS–1.

Applicants are required to submit an original ink-signed and dated application and photocopies. All pages must be numbered clearly and sequentially. The application must be typed double-spaced on one side of plain 8½″ x 11″ white paper, using at least a 12 point font, and contain 1″ margins all around.

Electronic submissions through the Grants.gov Web site Portal provides for applications to be submitted electronically. Information about the system is available on the Grants.gov Web site. Applications submitted by facsimile transmission (FAX) or any other electronic format will not be accepted. OPHS will not acknowledge receipt of applications. Applications received after the exact date and time specified for receipt will not be accepted. Applications which do not meet the deadline will be returned to the applicant unread.

Applications will be screened upon receipt. Those that are judged to be incomplete or arrive after the deadline will not be reviewed. Applications that exceed the specified amount for a twelve-month budget period may also not be reviewed. Applicants that are judged to be in compliance will be reviewed for technical merit in accordance with DHHS policies. Applications will be evaluated by a technical review panel composed of experts in the fields of program management, service delivery, outreach, health education, research, and leadership development and evaluation. Consideration for award will be given to applicants that best demonstrate progress and/or plausible strategies for eliminating health disparities through the integration of training, leadership/career development, public education and outreach, comprehensive services that include gender and age-appropriate preventive services, and research. Applicants are advised to pay close attention to the specific program guidelines and general instructions in the application kit.

4. *Intergovernmental Review:* This program is subject to the Public Health Systems Reporting Requirements. Under these requirements, a community-based non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHIS). Applicants shall submit a copy of the application face page (SF–424) and a one page summary of the project, called the Public Health System Impact Statement. The PHIS is intended to provide information to State and local health officials to keep them apprized on proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions.

This program is also subject to the requirements of Executive Order 12372 that allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit to be made available under this notice will contain a listing of States that have chosen to set up a review system and will include a State Single Point of Contact (SOC) in the State for review. Applicants (other than federally recognized Indian tribes) should contact their SPECS as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SOC in each affected State. A complete list of SPECS may be found at the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html.* The due date for State process recommendations is 60 days after the application deadline. The OWH does not guarantee that it will accommodate or explain its responses to State process recommendations received after that date. (*See* ''Intergovernmental Review of Federal Programs,'' Executive Order 12372, and 45 CFR part 100 for a description of the review process and requirements.)

Community-based, non-governmental applicants are required to submit, no later than the Federal due date for receipt of the application, the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted: (a) A copy of the face page of the application (SF 424), (b) a summary of the project (PHIS), not to exceed one page, which provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with the appropriate state or local health agencies. Copies of the letters forwarding the PHIS to these authorities must be contained in the application materials submitted to the OWH.

5. *Funding Restrictions:* A majority of the funds must be used to support staff (direct labor) and efforts aimed at coordinating and integrating the components of the program and travel to the two Annual Center Directors' Meetings per year . The senior person responsible for the program shall continue to devote the maximum effort needed to maintain program excellence. Funds may also be used for program related travel.

Funds may *not* be used for construction, building alterations, equipment, printing, food, medical treatment, or renovations. All budget requests must be justified fully in terms of the proposed goals and objectives and include an itemized computational

explanation/breakout of how costs were determined.

The CoE and CCOE Center Directors meet twice a year. A portion of these meetings will be devoted to the Ambassadors for Change program. The budget should include a request for funds to pay for the travel, lodging, and meals for the two Center Directors' meetings. The first meeting is usually held between mid-November and mid-December and the second Center Directors' meeting is usually held in May. This year the joint Center Directors' meetings will be held November 7–8, 2005. CCOE Center Directors are encouraged to bring the person with primary responsibility for the day-to-day management of the Ambassador for Change program to these meetings and should include their travel cost in the budget.

6. *Other Submission Requirements:* Beginning October 1, 2003, all applicants are required to obtain a Data Universal Numbering System (DUNS) number as preparation for doing business electronically with the Federal Government. The DUNS number must be obtained prior to applying for OWH funds. The DUNS number is a nine-character identification code provided by the commercial company Dun & Bradstreet, and serves as a unique identifier of business entities. There is no charge for requesting a DUNS number, and you may register and obtain a DUNS number by either of the following methods: telephone: 1–866–705–5711. Web site: *http://www.dnb.com/product/eupdate/requestOptions.html.*

Be sure to click on the link that reads, ''DUNS Number Only'' at the right hand, bottom corner of the screen to access the free registration page. Please note that registration via the Web site may take up to 30 business days to complete.

V. Application Review Information

1. *Criteria:* The technical review of applications will consider the following factors:

Factor 1: Level of Integration of the Components and Gender-Based Medicine at the Institution (30%)

The CoE/CCOE Ambassadors for Change Program model shall include: (a) Training for professional, allied health, and lay health care workers serving underserved diverse women, (b) leadership/career development for women providers and underserved women/girls in the community, including American Indian or Alaska Native, Black or African American, Hispanic or Latino, Asian, and Native Hawaiian or Other Pacific Islander women/girls, (c) outreach and public education, (d) comprehensive multi-disciplinary women's health services that include gender and age-appropriate preventive services, (e) gender-based research originating at the institution or involved with the CoE/CCOE Research Coordinating Center. All components shall be in place/operational and integrated with one another at the time the application is submitted. The applicant must discuss/describe the resources available to support each component, plans for maintaining components, and the relationship of each integrated component to the overall goals and objectives of the CoE/CCOE Ambassador for Change program.

Factor 2: Partnerships (25%)

The CoE or CCOE shall maintain existing partnership and develop new ones within their region and neighboring regions and with government-sponsored agencies and organizations:

- The Regional Women's Health Coordinator in their region. The RWHCs and contact information can be found at *http://www.4woman.gov/owh/reg/.*
- The Minority Women's Health Panel of Experts (if there is one in their region). The MWHPEs and contact information can be found at *http://www.4woman.gov/owh/minority.htm#mwhpe.*
- DHHS agencies (HRSA, OMH/OPHS, IHS, NIH, CDC, FDA, etc.).
- Other government agencies and State and local governments.

The partnerships shall work towards:

- Improving diversity at their institution regarding populations served, culturally competent materials and center staff, and
- Continuing to transform the programs through leadership, outreach especially to adolescents and elderly women, prevention programs on heart disease, diabetes/obesity, cancer, HIV/AIDS, mental health, and violence against women, and underserved women, including the American Indian population.

Factor 3: Agreement to Serve as a Technical Consultant to Other Sites on Your Most Successful Component (20%)

A clear statement of willingness to provide technical consultation to other academic health centers interest in the CoE model or other community-based organizations interested in the CCOE model could include work with the Executive Leadership in Academic Medicine Program, a promotoras training program, presentations at CoE and CCOE Center Directors' meetings, technical assistance visits to other CoE/CCOE sites, etc.

Factor 4: Evaluation (15%)

The CoE or CCOE shall have in place an ongoing program of process, impact, and outcome evaluation. In addition, a clear statement of agreement to participate fully in any national program evaluations must be included in the application.

Factor 5: Degree of Self-Sustainment at the Parent Institution (10%)

Applicant organization's capability to manage the project as determined by the qualifications of the proposed staff; proposed staff level of effort; the institutional commitment demonstrated in the application; management experience of the staff; and the experience, resources and role of each partner organization as it relates to the needs and programs/activities of the CoE/CCOE Ambassador for Change program, diversity of the CoE/CCOE staff as it relates to and reflects the community and populations served, integration of allied health professionals into the CoE/CCOE program, and integration of the CoE/CCOE advisory board into the program's activities. Detailed position descriptions, resumes of key staff, a staffing diversity chart, and letter of support from key institutional administrator should be included in the appendix. The management plan should also describe succession planning for key personnel and cross training of responsibilities. Thoughtful succession planning and cross training of responsibilities should contribute to the sustainability of the program and provide promotion potential.

2. *Review and Selection Process:* Accepted applications will be reviewed for technical merit in accordance with DHHS policies. Applications will be evaluated by a technical review panel composed of experts in the fields of program management, academic/community service delivery, outreach, health education, research, and leadership development and evaluation. Consideration for award will be given to applicants that meet the goals and review criteria of the CoE/CCOE Ambassadors for Change programs.

Funding decisions will be made by the OWH, and will take into consideration the recommendations and ratings of the review panel, program needs, stated preferences, and the organization's women's health experience.

VI. Award Administration Information

1. *Award Notices:* Within a month of the review of all applications, applicants not scoring in the funding range will receive a letter stating that they have not been recommended for funding. Applicants selected for funding support will receive a Notice of Grant Award signed by the grants officer. This is the authorizing document to begin performing grant activities and it will be sent electronically and followed up with a mailed copy. Pre-award costs are not supported by the OWH.

2. *Administrative and National Policy Requirements:* (1) In accepting this award, the grantee stipulates that the award and any activities thereunder are subject to all provisions of the 45 CFR parts 74 and 92, currently in effect or implemented during the period of this grant. Requests that require prior approval from the awarding office (*see* Chapter 8, PHS Grants Policy Statement) must be submitted in writing to the OPHS Grants Management Office. Only responses signed by the Grants Management Officer are to be considered valid. Grantees who take action on the basis of responses from other officials do so at their own risk. Such responses will not be considered binding by or upon the OWH. (2) Responses to reporting requirements, conditions, and requests for post-award amendments must be mailed to the Office of Grants Management at the address indicated below in ''Agency Contacts.'' All correspondence requires the signature of an authorized business official and/or the project director. Failure to follow this guidance will result in a delay in responding to your correspondence. (3) The DHHS Appropriations Act requires that, when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, the issuance shall clearly state the percentage and dollar amount of the total costs of the program or project that will be financed with Federal money and the percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources. (4) A notice in response to the President's Welfare-to-Work Initiative was published in the **Federal Register** on May 16, 1997. This initiative is designed to facilitate and encourage grantees to hire welfare recipients and to provide additional training and/or mentoring as needed. The text of the notice is available electronically on the OMB home page at *http://www.whitehouse.gov/wh/eop/omb.*

3. *Reporting:* In addition to those listed above, a successful applicant will submit an annual technical report that includes a detailed discussion of the process, impact, outcome evaluation of the Ambassador program and a Financial Status Report in accordance with provisions of the general regulations which apply under ''Monitoring and Reporting Program Performance,'' 45 CFR parts 74 and 92. An original and two copies of the annual report must be submitted by August 15. The annual report will serve as the non-competing continuation application and must cover all activities for the entire budget year. Therefore, this report must also include the budget request for the next grant year, with appropriate justification, and signatures, and be submitted using Form PHS 5161.

VII. Agency Contact(s)

For application kits and information on budget and business aspects of the application, please contact: Office of Grants Management, Office of Public Health and Science, Department of Health and Human Services, 1101 Wootten Parkway, Suite 550, Rockville, MD 20857. Telephone: (310) 594–0758.

Questions regarding programmatic information and/or requests for technical assistance in the preparation of the grant application by CCOEs should be directed in writing to Ms. Barbara James, Director, National Community Centers of Excellence in Women's Health Program, 5600 Fishers Lane, Room 16A–55, Rockville, MD 20859. Telephone: (301) 443–1402. E-mail: *bjames1@osophs.dhhs.gov*. Questions from the CoEs should be directed to Ms. Eileen Newman, Public Health Analyst at the same address. Her e-mail is *enewman@osophs.dhhs.gov*.

VIII. Other Information

Fourteen (14) CCOE programs are currently funded by the OWH. Information about these programs may be found at the following Web site: *http://www.4woman.gov/owh/CCOE/index.htm.* Twenty-one (21) CoE programs are currently funded by the OWH. Information about these programs may be found at the following Web site: *http://www.4woman.gov/COE/index.htm.*

Dated: June 15, 2005.

Wanda K. Jones,

Deputy Assistant Secretary for Health (Women's Health), Office of Public Health and Science.

[FR Doc. 05–12518 Filed 6–23–05; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Government-owned Inventions; Availability for Licensing and Cooperative Research and Development Agreements (CRADAs)

AGENCY: Centers for Disease Control and Prevention, Technology Transfer Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The invention named in this notice is owned by agencies of the United States Government and is available for licensing in the United States (U.S.) in accordance with 35 U.S.C. 207, and is available for cooperative research and development agreements (CRADAs) in accordance with 15 U.S.C. 3710, to achieve expeditious commercialization of results of federally funded research and development. A U.S. provisional patent application has been filed and foreign patent applications are expected to be filed within the year to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing and CRADA information, and information related to the technology listed below, may be obtained by writing to Suzanne Seavello Shope, J.D., Technology Licensing and Marketing Scientist, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Mailstop K–79, 4770 Buford Highway, Atlanta, GA 30341, telephone (770) 488–8613; facsimile (770) 488–8615; or e-mail *sshope@cdc.gov*. A signed Confidential Disclosure Agreement (available under Forms at *http://www.cdc.gov/tto*) will be required to receive copies of unpublished patent applications and other information.

SOFTWARE—Family Healthware™

Familial Risk Analysis for Determining a Disease Prevention Plan

Family health history reflects the interactions of genetic, environmental, and behavioral risk factors and has been shown to help predict disease risk for a variety of disorders including cardiovascular disease, cancer, and diabetes. The Centers for Disease Control and Prevention has an ongoing initiative to evaluate the use of family history information for assessing risk for common diseases and influencing early detection and prevention strategies. The tools and methods currently used for taking family histories, however, are

inadequate for widespread use in preventive medicine and public health. As part of the family history initiative, CDC is developing an electronic, self-administered, Web-based tool that assesses familial risk for six diseases and recommends early detection and prevention strategies. The tool collects:

- Name, date of birth, gender, adoption status, Ashkenazi Jewish heritage.
- Current height and weight.
- Health behaviors: smoking, physical activity, fruit and vegetable consumption, alcohol use, aspirin use.
- Screening tests: clinical breast exam, mammogram, fecal occult blood test, sigmoidoscopy, colonoscopy, blood cholesterol, blood pressure, and blood sugar.
- Disease history of a person's first- and second-degree relatives (mother, father, grandparents, siblings, aunts and uncles) for coronary heart disease, stroke, diabetes, and colorectal, breast, and ovarian cancer.

Algorithms in the software analyze the data and assess risk based on the number of relatives affected, their age at disease onset, their gender, the closeness of the relatives to each other and the user, and the combinations of diseases in the family. The tool provides the user with a report that includes an assessment of familial risk for each disease (described as strong, moderate or weak), an explanation as to why the family history is a risk factor, and recommendations for disease prevention and screening that are targeted to the familial risk and based on answers to the health behavior and screening questions. An evaluation trial of Family Healthware™; set in primary practice clinics will begin in July 2005.

Inventors: Maren T. Scheuner, Paula W. Yoon, Muin J. Khoury, and Cynthia Jorgensen.

CDC Ref. #: I–004–04.

Dated: June 13, 2005.

James D. Seligman,

Associate Director for Program, Services, Centers for Disease Control and Prevention.

[FR Doc. 05–12498 Filed 6–23–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Health Promotion and Diabetes Prevention Projects for American Indian/Alaska Native Communities: Adaptations of Practical Community Environmental Indicators, Program Announcement Number AA029

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Health Promotion and Diabetes Prevention Projects for American Indian/Alaska Native Communities: Adaptations of Practical Community Environmental Indicators, Program Announcement Number AA029.

Times and Dates: 9 a.m.–5 p.m., August 2, 2005 (Closed); 9 a.m.–5 p.m., August 3, 2005 (Closed); 9 a.m.–4 p.m., August 4, 2005 (Closed).

Place: Club House Inn and Suites, 1315 Menaul Boulevard NE., Albuquerque, NM 87107, Telephone Number (505) 345–0010.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to: Health Promotion and Diabetes Prevention Projects for American Indian/Alaska Native Communities: Adaptations of Practical Community Environmental Indicators, Program Announcement Number AA029.

For Further Information Contact: Maria E. Burns, M.P.A., Senior Program Management Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 1720 Louisiana Boulevard, NE., Albuquerque, NM 87110, Telephone (505) 232–9907.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 20, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–12499 Filed 6–23–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Availability of Opportunity to Provide Input for the National Occupational Research Agenda

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following:

Availability of Opportunity for the Public to Provide Input for the National Occupational Research Agenda (NORA).

For the past nine years, NORA has served as a framework to guide occupational safety and health research in the nation. Approximately 500 participants outside NIOSH provided input into the development of the first agenda. Building on the success of NORA, the second decade of NORA will use a sector-based approach.

NIOSH and its partners under NORA are pleased to introduce a newly updated NORA Web site at *http://www.cdc.gov/niosh/nora.* An important feature of the updated page is an online feedback form. We hope both individuals and organizations will use this opportunity to submit comments and suggestions for guiding the design of future occupational safety and health research in the nation.

The Web site allows stakeholders to describe what they perceive to be the top research needs within each sector, sub-sector, or in multiple sectors. Stakeholders can submit comments on the approach to redesigning NORA as it enters its second decade. We invite partners and collaborators to use the electronic option to provide comments, which will automatically be entered into the NORA Docket maintained by NIOSH.

Experience gained in the first decade of NORA indicates that the following types of information may help identify the areas where new research will make the greatest contributions to preventing work-related injuries, illnesses, and deaths:

- Number of workers at risk
- Seriousness of the hazard
- Probability that new information and approaches will make a difference

Alternatively, comments may be e-mailed to *NIOCINDOCKET@cdc.gov* or mailed to: Docket NIOSH–047, Robert A. Taft Laboratories (C–34), 4676 Columbia Parkway, Cincinnati, OH 45226.

The public may also view the complete NORA Docket at this location.

Contact for Additional Information: noracoordinator@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: June 17, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–12500 Filed 6–23–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Infectious Particle Composition and Methods of Use Thereof

Chava Kimchi-Sarfaty and Michael M. Gottesman (NCI),
DHHS Reference No. E–138–2005/0–US–01.
Licensing Contact: Michelle A. Booden; (301) 451–7337; *boodenm@mail.nih.gov.*

Current methods for delivery of small interfering RNA (siRNA) and short hairpin RNA (shRNA) such as cationic lipid or polyplex delivery systems, do not efficiently deliver siRNAs or shRNAs into a wide range of cell types. Subsequent innovations have resulted in shRNA, but not siRNA, expression cassettes that have been adapted to be compatible with most DNA-based viral vector systems including retroviruses, adenoviruses, lentiviruses, and adeno-associated viruses. As with the transfer of cDNAs, all of these delivery systems require a significant degree of optimization and are often only useful in specific cell systems. Additionally, some viral vectors also have the disadvantage of low titer and large genome size. Further, some of the above viral delivery systems are dependent on helper viruses or packaging cell lines, and some are not able to transduce non-dividing cells, or cells in suspension. Also inherent in current DNA viral delivery systems is a lack of efficiency in delivering the DNA or RNA of interest to the nucleus. Instead, the DNA vector and concomitant siRNA insert remains in the cytoplasm.

siRNA is emerging as a powerful tool for gene silencing and has much potential for anticancer and antiviral applications. However, efficient delivery of these specific siRNAs to the nucleus of a cell is an important aspect of interfering with specific DNA transcription. The present invention provides compositions and methods for use of infectious particles, such as papovavirus pseudovirions, to deliver siRNAs into a variety of mammalian cells. More specifically, the infectious particles may comprise the SV40 capsid protein VP1, papilloma virus capsid protein L1, polyoma virus capsid protein VP1, or several SV40 capsid proteins. The claims further comprise methods for *in vivo* transfer of siRNA as well as a kit comprising the infectious particle and instructions for use as a siRNA delivery system. This pseudovirions technology has proved to be an excellent alternative to DNA-viral vectors for siRNA delivery with high capacity, very high efficiency, and no viral DNA complications. The pseudovirion delivery technology is described in the following background publications: Kimchi-Sarfaty *et al.,* Human Gene Therapy 13: 299–310, 2002; Kimchi-Sarfaty *et al.,* Human Gene Therapy 14: 167–177, 2003; and Kimchi-Sarfaty *et al.,* Gene Ther Mol Biol 8: 439–450, 2004.

This technology is available for licensing on an exclusive or a non-exclusive basis. In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Polyclonal Antibodies to Human Thyroid Hormone Beta Receptor, JC8-TRβ1 And JC16–TRβ1

Dr. Sheue-yann Cheng,
DHHS Reference No. E–153–2003/0—Research Tool.
Licensing Contact: Marlene Shinn-Astor; (301) 435–4426; *shinnm@mail.nih.gov.*

In human tissues, there are five thyroid hormone receptor subtypes, TRβ1, TRβ2, TRβ3, TRα1, and TRα2. High affinity polyclonal and monoclonal antibodies have been developed to specifically recognize TRβ and TRα1 in human and mouse tissues. These antibodies have been designated as JC8–TRβ1 and JC16–TRβ1. These antibodies could be used by researchers worldwide in both clinical and research applications.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Dated: June 15, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–12597 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–339]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or

other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Provider Cost Report Reimbursement Questionnaire and Supporting Regulations in 42 CFR 413.20, 413.24, and 415.60; *Form Nos.:* CMS–339 (OMB # 0938–0301); *Use:* The purpose of Form CMS–339 is to assist the provider in preparing an acceptable cost report and to minimize subsequent contact between the provider and its intermediary. Form CMS–339 provides the basic data necessary to support the information in the cost report. This includes information the provider uses to develop the provider and professional components of physician compensation so that compensation can be properly allocated between the Part A and the Part B trust funds. CMS is currently working on eliminating Form CMS–339 and including the applicable questions on the individual cost report forms. Because of the time required to include the applicable questions in each of the individual cost reports, CMS is revising the currently approved information collection; *Frequency:* Annually; *Affected Public:* Business or other for-profit, not-for-profit institutions, State, local or tribal governments; *Number of Respondents:* 35,904; *Total Annual Responses:* 35,904; *Total Annual Hours:* 618,210.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra/,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice to the address below: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: William N. Parham, III, PRA Analyst, Room C5–13–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 3, 2005.

Jim L. Wickliffe,

CMS Reports Clearance Officer, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–12161 Filed 6–23–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10130]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Federal Funding of Emergency Health Services (Section 1011): Provider Payment Determination and Request for Section 1011 On-Call Payments; *Form No.:* CMS–10130 (OMB # 0938–0952); *Use:* Section 1011 of MMA provides that the Secretary will establish a process for eligible providers to request payment. The Secretary must directly pay hospitals, physicians, and ambulance providers (including Indian Health Service, Indian tribe and tribal organizations) for their otherwise un-reimbursed costs of providing services required by Section 1867 of the Social Security Act (EMTALA) and related hospital inpatient, outpatient and ambulance services. Payments may be made only for services furnished to certain individuals described in the statute as: (1) Undocumented aliens; (2) aliens who have been paroled into the United States at a United States port of entry for the purpose of receiving eligible services; and (3) Mexican citizens permitted to enter the United States for not more than 72 hours under the authority of a biometric machine readable border crossing identification card (also referred to as a ''laser visa'') issued in accordance with the requirements of regulations prescribed under a specific section of the Immigration and Nationality Act.; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Governments; *Number of Respondents:* 7,503,000; *Total Annual Responses:* 7,512,000; *Total Annual Hours:* 634,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS'' Web site address at *http://www.cms.hhs.gov/regulations/pra/,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice to the address below: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: William N. Parham, III, PRA Analyst, Room C5–13–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 17, 2005.

Michelle Shortt,

Acting Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–12492 Filed 6–23–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5022–N]

Medicare Program; Solicitation for Applications for the Medical Adult Day-Care Services Demonstration

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice for solicitation of applications.

SUMMARY: This notice informs interested parties of an opportunity to apply for participation in the Medical Adult Day-Care Services Demonstration. This demonstration tests an alternative approach to service delivery by allowing home health beneficiaries to receive a portion of the medical services included in their home health plan of care in a medical adult day-care facility (MADCF). The project will allow us to test potential improvements in quality

of care, outcomes, and program efficiency related to the provision of home health services in an MADCF setting. We intend to use a competitive application process to select up to five sites to participate in this demonstration. This demonstration is restricted to the States that license or certify medical adult day-care facilities.

FOR FURTHER INFORMATION AND TO OBTAIN A COPY OF THE SOLICITATION: Interested parties can obtain complete solicitation submission requirements and supporting information about this demonstration at the Medical Adult Day-Care Services Demonstration webpage found at the following Web site address: *http://www.cms.hhs.gov/researchers/demos/MADCS/default.asp.*

Or by contacting: Armen Thoumaian, Ph.D., Mail Stop: S3–02–01, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244. Phone: (410) 786–6672 or toll free at (877) 267–2323, Ext. 66672. E-mail address: *AThoumaian@cms.hhs.gov.*

DATES: *Effective Date:* Applications must be received by September 22, 2005.

ADDRESSES: Mail applications to—Centers for Medicare & Medicaid Services, Attention: Dr. Armen Thoumaian, Mail Stop: S3–02–01, 7500 Security Boulevard, Baltimore, Maryland 21244. Because of staff and resource limitations, we cannot accept applications by facsimile (FAX) transmission or by e-mail. Applicants will receive a communication acknowledging the receipt of their application.

SUPPLEMENTARY INFORMATION:

I. Background

Section 703 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA)(Pub. L. 108–173, enacted on December 8, 2003) requires that the Secretary shall establish a demonstration project under which the Secretary shall, as part of a plan of care for home health services established for a Medicare beneficiary by a physician, permit a home health agency (HHA), directly or under arrangements with a medical adult day-care facility (MADCF), to provide medical adult day-care services as a substitute for a portion of home health services that would otherwise be provided in the beneficiary's home. Participation in the demonstration by Medicare beneficiaries admitted for home health care is voluntary. The demonstration is limited to not more than five sites and associated MADCF(s). Each site may include all States in which it provides home health services as long as the adult day-care services are provided in MADCFs licensed or certified in one of the States that license or certify medical adult day care facilities. Treatment under the 3-year demonstration is limited across all sites to 15,000 beneficiaries at any one time. For those Medicare beneficiaries who agree to participate in the demonstration, the HHA will receive 95 percent of the prospective payment system (PPS) amount that otherwise would have been paid for the home health episode of care had all services been delivered in the beneficiary's home.

The purpose of this demonstration is to evaluate the outcomes and costs of providing innovative models of health care that include both home health care services and medical adult day-care services that improve the quality of life for Medicare beneficiaries. An independent evaluation will be conducted for this demonstration. At the conclusion of the demonstration, the Secretary must report to the Congress an evaluation of the clinical and cost-effectiveness of the demonstration as well as recommendations for the extension or termination of the project.

II. Purpose

This notice solicits applications for a demonstration project in which Medicare-certified HHAs, in partnership with a medical adult day-care facility (MADCF), or facilities, provide medical adult day-care services as a substitute for a portion of home health care services that would otherwise be provided in the beneficiary's home. The demonstration is initiated to determine whether these provisions will result in higher quality care with better utilization of Medicare-covered services while promoting the physical and mental health of participating Medicare beneficiaries. The Medical Adult Day-Care Services Demonstration will allow a home health agency (directly or in conjunction with adult day health facilities) to provide a portion of the services included in the home health plan of care in a MADCF setting rather than in the beneficiary's home. As such, the demonstration will allow us to gather data on the efficacy and cost-effectiveness of providing those services in the adult day health setting as an alternative to the home. Additional important outcomes from this demonstration project include: measuring impacts on the amounts and types of home health and other Medicare services beneficiaries receive and settings in which they receive them; utilization of other (non-Medicare covered) adult day health center services; beneficiary health, function, and satisfaction; family/caregiver satisfaction; beneficiary out of pocket cost and total program costs; and HHA and MADCF financial outcomes. Most importantly, we can learn whether beneficiaries are willing to receive part of their home health services at an MADCF.

III. Site Selection

Section 703 of the MMA provides that the Secretary shall conduct a three-year demonstration project in not more than five sites in States that license or certify providers of services that furnish medical adult day-care services. Potential sites are restricted to these states. The following 36 states have been identified as meeting this requirement: AK, AZ, CA, CO, DE, FL, HI, IA, KS, KY, LA, MA, ME, MD, MN, MO, MT, NE, NH, NJ, NV, NM, NC, NY, OK, PA, RI, SC, TN, TX, UT, VA, VT, WI, WV, WY. Applicants from states not listed must provide evidence that the state licenses or certifies providers of services that furnish medical adult day-care services.

A demonstration site is defined as a single HHA or a corporate entity that includes one or more HHAs providing services in one or more of the eligible States. Pursuant to section 703(f) of the MMA, preference will be given to those agencies that are currently licensed or certified through common ownership and control to furnish medical adult day-care services according. We will require that all sites selected to participate in the demonstration be associated through ownership or through contractual agreement with one or more MADCFs. Sites will be selected based on the proposals that clearly and most convincingly address the issues set forth in the solicitation on our Web site: *http://www.cms.hhs.gov/researchers/demos/MADCS/default.asp.*

Under the demonstration, the HHAs will be permitted to deliver (or contract for the delivery of) medical adult day-care services as a substitute for a portion of a beneficiary's home health care services at an affiliated MADCF that has been State licensed or certified for at least 2 years.

IV. Beneficiary Eligibility and Enrollment

The demonstration will be open to all Medicare beneficiaries that meet the Medicare eligibility requirements for receiving home health care services through the Medicare fee-for-service program. Participation by Medicare beneficiaries in the demonstration is voluntary. Participating HHAs will

conduct patient assessments and other required activities as they normally would under the Medicare conditions of participation except that they would be able to offer Medicare home health patients the opportunity to receive a portion of their care in a MADCF. During the initial and follow-up patient assessments, HHAs will have the opportunity to identify beneficiaries who might benefit from adult day-care services. Demonstration participants are those beneficiaries who agree to participate in the demonstration and receive part of their home health services at the MADCF. Those who agree should also be informed that they will be contacted in the future by the demonstration support and evaluation contractor(s).

Participation by Medicare beneficiaries is completely voluntary and participating beneficiaries have the option of withdrawing from participation at any time. Up to 15,000 beneficiaries across the five sites may participate in the demonstration at any given time. Sites will be provided with enrollment limits proportional to their capacity prorated against the combined total of 15,000 enrollees at any one time. This will be done to ensure that smaller sites will have an opportunity to enroll a fair portion of the total enrollment allowed under the demonstration.

V. Payment

Under the demonstration, the participating HHAs will be paid 95 percent of the prospective payment system (PPS) amount that otherwise would have been paid for the home health episode of care had all services been delivered in the beneficiary's home. Current provisions related to case-mix group assignment and payment adjustments are not affected by the demonstration. Payment will be provided directly to the HHA for all services delivered during the home health episode of care whether provided at home or in the adult day health facility. Under section 703(b)(1) of the MMA, the beneficiary may not be separately charged for medical adult-day care services furnished as part of the home health plan of care.

The statute requires the Secretary to monitor the demonstration to ensure that the provision of services in the demonstration does not result in a net increase in total spending, and provides the authority to make payment adjustments to ensure that budget neutrality is maintained.

VI. Collection of Information Requirements

The information collection requirements associated with this notice are subject to the Paperwork Reduction Act of 1995 (PRA); however, the collection is currently approved under OMB control number 0938–0880 entitled ''Medicare Demonstration Waiver Application'' with a current expiration date of July 31, 2006.

Authority: Section 703 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), Pub. L. 108–173.

Dated: April 29, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–12524 Filed 6–23–05; 8:45 am]

BILLING CODE 4121–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2219–N]

RIN 0938–ZA17

State Children's Health Insurance Program; Final Allotments to States, the District of Columbia, and U.S. Territories and Commonwealths for Fiscal Year 2006

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: Title XXI of the Social Security Act (the Act) authorizes payment of Federal matching funds to States, the District of Columbia, and U.S. Territories and Commonwealths to initiate and expand health insurance coverage to uninsured, low-income children under the State Children's Health Insurance Program (SCHIP). This notice sets forth the final allotments of Federal funding available to each State, the District of Columbia, and each U.S. Territory and Commonwealth for fiscal year 2006.

DATES: *Effective Date:* This notice is effective on July 25, 2005. Final allotments are available for expenditures after October 1, 2005.

FOR FURTHER INFORMATION CONTACT: Richard Strauss, (410) 786–2019.

SUPPLEMENTARY INFORMATION:

I. Purpose of This Notice

This notice sets forth the allotments available to each State, the District of Columbia, and each U.S. Territory and Commonwealth for fiscal year (FY) 2006 under title XXI of the Social Security Act (the Act). Final allotments for a fiscal year are available to match expenditures under an approved State child health plan for 3 fiscal years, including the year for which the final allotment was provided. The FY 2006 allotments will be available to States for FY 2006, and unexpended amounts may be carried over to FY 2007 and FY 2008. Federal funds appropriated for title XXI are limited, and the law specifies a formula to divide the total annual appropriation into individual allotments available for each State, the District of Columbia, and each U.S. Territory and Commonwealth with an approved child health plan.

Section 2104(b)(1) and (c)(3) of the Act requires States, the District of Columbia, and U.S. Territories and Commonwealths to have an approved child health plan for the fiscal year in order for the Secretary to provide an allotment for that fiscal year. All States, the District of Columbia, and U.S. Territories and Commonwealths have approved plans for FY 2006. Therefore, the FY 2006 allotments contained in this notice pertain to all States, the District of Columbia, and U.S. Territories and Commonwealths.

II. Methodology for Determining Final Allotments for States, the District of Columbia, and U.S. Territories and Commonwealths

Section 2104(a) of the Act provides that, for purposes of providing allotments to the States, the District of Columbia, and U.S. Territories and Commonwealths, the following amounts are appropriated: $4,295,000,000 for FY 1998; $4,275,000,000 for each FY 1999 through FY 2001; $3,150,000,000 for each FY 2002 through FY 2004; $4,050,000,000 for each FY 2005 through FY 2006; and $5,000,000,000 for FY 2007.

This notice specifies, in the Table under section III, the final FY 2006 allotments available to individual States, the District of Columbia, and U.S. Territories and Commonwealths for either child health assistance expenditures under approved State child health plans or for claiming an enhanced Federal medical assistance percentage rate for certain SCHIP-related Medicaid expenditures. As discussed below, the FY 2006 final allotments have been calculated to reflect the methodology for determining an allotment amount for each State, the District of Columbia, and each U.S. Territory and Commonwealth as prescribed by section 2104(b) and (c) of the Act.

Allotments to the U.S. Territories and Commonwealths

Under section 2104(c) of the Act, 0.25 percent of the total amount appropriated each year is available for allotment to the U.S. Territories and Commonwealths of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands. For FY 2006, this amount is $10,125,000 (0.25 percent of the FY 2006 appropriation of $4,050,000,000).

Section 2104(c)(4)(B) of the Act provides for additional amounts for allotment to the U.S. Territories and Commonwealths: $32,000,000 for FY 1999; $34,200,000 for each FY 2000 through FY 2001; $25,200,000 for each FY 2002 through FY 2004; $32,400,000 for each FY 2005 through FY 2006; and $40,000,000 for FY 2007. Since, for FY 2006, title XXI of the Act provides an additional $32,400,000 for allotment to the U.S. Territories and Commonwealths, the total amount available for allotment to the U.S. Territories and Commonwealths in FY 2006 is $42,525,000; that is, $32,400,000 plus $10,125,000. This amount then is allotted to the U.S. Territories and Commonwealths according to the following percentages, as specified in section 2104(c)(2) of the Act: Puerto Rico, 91.6 percent; Guam, 3.5 percent; the Virgin Islands, 2.6 percent; American Samoa, 1.2 percent; and the Northern Mariana Islands, 1.1 percent.

Allotments to the 50 States and the District of Columbia

Total Allotment Available

The total amount available nationally for allotment for the 50 States and the District of Columbia for FY 2006 is determined in accordance with the following formula:

$A_T = S_{2104(a)} - T_{2104(c)}$,

where

A_T = Total amount available for allotment to the 50 States and the District of Columbia for the fiscal year.

$S_{2104(a)}$ = Total appropriation for the fiscal year indicated in section 2104(a) of the Act. For FY 2006, this is $4,050,000,000.

$T_{2104(c)}$ = Total amount available for allotment for the U.S. Territories and Commonwealths; determined under section 2104(c) of the Act as 0.25 percent of the total appropriation for the 50 States and the District of Columbia. For FY 2006, this is: $.0025 \times \$4,050,000,000 = \$10,125,000$.

Therefore, for FY 2006, the total amount available for allotment to the 50 States and the District of Columbia is $4,039,875,000. This was determined as follows:

A_T ($4,039,875,000) = $S_{2104(a)}$ ($4,050,000,000) − $T_{2104(c)}$ ($10,125,000)

For purposes of the following discussion, the term ''State,'' as defined in section 2104(b)(4)(D)(ii) of the Act, ''means one of the 50 States or the District of Columbia.''

Allotments to Each State

Under section 2104(b)(4) of the Act, each State is allotted a ''proportion'' of the total amount available for allotment to the States. The term ''proportion'' is defined in section 2104(b)(4)(D)(i) of the Act and refers to a State's share of the total amount available for allotment for any given fiscal year. The sum of the proportions for all States must exactly equal one. Under the statutory definition, a State's proportion for a fiscal year is equal to the State's allotment for the fiscal year divided by the total amount available for allotment for the fiscal year. In general, a State's allotment for a fiscal year is calculated by multiplying the State's proportion for the fiscal year by the total amount available for allotment for that fiscal year in accordance with the following formula:

$SA_i = P_i \times A_T$, where

SA_i = Allotment for a State for a fiscal year.

P_i = Proportion for a State for a fiscal year.

A_T = Total amount available for allotment to the States for the fiscal year. For FY 2006, this is $4,039,875,000.

In accordance with the statutory formula for determining allotments, the State proportions are determined under two steps, which are described below in further detail.

Under the first step, the preadjusted proportions for each State are determined. Each State's proportion is calculated by multiplying the State's Number of Children, as described below, and the State Cost Factor, as described below, to determine a ''product'' for each State. The products for all States are then summed. Finally, the product for a State is divided by the sum of the products for all States, thereby yielding the State's preadjusted proportion. Under the second step, the preadjusted proportions are subject to the application of proportion floors, ceilings, and a reconciliation process as appropriate, as described below.

Preadjusted Proportions

1. *Number of Children.* For FY 2006, as specified by section 2104(b)(2)(A)(iii) of the Act, the number of children for a State is calculated as the sum of 50 percent of the number of low-income, uninsured children in the State and 50 percent of the number of low-income children in the State. Under section 2104(b)(2)(B) of the Act, the determination of the number of children applied in calculating the SCHIP allotment for a particular fiscal year is based on the arithmetic average of the number of such children, as reported and defined in the three most recent March supplements to the Current Population Survey (CPS) of the Bureau of the Census officially available before the beginning of the calendar year in which the fiscal year begins. As part of a continuing formal process between the Centers for Medicare & Medicaid Services (CMS) and the Bureau of the Census, each fiscal year we obtain the number of children data officially from the Bureau of the Census, based on the standard methodology used to determine official poverty status and uninsured status in the annual CPS on these topics. Since FY 2006 begins on October 1, 2005 (that is, in calendar year 2005), in determining the FY 2006 SCHIP allotments, we are using the most recent official data from the Bureau of the Census available before January 1 of calendar year 2005 (that is, through the end of December 31, 2004). Through December 31, 2004, the most recent official data available from the Bureau of the Census on the numbers of children were data from the three March CPSs conducted in March 2002, 2003, and 2004 (representing data for years 2001, 2002, and 2003).

2. *State Cost Factor.* The State cost factor is based on annual average wages in the health services industry in the State. Under section 2104(b)(3)(A) of the Act, the State cost factor for a State is equal to the sum of: 0.15 and 0.85 multiplied by the ratio of the annual average wages in the health industry per employee for the State to the annual average wages per employee in the health industry for the States.

Under section 2104(b)(3)(B) of the Act, the State cost factor for each State for a fiscal year is calculated based on the average of the annual wages for employees in the health industry for each State using data for each of the most recent 3 years as reported by the Bureau of Labor Statistics (BLS) in the Department of Labor and available before the beginning of the calendar year in which the fiscal year begins. Since FY 2006 begins on October 1, 2005 (that is, in calendar year 2005), in determining the FY 2006 SCHIP allotments, we are using the most recent 3 years of reported BLS data before

January 1, 2005 (that is, through the end of December 31, 2004). Accordingly, we used the State cost factor data available from BLS for 2001, 2002, and 2003 in calculating the FY 2006 final allotments. As part of a continuing formal process between CMS and the BLS, each fiscal year CMS obtains these wage data officially from the BLS.

Section 2104(b)(3)(B) of the Act refers to wage data as reported by BLS under the ''Standard Industrial Classification'' (SIC) system, and refers specifically to SIC code 8000. However, in calendar year 2002, BLS phased-out the SIC wage and employment reporting system and replaced it with the ''North American Industry Classification System'' (NAICS). Because of the changes from the SIC system to NAICS, wage data for 2001 and 2002 are not available under the SIC reporting system. Further, these SIC data were not even collected in FY 2003. Therefore, the BLS wage data used in calculating the 3-year annual average wages for FY 2006 SCHIP allotments necessarily reflect NAICS data, rather than SIC data.

Under the SIC system, BLS provided CMS with wage data for each State under the SIC code 8000. However, the wage data codes under the SIC system do not map exactly to the wage data codes under the NAICS. As a result, BLS provided us with wage data using three NAICS wage data codes that represent approximately 98 percent of the wage data that would have been provided under the related SIC code 8000. Specifically, in lieu of SIC code 8000 data, BLS provided CMS data that are based on the following three NAICS codes: NAICS Code 621 (Ambulatory health care services), Code 622 (Hospitals), and Code 623 (Nursing and residential care facilities).

Because of Privacy Act requirements and other confidentiality requirements, the BLS suppresses certain State-specific data used in calculating related national average wages. Therefore, we used the State-specific average wages per health services industry employee data provided to us by BLS to determine the national average wages per employee for the 50 States and the District of Columbia, as required by section 2104(b)(3)(A)(ii)(II) of the Act for determining the State Cost Factor.

Determination of Preadjusted Proportions

The following is an explanation of how we applied the two State-related factors specified in the Act at section 2104(b)(3) to determine the States' ''preadjusted'' proportions for FY 2006. The term ''preadjusted,'' as used here, refers to the States'' proportions before the application of the floors and ceiling and adjustments, as specified in the Act at section 2104(b)(4). The determination of each State's preadjusted proportion for FY 2006 is in accordance with the following formula:

$PP_i = (C_i \times SCF_i)/(C_i \times SCF_i)$, where

PP_i = Preadjusted proportion for a State for a fiscal year.

C_i = *Number of children* in a State (section 2104(b)(1)(A)(i) of the Act) for a fiscal year. As described above, for fiscal year 2006, the number of children is equal to the sum of 50 percent of the number of low-income uninsured children in the State for the fiscal year and 50 percent of the number of low-income children in the State for the fiscal year. (*See* section 2104(b)(2)(A)(iii) of the Act.)

SCF_i = *State Cost Factor* for a State (section 2104(b)(1)(A)(ii) of the Act). For a fiscal year, this is equal to: $0.15 + 0.85 \times (W_i/W_N)$

W_i = The annual average wages per employee for a State for such year, as described above (section 2104(b)(3)(A)(ii)(I) of the Act).

W_N = The annual average wages per employee for all States, as described above (section 2104(b)(3)(A)(ii)(II) of the Act).

$\Sigma (C_i \times SCF_i)$ = The sum of the products of $(C_i \times SCF_i)$ for each State (section 2104(b)(1)(B) of the Act).

The resulting proportions would then be subject to the application of the floors and ceilings specified at section 2104(b)(4) of the Act, as described below, and reconciled, as necessary, to eliminate any deficit or surplus of the allotments because the sum of the proportions was either greater than or less than one, as explained in detail below.

Application of Floors and Ceilings

Under the second step, the preadjusted proportions are subject to the application of proportion floors, ceilings, and a reconciliation process, as appropriate. Section 2104(b)(4)(A) of the Act specifies three proportion floors, or minimum proportions, that apply in determining States' allotments. The first proportion floor is equal to $2,000,000 divided by the total of the amount available for the fiscal year. This proportion ensures that a State's minimum allotment would be $2,000,000. For FY 2006, no State's preadjusted proportion is below this floor. The second proportion floor is equal to 90 percent of the allotment proportion for the State for the previous fiscal year; that is, a State's proportion for a fiscal year must not be lower than 10 percent below the previous fiscal year's proportion. The third proportion floor is equal to 70 percent of the allotment proportion for the State for FY 1999; that is, the proportion for a fiscal year must not be lower than 30 percent below the FY 1999 proportion.

Each State's allotment proportion for a fiscal year is also limited by a maximum ceiling amount, equal to 145 percent of the State's proportion for FY 1999; that is, a State's proportion for a fiscal year must be no higher than 45 percent above the State's proportion for FY 1999. The floors and ceilings are intended to minimize the fluctuation of State allotments from year to year and over the life of the program as compared to FY 1999.

As determined under the first step for determining the States' preadjusted proportions, which is applied before the application of any floors or ceilings, the sum of the proportions for all the States will be equal to exactly one. However, the application of the floors and ceilings under the second step may change the proportions for certain States; that is, some States' proportions may need to be raised to the floors, while other States' proportions may need to be lowered to the maximum ceiling. If this occurs, the sum of the proportions for all States may not exactly equal one. In that case, section 2104(b)(4)(B) of the Act requires the proportions to be adjusted, under a method that is determined by whether the sum of the proportions is greater or less than one.

The sum of the proportions would be greater than one if the application of the floors and ceilings resulted in raising the proportions of some States (due to the application of the floors) to a greater degree than the proportions of other States were lowered (due to the application of the ceiling). If, after application of the floors and ceiling, the sum of the proportions is greater than one, section 2104(b)(4)(B)(i) of the Act requires the Secretary to determine a maximum percentage increase limit, which, when applied to the State proportions, would result in the sum of the proportions being exactly one.

If, after the application of the floors and ceiling, the sum of the proportions is less than one, section 2104(b)(4)(B)(ii) of the Act requires the States' proportions to be increased in a ''pro rata'' manner so that the sum of the proportions equals one. Finally, it is also possible, although unlikely, that the sum of the proportions (after the application of the floors and ceiling) will be exactly one; in that case, the proportions would require no further adjustment.

Section 2104(e) of the Act requires that the amounts allotted to a State for a fiscal year be available to the State for a total of 3 years; the fiscal year for which the amounts are allotted, and the 2 following fiscal years.

III. Table of State Children's Health Insurance Program Final Allotments for FY 2006

Key to Table

Column/Description

Column A = *State.* Name of State, District of Columbia, U.S. Commonwealth or Territory.

Column B = *Number of Children.* The number of children for each State (provided in thousands) was determined and provided by the Bureau of the Census based on the arithmetic average of the number of low-income children and low-income uninsured children, and is based on the three most recent March supplements to the CPS of the Bureau of the Census officially available before the beginning of the calendar year in which the fiscal year begins. The FY 2006 allotments were based on the 2002, 2003, and 2004 March supplements to the CPS. These data represent the number of people in each State under 19 years of age whose family incomes are at or below 200 percent of the poverty threshold appropriate for that family, and who are reported to be without health insurance coverage. The number of children for each State was developed by the Bureau of the Census based on the standard methodology used to determine official poverty status and uninsured status in its annual March CPS on these topics.

For FY 2006, the number of children is equal to the sum of 50 percent of the number of low-income uninsured children in the State and 50 percent of the number of low-income children in the State.

Column C = *State Cost Factor.* The State cost factor for a State is equal to the sum of: 0.15, and 0.85 multiplied by the ratio of the annual average wages in the health industry per employee for the State to the annual wages per employee in the health industry for the 50 States and the District of Columbia. The State cost factor for each State was calculated based on such wage data for each State as reported and determined as final by the BLS in the Department of Labor for each of the most recent 3 years and available before the beginning of the calendar year in which the fiscal year begins. The FY 2006 allotments were based on final BLS wage data for 2001, 2002, and 2003.

Column D = *Product.* The Product for each State was calculated by multiplying the Number of Children in Column B by the State Cost Factor in Column C. The sum of the Products for all 50 States and the District of Columbia is below the Products for each State in Column D. The Product for each State and the sum of the Products for all States provides the basis for allotment to States and the District of Columbia.

Column E = *Proportion of Total.* This is the calculated percentage share for each State of the total allotment available to the 50 States and the District of Columbia. The Percent Share of Total is calculated as the ratio of the Product for each State in Column D to the sum of the Products for all 50 States and the District of Columbia below the Products for each State in Column D. For the U.S. Territories and Commonwealths, the Proportion of Total in Column E reflects the percentages set forth in section 2104(c) of the Act.

Column F = *Adjusted Proportion of Total.* This is the calculated percentage share for each State and the District of Columbia of the total allotment available after the application of the floors and ceilings and after any further reconciliation needed to ensure that the sum of the State proportions is equal to one. The three floors specified in the statute are: (1) The percentage calculated by dividing $2,000,000 by the total of the amount available for all allotments for the fiscal year; (2) an annual floor of 90 percent of (that is, 10 percent below) the preceding fiscal year's allotment proportion; and (3) a cumulative floor of 70 percent of (that is, 30 percent below) the FY 1999 allotment proportion. There is also a cumulative ceiling of 145 percent of (that is, 45 percent above) the FY 1999 allotment proportion.

There is no adjustment made to the allotments of the U.S. Territories and Commonwealths as they are not subject to the application of the floors and ceiling. As a result, Column F in the table, the Adjusted Proportion of Total, is empty for the U.S. Territories and Commonwealths.

Column G = *Allotment.* This is the SCHIP allotment for each State, Commonwealth, or Territory or the District of Columbia for the fiscal year. For each of the 50 States and the District of Columbia, this is determined as the Adjusted Proportion of Total in Column F for the State multiplied by the total amount available for allotment for the 50 States and the District of Columbia for the fiscal year.

For each of the U.S. Territory and Commonwealths, the allotment is determined as the Proportion of Total in Column E multiplied by the total amount available for allotment to the U.S. Territories and Commonwealths.

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STATE CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS FOR FEDERAL FISCAL YEAR:						2006
A	B	C	D	E	F	G
STATE	NUMBER OF CHILDREN (000)	STATE COST FACTOR	PRODUCT	PROPORTION OF TOTAL (3)	ADJUSTED PROPORTION OF TOTAL (3)	ALLOTMENT (1)
ALABAMA	289	0.9793	283.0266	1.5802%	1.5887%	$64,182,128
ALASKA	38	1.0701	40.1300	0.2241%	0.2253%	$9,100,310
ARIZONA	434	1.0909	473.4557	2.6435%	2.6577%	$107,365,854
ARKANSAS	210	0.9178	192.7374	1.0761%	1.0841%	$43,795,428
CALIFORNIA	2,531	1.1267	2,851.7012	15.9220%	16.0075%	$646,682,123
COLORADO	248	1.0678	264.2903	1.4756%	1.4345%	$57,951,287
CONNECTICUT	134	1.1365	152.2908	0.8503%	0.8549%	$34,535,088
DELAWARE	35	1.1396	39.8866	0.2227%	0.2239%	$9,045,121
DISTRICT OF COLUMBIA	34	1.2395	42.1444	0.2353%	0.2366%	$9,557,107
FLORIDA	1,062	1.0353	1,099.4804	6.1388%	6.1717%	$249,329,871
GEORGIA	555	1.0295	570.8758	3.1874%	3.2045%	$129,457,875
HAWAII	64	1.1167	71.4686	0.3990%	0.3071%	$12,404,524
IDAHO	102	0.8911	90.8880	0.5075%	0.5102%	$20,610,739
ILLINOIS	719	1.0384	746.1197	4.1658%	4.1882%	$169,198,045
INDIANA	333	0.9667	321.9135	1.7973%	1.8070%	$73,000,528
IOWA	133	0.8948	119.0055	0.6644%	0.6680%	$26,986,944
KANSAS	134	0.9080	121.2234	0.6768%	0.6805%	$27,489,909
KENTUCKY	267	0.9540	254.7259	1.4222%	1.4299%	$57,764,350
LOUISIANA	366	0.9306	340.1369	1.8991%	1.9093%	$77,133,066
MAINE	59	0.8915	52.6004	0.2937%	0.2953%	$11,928,229
MARYLAND	201	1.0713	214.7894	1.1992%	1.2057%	$48,707,931
MASSACHUSETTS	246	1.1072	272.3684	1.5207%	1.4704%	$59,401,346
MICHIGAN	506	1.0211	516.6683	2.8847%	2.9002%	$117,165,211
MINNESOTA	177	1.0242	181.2763	1.0121%	0.9747%	$39,376,933
MISSISSIPPI	243	0.9058	220.1172	1.2290%	1.2356%	$49,916,118
MISSOURI	264	0.9420	248.2235	1.3859%	1.3934%	$56,289,799
MONTANA	63	0.8860	55.3778	0.3092%	0.3109%	$12,558,064
NEBRASKA	82	0.9116	74.2934	0.4148%	0.4170%	$16,847,571
NEVADA	155	1.1919	184.7509	1.0315%	1.0371%	$41,896,088
NEW HAMPSHIRE	39	1.0529	40.5358	0.2263%	0.2275%	$9,192,336
NEW JERSEY	346	1.1420	394.5673	2.2030%	2.2148%	$89,476,287
NEW MEXICO	166	0.9561	158.2400	0.8835%	1.0435%	$42,156,779
NEW YORK	1,111	1.0814	1,201.4443	6.7081%	6.7441%	$272,452,310
NORTH CAROLINA	559	0.9900	553.4211	3.0899%	2.7292%	$110,255,024
NORTH DAKOTA	32	0.8745	27.9849	0.1562%	0.1571%	$6,346,156
OHIO	568	0.9676	549.5955	3.0686%	3.0850%	$124,632,131
OKLAHOMA	258	0.8818	227.0515	1.2677%	1.4201%	$57,370,830
OREGON	205	1.0110	206.7594	1.1544%	1.1606%	$46,886,967
PENNSYLVANIA	594	0.9955	591.3332	3.3016%	3.3193%	$134,097,011
RHODE ISLAND	44	0.9803	43.1345	0.2408%	0.2421%	$9,781,641
SOUTH CAROLINA	247	0.9917	244.9403	1.3676%	1.3749%	$55,545,268
SOUTH DAKOTA	38	0.9205	34.5204	0.1927%	0.1938%	$7,828,211
TENNESSEE	348	1.0189	354.5737	1.9797%	1.9903%	$80,406,910
TEXAS	2,055	0.9758	2,005.2932	11.1962%	11.2563%	$454,741,626
UTAH	160	0.8905	142.0277	0.7930%	0.7972%	$32,207,704
VERMONT	23	0.9236	21.2435	0.1186%	0.1192%	$4,817,413
VIRGINIA	315	1.0122	318.8368	1.7802%	1.7897%	$72,302,825
WASHINGTON	327	0.9914	324.1917	1.8101%	1.6017%	$64,705,479
WEST VIRGINIA	114	0.9072	102.9648	0.5749%	0.5780%	$23,349,395
WISCONSIN	245	1.0057	245.9053	1.3730%	1.3803%	$55,764,106
WYOMING	28	0.9430	25.9337	0.1448%	0.1456%	$5,881,004
TOTAL STATES ONLY			17,910.4652	100.0000%	100.0000%	$4,039,875,000
ALLOTMENTS FOR COMMONWEALTHS AND TERRITORIES (2)						
PUERTO RICO				91.6%		$38,952,900
GUAM				3.5%		$1,488,375
VIRGIN ISLANDS				2.6%		$1,105,650
AMERICAN SAMOA				1.2%		$510,300
N. MARIANA ISLANDS				1.1%		$467,775
TOTAL COMMONWEALTHS AND TERRITORIES ONLY				100.0%		$42,525,000
TOTAL STATES AND COMONWEALTHS AND TERRITORIES						$4,082,400,000

FOOTNOTES

The numbers in Columns B - F are rounded for presentation purposes; the actual numbers used in the allotment calculations are not rounded

(1) Total amount available for allotment to the 50 States and the District of Columbia is $4,039,875,000; determined as the fiscal year appropriation ($4,050,000,000) reduced by the total amount available for allotment to the Commonwealths and Territories under section 2104(c) of the Act ($10,125,000)

(2) Total amount available for allotment to the Commonwealths and Territories is $10,125,000 (.25 percent of $4,050,000,000, the fiscal year appropriation), plus $32,400,000, as specified in section 2104(c)(4)(B) of the Act

(3) Percent share of total amount available for allotment to the Commonwealths and Territories is as specified in section 2104(c) of the Act

IV. Regulatory Impact Statement

We have examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

We have examined the impact of this notice as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rules are necessary, to select regulatory approaches that maximize net benefits (including potential economic environments, public health and safety, other advantages, distributive impacts, and equity). We believe that this notice is consistent with the regulatory philosophy and principles identified in the Executive Order.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any one year. Individuals and States are not included in the definition of a small entity; therefore, this requirement does not apply.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

The Unfunded Mandates Reform Act of 1995 requires that agencies prepare an assessment of anticipated costs and benefits before publishing any notice that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $110 million or more (adjusted each year for inflation) in any one year. Since participation in the SCHIP program on the part of States is voluntary, any payments and expenditures States make or incur on behalf of the program that are not reimbursed by the Federal government are made voluntarily. This notice will not create an unfunded mandate on States, tribal, or local governments because it merely notifies States of their SCHIP allotment for FY 2006. Therefore, we are not required to perform an assessment of the costs and benefits of this notice.

Low-income children will benefit from payments under SCHIP through increased opportunities for health insurance coverage. We believe this notice will have an overall positive impact by informing States, the District of Columbia, and U.S. Territories and Commonwealths of the extent to which they are permitted to expend funds under their child health plans using their FY 2006 allotments.

Under Executive Order 13132, we are required to adhere to certain criteria regarding Federalism. We have reviewed this notice and determined that it does not significantly affect States' rights, roles, and responsibilities because it does not set forth any new policies.

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this notice will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

(Section 1102 of the Social Security Act (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 93.767, State Children's Health Insurance Program)

Dated: April 29, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Dated: May 11, 2005.

Michael O. Leavitt,

Secretary.

[FR Doc. 05–12521 Filed 6–23–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9028–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—January Through March 2005

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from January 2005 through March 2005, relating to the Medicare and Medicaid programs. This notice provides information on national coverage determinations (NCDs) affecting specific medical and health care services under Medicare. Additionally, this notice identifies certain devices with investigational device exemption (IDE) numbers approved by the Food and Drug Administration (FDA) that potentially may be covered under Medicare. This notice also includes listings of all approval numbers from the Office of Management and Budget for collections of information in CMS regulations. Finally, for the first time, this notice includes a list of Medicare-approved carotid stent facilities.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, and to foster more open and transparent collaboration efforts, we are also including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this 3-month time frame.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. (See Section III of this notice for how to obtain listed material.)

Questions concerning items in Addendum III may be addressed to Timothy Jennings, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services, C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–2134.

Questions concerning Medicare NCDs in Addendum V may be addressed to Patricia Brocato-Simons, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–0261.

Questions concerning FDA-approved Category B IDE numbers listed in Addendum VI may be addressed to John Manlove, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, S3–26–10, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6877.

Questions concerning approval numbers for collections of information in Addendum VII may be addressed to Jim Wickliffe, Office of Strategic Operations and Regulatory Affairs, Regulations Development and Issuances Group, Centers for Medicare & Medicaid Services, C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–4596.

Questions concerning Medicare-approved carotid stent facilities may be addressed to Rana A. Hogarth, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–

09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–2112; or to Sarah J. McClain, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–2994.

Questions concerning all other information may be addressed to Gwendolyn Johnson, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group, Centers for Medicare & Medicaid Services, C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6954.

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs. These programs pay for health care and related services for 39 million Medicare beneficiaries and 35 million Medicaid recipients. Administration of the two programs involves (1) furnishing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public and (2) maintaining effective communications with regional offices, State governments, State Medicaid agencies, State survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act). We also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, and to foster more open and transparent collaboration, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the respective 3-month time frame.

II. How To Use the Addenda

This notice is organized so that a reader may review the subjects of manual issuances, memoranda, substantive and interpretive regulations, NCDs, and FDA-approved IDEs published during the subject quarter to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) published in 1988, and the notice published March 31, 1993 (58 FR 16837). Those desiring information on the Medicare NCD Manual (NCDM, formerly the Medicare Coverage Issues Manual (CIM)) may wish to review the August 21, 1989, publication (54 FR 34555). Those interested in the revised process used in making NCDs under the Medicare program may review the September 26, 2003, publication (68 FR 55634).

To aid the reader, we have organized and divided this current listing into eight addenda:

- Addendum I lists the publication dates of the most recent quarterly listings of program issuances.
- Addendum II identifies previous **Federal Register** documents that contain a description of all previously published CMS Medicare and Medicaid manuals and memoranda.
- Addendum III lists a unique CMS transmittal number for each instruction in our manuals or Program Memoranda and its subject matter. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manuals.
- Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarter covered by this notice. For each item, we list the—
  - Date published;
  - **Federal Register** citation;
  - Parts of the Code of Federal Regulations (CFR) that have changed (if applicable);
  - Agency file code number; and
  - Title of the regulation.
- Addendum V includes completed NCDs, or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision.
- Addendum VI includes listings of the FDA-approved IDE categorizations, using the IDE numbers the FDA assigns. The listings are organized according to the categories to which the device numbers are assigned (that is, Category A or Category B), and identified by the IDE number.
- Addendum VII includes listings of all approval numbers from the Office of Management and Budget (OMB) for collections of information in CMS regulations in title 42; title 45, subchapter C; and title 20 of the CFR.
- Addendum VIII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS's standards for performing carotid artery stenting for high risk patients.

III. How To Obtain Listed Material

A. Manuals

Those wishing to subscribe to program manuals should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses:

Superintendent of Documents, Government Printing Office, ATTN: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or

National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell. Additionally, most manuals are available at the following Internet address: *http://cms.hhs.gov/manuals/default.asp.*

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is also available on 24x microfiche and as an online database through *GPO Access.* The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS)

through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is *http://www.gpoaccess.gov/fr/index.html*, by using local WAIS client software, or by telnet to swais.gpoaccess.gov, then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

C. Rulings

We publish rulings on an infrequent basis. Interested individuals can obtain copies from the nearest CMS Regional Office or review them at the nearest regional depository library. We have, on occasion, published rulings in the **Federal Register**. Rulings, beginning with those released in 1995, are available online, through the CMS Home Page. The Internet address is *http://cms.hhs.gov/rulings*.

D. CMS' Compact Disk-Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD–ROM and may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD–ROM disk:

- Titles XI, XVIII, and XIX of the Act.
- CMS-related regulations.
- CMS manuals and monthly revisions.
- CMS program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 1999. (Updated titles of the Social Security Laws are available on the Internet at http://www.ssa.gov/OP_Home/ssact/comp–toc.htm.) The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual (SOM), as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future and, with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

IV. How To Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most Federal Government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. For each CMS publication listed in Addendum III, CMS publication and transmittal numbers are shown. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the Medicare NCD publication titled ''Implantable Automatic Defibrillators,'' use CMS–Pub. 100–03, Transmittal No. 29.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: June 20, 2005.

Jacquelyn White,

Director, Office of Strategic Operations and Regulatory Affairs.

Addendum I

This addendum lists the publication dates of the most recent quarterly listings of program issuances.

December 27, 2002 (67 FR 79109).
March 28, 2003 (68 FR 15196).
June 27, 2003 (68 FR 38359).
September 26, 2003 (68 FR 55618).
December 24, 2003 (68 FR 74590).
March 26, 2004 (69 FR 15837).
June 25, 2004 (69 FR 35634).
September 24, 2004 (69 FR 57312).
December 30, 2004 (69 FR 78428).
February 25, 2005 (70 FR 9338).

Addendum II—Description of Manuals, Memoranda, and CMS Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the former CIM (now the NCDM) was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992, at 57 FR 47468.

Addendum III.—Medicare and Medicaid Manual Instructions

[January Through March 2005]

Transmittal No.	Manual/subject/publication No.
	Medicare General Information (CMS Pub. 100–01)
15	Review of Contractor Implementation of Change Requests (Replacement for expired CR 944). Review of Contractor Implementation of Change Requests. CR Implementation Report—Summary Page. CR Implementation Report—Details Page. CR Implementation Report—Sample Cover Letter/ Attestation Statement.
16	Standard Terminology for Claims Processing Systems.
17	This Transmittal rescinded and replaced Transmittal 15.
18	Billing for Blood and Blood Products Under the Hospital Outpatient Prospective Payment System. Items Subject to Blood Deductibles. Blood.
19	Revisions to Chapter 5, Section 50 of Publication 100–01 in the Internet Only. Manual to Clarify Current Policy. Home Health Agency Defined. Arrangements by Home Health Agencies.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January Through March 2005]

Transmittal No.	Manual/subject/publication No.
	Rehabilitation Centers.
	Medicare Benefit Policy (CMS Pub. 100–02)
29	Telehealth Originating Site Facility Fee Payment Amount Update.
30	Policy for Repair and Replacement of Durable Medical Equipment.
	Medicare National Coverage Determinations (CMS Pub. 100–03)
27	Infusion Pumps: C-Peptide Levels As A Criterion for Use.
28	Update of Laboratory NCDs to Reference New Screening Benefits. Blood Glucose Testing. Lipid Testing.
29	Implantable Automatic Defibrillators.
30	Coverage of Colorectal Anti-Cancer Drugs Included in Clinical Trials. Anti-Cancer Chemotherapy for Colorectal Cancer (Effective January 28, 2005).
	Medicare Claims Processing (CMS Pub. 100–04)
423	January 2005 Update of the Hospital Outpatient Prospective Payment System: Summary of Payment Policy Changes.
424	Implementation of the Annual Desk Review Program for Hospital Wage Data: Cost Reporting Periods Beginning on or After October 1, 2001, Through September 30, 2002 (FY 2006 Wage Index).
425	Section 630 of the Medicare Modernization Act allows for the Reimbursement for Ambulance Services Provided by Indian Health Service/Tribal Hospitals, Including Critical Access Hospitals, Which Manage and Operate Hospital-Based Ambulances. General Coverage and Payment Policies. Indian Health Service/Tribal Billing.
426	Modification to Reporting of Diagnosis Codes for Screening Mammography Claims. Healthcare Common Procedure Coding System and Diagnosis Codes for Mammography Services.
427	Revision of Change Request 2928: Implementation of Payment Safeguards for Home Health Prospective Payment System Claims Failing to Report Prior Hospitalizations. Adjustments of Episode Payment—Hospitalization Within 14 Days of Start of Care.
428	Update to Billing Requirements for FDG-Positron Emission Tomography Scans For Use in the Differential Diagnosis of Alzheimer's Disease and Fronto-Temporal Dementia and Update to the Fiscal Intermediaries Billing Requirements for Special Payment Procedures for All Positron Emission Tomography Scan. Claims for Services Performed in a Critical Access Hospital. Billing Instructions. Coverage for Positron Emission Tomography Scans for Dementia and Neurodegenerative Disease.
429	Change to the Common Working File Skilled Nursing Facility Consolidated Billing Edits for Critical Access Hospitals That Have Elected Method II Payment Option and Bill Physician Services to Their Fiscal Intermediaries. Physician's Services and Other Professional Services Excluded From Part A PPS Payment and the Consolidated Billing Requirement.
430	Mandatory Assignment for Medicare Modernization Act § 630 Claims. Other Part B Services. Durable Medical Equipment Regional Carrier Drugs. Claims Processing Requirements for Medicare Modernization Act § 630. Claims Processing for Durable Medical Equipment Prosthetic, Orthotics & Supplies and Durable Medical Equipment Regional Carrier Drugs. Enrollment for Durable Medical Equipment Prosthetic, Orthotics & Supplies and Durable Medical Equipment Regional Carrier Drugs. Enrollment and Billing for Clinical Laboratory and Ambulance Services and Part B Drugs. Claims Submission and Processing for Clinical Laboratory and Ambulance Services and Part B Drugs.
431	Updated Skilled Nursing Facility No Pay File for April 2005.
432	Adding an Indicator to the National Claims History to Indicate That Durable Medical Regional Carriers, Carriers, and Fiscal Intermediaries Have Reviewed a Potentially Duplicate Claim. Detection of Duplicate Claims.
433	Issued to a specific audience, not posted to the Internet/Intranet due to the Sensitivity of Instruction.
434	Addition of Clinical Laboratory Improvement Act Edits to Certain Health Care Procedure Coding System Codes for Mohs Surgery.
435	This Transmittal has been rescinded and replaced by Transmittal 450.
436	Remittance Advice Remark Code and Claim Adjustment Reason Code Update.
437	Revisions and Corrections to the Medicare Claims Processing Manual, Chapter 6, Section 30 and Various Sections in Chapter 15. Billing Skilled Nursing Facility Prospective Payment System Services General Coverage and Payment Policies. Air Ambulance for Deceased Beneficiary. General Billing Guidelines for Intermediaries and Carriers. Intermediary Guidelines.
438	Fiscal Intermediary Standard Paper Remittance Advice Changes.
439	Modification to the Fiscal Intermediary Standard System Regarding Ambulance Services Billed on 18x and 21x Types of Bill.
440	Updating the Common Working File Editing for Pap Smear (Q0091) and Adding a New Low Risk Diagnosis Code (V72.31) for Pap Smear and Pelvic Examination.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January Through March 2005]

Transmittal No.	Manual/subject/publication No.
	Healthcare Common Procedure Coding System Codes for Billing.
	Diagnoses Codes.
	Payment Method.
	Revenue Codes and Healthcare Common Procedure Coding System Codes for Billing.
	Medicare Summary Notice Messages.
	Remittance Advice Codes.
441	Viable Medicare Systems Changes to Durable Medical Equipment Regional Carrier Processing of Method II Home Dialysis Claims.
442	Hospital Outpatient Prospective Payment System: Use of Modifiers -52, -73 and -74 for Reduced or Discontinued Services
	Use of Modifiers.
	Use of Modifiers for Discontinued Services.
443	This Transmittal is rescinded and replaced by Transmittal 505.
444	Further Information Related to Inpatient Psychiatric Facility Prospective Payment System
445	Payment to Providers/Suppliers Qualified to Bill Medicare for Prosthetics and Certain Custom-Fabricated Orthotics.
	Provider Billing for Prosthetics and Orthotic Services.
446	Diabetes Screening Tests.
447	Common Working File Editing for Method Selection on Durable Medical Equipment Regional Carrier Claims for EPO and Aranesp
	Epoetin Alfa Furnished to Home Patients.
	Darbepoetin Alfa Furnished to Home Patients.
448	Timeframe for Continued Execution of Crossover Agreements and Update on the Transition to the National Coordination of Benefits Agreement Program
	Crossover Claims Requirements.
	Fiscal Intermediaries Requirements.
	Durable Medical Equipment Regional Carrier Requirements.
	Consolidation of the Claims Crossover Process.
	Electronic Transmission - General Requirements.
	ANSI X12N 837 Coordination of Benefit Transaction Fee Collection.
	Medigap Electronic Claims Transfer Agreements.
	Intermediary Crossover Claim Requirements.
	Carrier/Durable Medical Equipment Regional Carrier Crossover Claims Requirements.
449	April Quarterly Update to 2005 Annual Update of Healthcare Common Procedure Coding System Codes Used for Skilled Nursing Facility Consolidated Billing Enforcement
450	Enforcement of Mandatory Electronic Submission of Medicare Claims
	Failure To Furnish Information Medicare Summary Notice Message.
	Falta De Information Sometida Medicare Summary Notice Message Enforcement.
451	April 2005 Quarterly Fee Schedule Update for Durable Medical Equipment, Prosthetics, Orhtotics, and Supplies.
452	New Remittance Advice Message for Referred Clinical Diagnostic/ Purchased Diagnostic Service Duplicate Claims.
453	Instructions for Downloading the Medicare Zip Code File.
454	Definitions of Electronic and Paper Claims.
	Payment Ceiling Standards.
455	This transmittal is rescinded and replaced by Transmittal 509.
456	Independent Laboratory Billing for the Technical Component of Physician.
	Pathology Services Furnished to Hospital Patients (Supplemental to Change Request 3467)
457	Diabetes Screening Tests.
	Healthcare Common Procedure Coding System Coding for Diabetes Screening.
	Carrier Billing Requirements.
	Modifier Requirements for Pre-Diabetes.
	Fiscal Intermediary Billing Requirements.
	Diagnosis Code Reporting.
	Medicare Summary Notices.
	Remittance Advice Remark Codes.
	Claims Adjustment Reason Codes.
458	Hospice Physician Recertification Requirements.
	Data Required on Claim to Fiscal Intermediaries.
459	Full Replacement of Change Request 3427, Transmittal 342, Issued on October 29, 2004—Change to the Common Working File Skilled Nursing Facility.
	Consolidated Billing Edits for Ambulance Transports to or From a Diagnostic or Therapeutic Site.
	Ambulance Services.
	Skilled Nursing Facility Billing.
460	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
461	Processing Durable Medical Equipment, Orthotics, Prosthetics, Drugs, and Surgical Dressings Claims for Indian Health Services and Tribally Owned and Operated Hospitals or Hospital Based Facilities Including Critical Access.
	Hospital.
	Other Part B Services.
	Prosthetics and Orthotics.
	Prosthetic Devices.
	Surgical Dressings and Splints and Casts.
	Drugs Dispensed by IHS Hospital-Based or Freestanding Facilities.
	Claims Processing for Durable Medical Equipment Prosthetics, Orthotics & Supplies.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January Through March 2005]

Transmittal No.	Manual/subject/publication No.
	Enrollment for Durable Medical Equipment Prosthetics, Orthotics & Supplies.
	Claims Submission for Durable Medical Equipment Prosthetics, Orthotics & Supplies.
462	Durable Medical Equipment Regional Carrier Only—Dispensing Fees for Immunosuppressive Drugs.
463	Update to 100–04 and Therapy Code Lists.
	Healthcare Common Procedure Coding System Coding Requirement.
	Part B Outpatient Rehabilitation and Comprehensive Outpatient Rehabilitation Facility Services—General.
	Discipline Specific Outpatient Rehabilitation Modifiers—All Claims.
	The Financial Limitation.
	Reporting of Service Units With HCPCS—Form CMS–1500 and Form CMS–1450.
464	Implementation of the Abstract File for Purchased Diagnostic.
	Test/Interpretations (Supplemental to CR 3481).
	Payment Jurisdiction Among Local Carriers for Services Paid Under the Physician Fee Schedule and Anesthesia Services.
	Payment Jurisdiction for Purchased Services.
	Payment to Physician or Other Supplier for Purchased Diagnostic Tests—Claims Submitted to Carriers.
	Payment to Supplier of Diagnostic Tests for Purchased Interpretations.
465	Billing Requirements for Physician Services in Method II Critical Access Hospitals.
	Payment for Inpatient Services Furnished by a Critical Access Hospital.
	Special Rules for Critical Access Hospital Outpatient Billing.
	Billing and Payment in a Physician Scarcity Area.
466	Quarterly Update to Correct Coding Initiative Edits, Version 11.1, Effective April 1, 2005.
467	Modifications to Duplicate Editing for Dispensing/Supply Fee Codes for Oral Anti-Cancer, Oral Anti-Emetic, Immunosuppressive and Inhalation Drugs.
468	Appeals Transition—Benefits, Improvement & Protection Act Section 521.
	Appeals.
469	New Waived Tests—April 1, 2005.
470	Standardization of Fiscal Intermediary Use of Group and Claim Adjustment.
	Reason Codes and Calculation and Balancing of TS2 and TS3 Segment.
	Data Elements.
471	This Transmittal is rescinded and replaced by Transmittal 513.
472	Revisions to Payment for Services Provided Under a Contractual Arrangement—Carrier Claims Only.
	Exceptions to Assignment of Provider's Right to Payment—Claims Submitted to Fiscal Intermediaries and Carriers.
	Payment for Services Provided Under a Contractual Arrangement—Carrier Claims Only.
473	Use of 12X Type of Bill for Billing Vaccines and Their Administration Bills Submitted to Fiscal Intermediaries.
474	Coordination of Benefits Agreement Detailed Error Report Notification Process.
475	1st Update to the 2005 Medicare Physician Fee Schedule Database.
476	Type of Service Corrections.
477	New Case-Mix Adjusted End-Stage Renal Disease Composite Payment Rates And New Composite Rate Exceptions Window for Pediatric End-Stage Renal Disease Facilities.
	Outpatient Provider-Specific File.
	Calculation of Case-Mix Adjustment Composite Rate.
	Required Information for In-Facility Claims Paid Under the Composite Rate.
478	Clarification of the Verification Process to be Used to Determine If the Inpatient Rehabilitation Facility Meets the Inpatient Rehabilitation Classification Criteria Verification Process To Be Used To Determine If the Inpatient Rehabilitation Facility Met the Classification Criteria.
479	Update to the Healthcare Provider Taxonomy Codes Version 5.0.
480	April 2005 Quarterly Average Sale Price Medicare Part B Drug Pricing File, Effective April 1, 2005, and New January 2005 Quarterly Average Sale Price File.
481	Updated Manual Instructions for the Medicare Claims Processing Manual, Chapter 10.
	General Guidelines for Processing Home Health Agency Claims.
	Effect of Election of Medicare Advantage Organization and Eligibility Changes on Home Health Prospective Payment System Episodes.
	General Guidance on Line Item Billing Under the Home Health Prospective Payment System.
	Request for Anticipated Payment.
	Home Health Prospective Payment System Claims.
	Special Billing Situations Involving Outcome & Assessment Information Set Assessments.
	Medical and Other Health Services Not Covered Under the Plan of Care (Bill Type 34X).
482	Manualization of Payment Change for Diagnostic Mammography and Diagnostic Computer Aided Detection.
	Screening Mammography Services.
	Computer Aided Design Billing Charts.
	Payment for Screening Mammography Services Provided Prior to January 1, 2002.
	Payment for Screening Mammography Services Provided On and After January 1, 2002.
	Outpatient Hospital Mammography Payment Table.
	Payment for Computer Add-On Diagnostic and Screening Mammograms for Fiscal Intermediaries and Carriers.
	Mammograms Performed With New Technologies.
483	Hospital Partial Hospitalization Services Billing Requirements.
	Special Partial Hospitalization Billing Requirements for Hospitals, Community Mental Health Centers, and Critical Access Hospitals.
	Bill Review for Partial Hospitalization Services Provided in Community Mental Health Centers.
484	New Remittance Advice Message for Referred Clinical Diagnostic/Purchased Diagnostic Service Duplicate Claims.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January Through March 2005]

Transmittal No.	Manual/subject/publication No.
485	Calculating Payment-to-Cost Ratios for Purposes of Determining Transitional Corridor Payments Under the Outpatient Prospective Payment System.
486	Manualization of Carrier Claims Processing Instructions for Stem Cell Transplantation.
	Stem Cell Transplantation.
	General.
	Healthcare Common Procedure Coding System and Diagnosis Coding.
	Non-Covered Conditions.
	Edits.
	Suggested Medicare Summary Notice and Remittance Advice Messages.
487	Medicare Qualifying Clinical Trials.
	Chapter 32, Section 69.0—Qualifying Clinical Trials.
488	This Transmittal has been rescinded and replaced by Transmittal 497.
489	Correction to Healthcare Common Procedure Coding System Code A4217.
	Payment of Durable Medical Equipment Prosthetics, Orthotics & Supplies Items Based on Modifiers.
490	Claims Status Code/Claims Status Category Code Update.
	Health Care Claims Status Category Codes and Health Care Claims Status Codes for Use With Health Care Claims Status Request and Response ASC X12N 276/277.
491	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction.
492	Adding an Indicator to the National Claims History to Indicate That Durable Medical Equipment Regional Carrier, Carriers and Fiscal Intermediaries Have Reviewed a Potentially Duplicate Claim.
	Detection of Duplicate Claims.
493	Revision to Chapter 1, and Removal of Section 70 from Chapter 25 of the Medicare Claims Processing Manual.
	Inpatient Billing From Hospitals and Skilled Nursing Facilities.
	Submitting Bills in Sequence for a Continuous Inpatient Stay or Course of Treatment.
	Intermediary Processing of No-Payment Bills.
	Time Limitations for Filing Provider Claims to Fiscal Intermediaries.
	Statement of Intent.
	Filing Request for Payment to Carriers—Medicare Part B.
	Fiscal Intermediary Consistency Edits.
	Patient is a Member of a Medicare Advantage Organization for Only a Portion of the Billing Period.
	Late Charges.
	Inpatient Part A Hospital Adjustment Bills.
494	April 2005 Outpatient Prospective Payment System Code Editor Specifications Version 6.1.
495	Inpatient Psychiatric Facility Prospective Payment System—Further Clarifications.
496	Billing for Blood and Blood Products Under the Hospital Outpatient Prospective Payment System.
	When a Provider Paid Under the Outpatient Prospective Payment System Does Not Purchase the Blood or Blood Products That It Procures From a Community Blood Bank, or When a Provider Paid Under the Outpatient Prospective Payment System Does Not Assess a Charge for Blood or Blood Products Supplied by the Provider's Own Blood Bank Other Than Blood Processing and Storage.
	When a Provider Paid Under the Outpatient Prospective Payment System Purchases Blood or Blood Products from a Community Blood Bank or When a Provider Paid Under the Outpatient Prospective Payment System Assesses a Charge for Blood or Blood Products Collected by Its Own Blood Bank That Reflects More Than Blood Processing and Storage.
	Billing for Autologous Blood (Including Salvaged Blood) and Directed Donor Blood.
	Billing for Split Unit of Blood.
	Billing for Irradiation of Blood Products.
	Billing for Frozen and Thawed Blood and Blood Products.
	Billing for Unused Blood.
	Billing for Transfusion Services.
	Billing for Pheresis and Apheresis Services.
	Correct Coding Initiative Edits.
	Blood Products and Drugs Classified in Separate Average Projected Costs for Hospital Outpatients.
497	Billing for Implantable Automatic Defibrillators for Beneficiaries in a Medicare Advantage Plan and Use of the Quarterly Refund Modifier to Identify Patient Registry Participation.
498	Billing of the Diagnosis and Treatment of Peripheral Neuropathy With Loss of Protective Sensation in People With Diabetes.
	General Billing Requirements.
	Applicable Healthcare Common Procedure Coding System Codes.
	Diagnosis Codes.
	Payment.
	Applicable Revenue Codes.
	Editing Instructions for Fiscal Intermediaries.
	Common Working File General Information.
	Common Working File Utilization Edits.
499	2005 Scheduled Release for April Updates to Software Programs and Pricing/Coding Files.
500	Changes to the Laboratory National Coverage Determination Edit.
	Software for April 2005.
501	Bone Mass Measurements—Procedure Coding.
502	New Contrast Agents Healthcare Common Procedure Coding System Codes.
503	April Update to the Medicare Non-Outpatient Prospective Payment Systems.
	Outpatient Code Editor Specification Version 20.2.
504	Update to Pub 100–04, Chapter 12, Section 200 of the Internet Only Manual.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January Through March 2005]

Transmittal No.	Manual/subject/publication No.
	Allergy Testing and Immunotherapy.
505	Unprocessable Unassigned Form CMS–1500 Claims.
	Incomplete or Invalid Claims Processing Terminology.
506	Updated Manual Instructions for Item 24G (Days or Units), Chapter 26.
507	New Healthcare Common Procedure Coding System for Intravenous Immune Globulin.
508	This Transmittal is rescinded and replaced by Transmittal 514.
509	Number of Drug Pricing Files That Must Be Maintained Online for Medicare—Durable Medical Equipment Regional Carriers Only.
	Online Pricing Files for Average Sales Price.
510	Update to Fiscal Year 2005 Pricer for IPPS Hospitals.
511	Type of Service Corrections.
512	Coverage of Colorectal Anti-Cancer Drugs Included in Clinical Trials.
513	Infusion Pumps: C-Peptide Levels As a Criterion for Use.
514	April 2005 Update of the Hospital Outpatient Prospective Payment System: Summary of Payment Policy Changes.
	Medicare Secondary Payer (CMS Pub. 100–05)
23	Modification to Online Medicare Secondary Payer Questionnaire.
	Admission Questions to Ask Medicare Beneficiaries.
24	Issued to a specific audience, not posted to Internet/Intranet, due to Sensitivity of Instruction.
25	Update Medicare Secondary Payer Manual Publication 100–05 to reflect Statutory Changes included in the Medicare Modernization Act.
	General Provisions.
	Conditional Primary Medicare Benefits.
	When Conditional Primary Medicare Benefits May Be Paid.
	When Medicare Secondary Benefits Are Payable and Not Payable.
	Definitions.
	Beneficiary's Rights and Responsibility.
	Statutory Provisions.
	No-Fault Insurance.
	Situations in Which Medicare Secondary Payer Billing Applies.
	Incorrect Group Health Plan Primary Payments.
	General Policy.
	Conditional Primary Medicare Benefits.
	Conditional Medicare Payment.
	Medicare Right of Recovery.
	Conflicting Claims by Medicare and Medicaid.
	Third Party Payer Refund Requests Served on Medicare.
	General Operational Instructions.
	Conditional Primary Medicare Benefits.
	Existence of Overpayment.
26	Clarification for Change Request (CR) 3267.
	General Policy.
27	Updates to the Electronic Correspondence Referral System User Guide v8.0 and Quick Reference Card v8.0.
	Coordination of Benefits Contractor Electronic Correspondence Referral System.
	Providing Written Documents to the Coordination of Benefits Contractor.
	Medicare Financial Management (CMS Pub. 100–06)
55	Reporting Appeals Redetermination Information on Forms CMS–2591 and 2590.
56	Revision to Balancing Requirement on Form 5, Line 10, of the Contractor.
	Reporting of Operational and Workload Data.
57	Revised Reporting Requirements for Contractor Reporting of Operational Workload Data Health Professional Shortage Area Quarterly Report.
58	Issued to specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction.
59	Notice of New Interest Rate for Medicare Overpayments and Underpayments.
60	Revised instructions on contractor procedures for provider audit and the Provider.
	Statistical & Reimbursement Report.
	Submission of Cost Report Data to CMS.
	Desk Review Exceptions Resolution Process.
	Definition of Field Audits.
	Purpose of Field Audits.
	Establishing the Objective/Scope of the Field Audit.
	Audit Confirmation Letter.
	Entrance Conference.
	Tests of Internal Control.
	Designing Tests/Sampling.
	Pre-Exit Conference.
	Finalization of Audit Adjustments.
	Exit Conference.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January Through March 2005]

Transmittal No.	Manual/subject/publication No.
	Medicare Cost Report and All Related Documents.
	Qualifications.
	Internal Quality Control.
	Final Settlement of the Cost Report.
	Audit Responsibility When Provider Changes Contractors.
	Audits of Home Offices.
	Standards for Issuance of an Audit Report for a Home Office.
	Provider Permanent File.
	Contractor Responsibility in Suspected Fraud or Abuse Cases.
61	New Location Code Interstate Commerce Commission, Status Code AR and Modified Intent Letter for Unfiled Cost Reports Only.
	Recovery of Overpayment Due to Overdue Cost Report.
	Provider Overpayment Recovery System User Manual.
	List of Status Codes.
	Content of Demand Letters-Fiscal Intermediary Serviced Providers.
62	Timeframe for Continued Execution of Crossover Agreements and Updated on the Transition to the National Coordination of Benefits Agreement Program.
	Coordination of Medicare and Complementary Insurance Programs.
63	Notice of New Interest Rate for Medicare Overpayments and Underpayments.
64	For Fiscal Intermediaries, a New Provider Type 80, Status Code CH, and Method of Recoupment Codes. For Carriers and Durable Medical Equipment.
	Regional Carriers Status Code 2.
	Provider Overpayment Reporting System User Manual.
	List of Status Codes.
	Physician/Supplier Overpayment Reporting System User Manual.
65	Revised Reporting Requirements for Contractor Reporting of Operational Workload Data Physician Scarcity Area Quarterly Report (CMS Form—1565F, CROWD Form6).
	Completing Physician Scarcity Area Quarterly Report Form CMS 1565F, CROWD Form 6.
	Physician Scarcity Area Quarterly Report, Line Descriptors.
	Error Descriptors.
	Checking Reports.
66	Chapter 7, Internal Control Requirements Update.
	Federal Managers' Financial Integrity Act of 1982.
	Federal Managers Financial Integrity Act and the CMS Medicare Contractor Contract.
	Chief Financial Officers Act of 1990.
	Office of Management & Budget Circular A–123.
	General Accounting Office Standards for Internal Controls in the Federal Government.
	Fundamental Concepts.
	Control Activities.
	Monitoring.
	Risk Assessment.
	Internal Control Objectives.
	Fiscal Year 2005 Medicare Control Objectives.
	Policies and Procedures.
	Control Activities.
	Testing Methods.
	Documentation and Working Papers.
	Requirements.
	Certification Statement.
	Executive Summary.
	Certification Package for Internal Controls Report of Material Weaknesses.
	Certification Package for Internal Controls Report of Reportable Conditions.
	Definitions and Examples of Reportable Conditions and Material Weaknesses.
	Material Weaknesses Identified During the Fiscal Year.
	Corrective Action Plans.
	Submission, Review, and Approval of Corrective Action Plans.
	Corrective Action Plan Reports.
	CMS Finding Numbers.
	Initial Corrective Action Plan Report.
	Quarterly Corrective Action Plan Report.
	Entering Data: Initial or Quarterly Corrective Action Plan Report.
	Medicare State Operations Manual (CMS Pub. 100–07)
00	None
	Medicare Program Integrity (CMS Pub. 100–08))
93	This Transmittal has been rescinded and replaced by Transmittal 102.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January Through March 2005]

Transmittal No.	Manual/subject/publication No.
94	Informing Beneficiaries About Which Local Medical Review Policy and/or Local Coverage Determination and/or National Coverage.
	Determination Is Associated With Their Claim Denial.
	Prepayment Edits.
95	Change in Provider Enrollment Appeals Process.
	Administrative Appeals.
96	Consent Settlements.
	Postpayment Review Case Selection.
	Location of Postpayment Reviews.
	Re-adjudication of Claims.
	Calculation of the Correct Payment Amount and Subsequent Over/Underpayment.
	Notification of Provider(s) or Supplier(s) and Beneficiaries of the Postpayment Review Results.
	Provider(s) or Supplier(s) Rebuttal(s) of Findings.
	Evaluation of the Effectiveness of Postpayment Review and Next Steps.
	Consent Settlement Instructions.
	Background on Consent Settlement.
	Opportunity to Submit Additional Information Before Consent Settlement Offer.
	Consent Settlement Offer.
	Election to Proceed to Statistical Sampling for Overpayment Estimation.
	Acceptance of Consent Settlement Offer.
	Consent Settlement Budget and Performance Requirements for Medicare Contractors.
97	Provider Enrollment and Inpatient Rehabilitation Facility (IRF) Compliance Reviews.
98	Psychotherapy Notes.
	Additional Documentation Requests During Prepayment or Postpayment Medical Review.
99	Program Integrity Manual Modification—Changes Waivers Approved by the Regional Office by Replacing Regional Office With Central Office.
	Contractor Medical Director.
	Benefit Integrity Security Requirements.
	The Carrier Advisory Committee.
100	Review of Documentation During Medical Review.
	Additional Documentation Requests During Prepayment or Postpayment Medical Review.
	Documentation in the Patient's Medical Records.
101	Benefit Integrity Personal Information Manager Revisions.
	Sources of Data for Program Safeguard Contractors.
	Procedural Requirements.
	Benefit Integrity Security Requirements.
	Requests for Information From Outside Organizations.
	Program Safeguard Contractor and Medicare Contractor Coordination With Other Program.
	Safeguard Contractors and Medicare Contractors.
	Complaint Screening.
	Types of Fraud Alerts.
	Alert Specifications.
	Editorial Requirements.
	Coordination.
	Distribution of Alerts.
	Information Not Captured in the Fraud Investigation Database.
	Initial Entry Requirements for Investigations.
	Designated Program Safe Guard and Medicare Contractor Background Investigation.
	Unit Staff and the Fraud Investigation Database.
	Affiliated Contractor and Program Safeguard Contractor Coordination on Voluntary Refunds.
	Referral of Cases to the Office of the Inspector General/Office of Investigations.
	Referral to State Agencies or Other Organizations.
	Civil Monetary Penalties Delegated to Office of the Inspector General.
	Annual Deceased-Beneficiary Postpayment Review.
	Vulnerability Report.
102	Medical Review of Rural Air Ambulance Services.
	''Reasonable'' Requests.
	Emergency Medical Services Protocols.
	Prohibited Air Ambulance Relationships.
	Reasonable and Necessary Services.
	Definition of Rural Air Ambulance Services.
103	Discontinuation of Medical Review Reports—The Medicare Status Report.
	Report of Benefit Savings, Medicare Focused Medical Review Status Report, and Focused Medical Review Report.
104	Requirement that Medicare Carrier System Not Allow the Re-review of Previously Denied Claims.
	Contractor Administrative Budget & Financial Management II Reporting for Medical Review Activities.
105	The Medically Unbelievable Edits.
106	Inclusion of Interventional Pain Management Specialists on Carrier Advisory Committee Membership Physicians.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[January Through March 2005]

Transmittal No.	Manual/subject/publication No.
	Medicare Contractor Beneficiary and Provider Communications (CMS Pub. 100–09)
08	Medicare Beneficiary Call Centers Will Begin Offering Preventive Services Information. Promote Medicare Preventive Services.
	Medicare Managed Care (CMS Pub. 100–16)
65	Surveys, Contracting Strategy, and Appeals.
	Medicare Business Partners Systems Security (CMS Pub. 100–17)
00	None.
	Demonstrations (CMS Pub. 100–19)
15	Issued to a specific audience, not posted to Internet/Intranet due to the Confidentiality of Instruction
16	Issued to a specific audience, not posted to Internet/Intranet due to the Sensitivity of Instruction.
17	Demonstration Project for Medical Adult Day-Care Services.
18	Demonstration Project to Clarify the Definition of Homebound, the Home Health Independence Demonstration.
19	Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction.
20	Full Replacement of CR 3220, Method of Reimbursement for Inpatient Services for Rural Hospital Participating Under Demonstration Authorized by Section 410A of the Medicard Modernization Act, CR 3220 Is Rescinded.
21	Full Replacement of CR 3639, Expansion of Coverage for Chiropractic Services Demonstration.
	One Time Notification (CMS Pub. 100–20)
134	Revisions to January 2005 Quarterly Average Sales Price Medicare Part B Drug Pricing File.
135	Shared System Maintainer Hours for Resolution of Problems Detected During Health Insurance Portability and Accountability Act Transaction Release Testing.
136	Medlearn Matters Article Related to the Flu Demonstration.
137	Instruction to Contractors Regarding Aged, Pre-settlement Cases and Inter-Contractor Notices.
138	Production of Provider Flat Files, Including Taxpayer Identification Numbers, From the Fiscal Intermediary Standard System, Financial Master Files.
139	Update to the Evaluation Plan for the CD-Rom Initiative Used in the Mailing of 2005 Annual Participation Enrollment Material.
140	Revisions to January 2005 Quarterly Average Sales Price Medicare Part B Drug Pricing File.
141	Shared System and Common Working File Renovation of Override Code Process (Phase 3).
142	This Transmittal Is Rescinded and Will Not Be Replaced at this Time.
143	Shared System Maintainer Hours to Begin Work and Analysis on the Implementation of the National Provider Identifier—FOR ANALYSIS ONLY.
144	Debt Collection Improvement Act Backlog Non-Medicare Secondary Payor Collections From February 1998 to September 2004.
145	Frequent Hemodialysis Network Payment Changes for Approved Clinical Trial Costs.
146	Appeals Transition—BIPA Section 521 Appeals.

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER JANUARY THROUGH MARCH 2005

Publication date	FR Vol. 70 page No.	CFR parts affected	File code	Title of regulation
January 19, 2005	3036	.....	CMS–2230–NC	State Children's Health Insurance Program (SCHIP); Redistribution of Unexpended SCHIP Funds From the Appropriation for Fiscal Year 2002.
January 28, 2005	4588	417 and 422	CMS–4069–F	Medicare Program; Establishment of the Medicare Advantage Program.
January 28, 2005	4194	400, 403, 411, 417, and 423.	CMS–4068–F	Medicare Program; Medicare Prescription Drug Benefit.
January 28, 2005	4133	.....	CMS–3150–N	Medicare Program; Meeting of the Medicare Coverage Advisory Committee—March 29, 2005.
January 28, 2005	4132	.....	CMS–5033–N2	Medicare Program; Meeting of the Advisory Board on the Demonstration of a Bundled Case-Mix Adjusted Payment System for End-Stage Renal Disease Services.
January 28, 2005	4130	.....	CMS–5037–N	Medicare Program; Demonstration of Coverage of Chiropractic Services Under Medicare.
January 28, 2005	4129	.....	CMS–4079–N	Medicare Program; Re-Chartering of the Advisory Panel on Medicare Education (APME) and Notice of the APME Meeting—February 24, 2005.
February 3, 2005	5724	412	CMS–1483–P	Medicare Program; Prospective Payment System for Long-Term Care Hospitals: Proposed Annual Payment Rate Updates, Policy Changes, and Clarification.

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER JANUARY THROUGH MARCH 2005—Continued

Publication date	FR Vol. 70 page No.	CFR parts affected	File code	Title of regulation
February 4, 2005	6526	423	CMS–0011–P	Medicare Program; E-Prescribing and the Prescription Drug Program.
February 4, 2005	6184	400, 405, 410, 412, 413, 414, 488, and 494.	CMS–3818–P	Medicare Program; Conditions for Coverage for End-Stage Renal Disease Facilities
February 4, 2005	6140	405, 482, and 488	CMS–3835–P	Medicare Program; Hospital Conditions of Participation: Requirements for Approval and Re-Approval of Transplant Centers To Perform Organ Transplants.
February 4, 2005	6086	413, 441, 486, and 498	CMS–3064–P	Medicare and Medicaid Programs; Conditions for Coverage for Organ Procurement Organizations (OPOs).
February 4, 2005	6014		CMS–1366–N	Medicare Program; Meeting of the Practicing Physicians Advisory Council—March 7, 2005.
February 4, 2005	6013		CMS–1299–N	Medicare Program; Monthly Payment Amounts for Oxygen and Oxygen Equipment for 2005, in Accordance with Section 302(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.
February 4, 2005	6012		CMS–3155—N	Medicare Program; Quality Improvement Organization Contracts: Solicitation of Statements of Interest From In-State Organizations—Alaska, Hawaii, Idaho, Maine, South Carolina, Vermont, and Wyoming.
February 25, 2005	9362		CMS–4089–N	Medicare Program; Meeting of the Advisory Panel on Medicare Education—March 22, 2005.
February 25, 2005	9360		CMS–4088–N	Medicare Program; Part D Reinsurance Payment Demonstration.
February 25, 2005	9358		CMS–1219–N	Medicare Program; Changes in Geographical Boundaries of Durable Medical Equipment Regional Service Areas.
February 25, 2005	9355		CMS–3119–FN	Medicare Program; Procedures for Maintaining Code Lists in the Negotiated National Coverage Determinations for Clinical Diagnostic Laboratory Services.
February 25, 2005	9338		CMS–9025–N	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—October Through December 2004.
February 25, 2005	9337		CMS–5011–WN2	Medicare and Medicaid Programs; Solicitation of Proposals for the Private, For-Profit Demonstration Project for the Program of All-Inclusive Care for the Elderly (PACE); Cancellation of Withdrawal.
February 25, 2005	9336		CMS–1296–N	Medicare Program; Request for Nominations to the Advisory Panel on Ambulatory Payment Classification Groups.
February 25, 2005	9232	421	CMS–1219–F	Medicare Program; Durable Medical Equipment Regional Carrier Service Areas and Related Matters.
March 4, 2005	10746	414	CMS–1325–P	Medicare Program; Competitive Acquisition of Outpatient Drugs and Biologicals Under Part B.
March 4, 2005	10645		CMS–4089–N2	Medicare Program; Meeting of Advisory Panel on Medicare Education—March 22, 2005: Location Change.
March 8, 2005	11420	401 and 405	CMS–4064–IFC	Medicare Program; Changes to the Medicare Claims Appeal Procedures.
March 11, 2005	12691		CMS–1269–N3	Medicare Program; Emergency Medical Treatment and Labor Act (EMTALA) Technical Advisory Group (TAG) Meeting and Announcement of Members.
March 21, 2005	13401	417 and 422	CMS–4069–F2	Medicare Program; Establishment of the Medicare Advantage Program; Interpretation.
March 21, 2005	13397	400, 403, 411, 417, and 423.	CMS–4068–F2	Medicare Program; Medicare Prescription Drug Benefit; Interpretation.
March 25, 2005	15394		CMS–4080–N	Medicare Program; Recognition of NAIC Model Standards for Regulation of Medicare Supplemental Insurance.
March 5, 2005	15343		CMS–5033–N3	Medicare Program; Meeting of the Advisory Board on the Demonstration of a Bundled Case-Mix Adjusted Payment System for End-Stage Renal Disease Services.

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER JANUARY THROUGH MARCH 2005—Continued

Publication date	FR Vol. 70 page No.	CFR parts affected	File code	Title of regulation
March 25, 2005	15341		CMS–3151–N	Medicare Program; Meeting of the Medicare Coverage Advisory Committee—May 24, 2005.
March 25, 2005	15340		CMS–1297–N	Medicare Program; Public Meetings in Calendar Year 2005 for All New Public Requests for Revisions to the Healthcare Common Procedures Coding System (HCPS) Coding and Payment Determinations.
March 25, 2005	15337		CMS–3112–FN	Medicare Program; Disapproval of Adjustment in Payment Amounts for New Technology Intraocular Lenses Furnished by Ambulatory Surgical Centers.
March 25, 2005	15335		CMS–2256–FN	Medicare and Medicaid Programs; Reapproval of the Deeming Authority of the Community Health Accreditation Program (CHAP) for Home Health Agencies.
March 25, 2005	15333		CMS–2208—FN	Medicare and Medicaid Programs; Recognition of the American Osteopathic Association (AOA) for Continued Approval of Deeming Authority for Hospitals.
March 25, 2005	15331		CMS–2204–FN	Medicare and Medicaid Programs; Reapproval of the Deeming Authority of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for Home Health Agencies.
March 25, 2005	15329		CMS–0014–N	Procedures for Non-Privacy Administrative Simplification Complaints Under the Health Insurance Portability and Accountability Act of 1996.
March 25, 2005	15324		CMS–2211–N	Medicare, Medicaid, and CLIA Programs; Continuance of the Approval of the American Society for Histocompatibility and Immunogentics as a CLIA Accreditation Organization.
March 25, 2005	15266	482	CMS–3122–P	Medicare and Medicaid Programs; Hospital Conditions of Participation: Requirements for History and Physical Examinations; Authentication of Verbal Orders; Securing Medications; and Postanesthesia Evaluations.
March 25, 2005	15265	413, 441, 486, and 498	CMS–3064–N	Medicare and Medicaid Programs; Conditions for Coverage for Organ Procurement Organizations (OPOs); Extension of Comment Period.
March 25, 2005	15264	405, 482, and 488	CMS–3835–N	Medicare Program; Hospital Conditions of Participation: Requirements for Approval and Re-Approval of Transplant Centers To Perform Organ Transplants; Extension of Comment Period.
March 25, 2005	15229	403, 416, 418, 460, 482, 483, and 485.	CMS–3145–IFC	Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities; Amendment.

Addendum V.—National Coverage Determinations [January Through March 2005]

A national coverage determination (NCD) is a determination by the Secretary with respect to whether or not a particular item or service is covered nationally under Title XVIII of the Social Security Act, but does not include a determination of what code, if any, is assigned to a particular item or service covered under this title, or determination with respect to the amount of payment made for a particular item or service so covered. We include below all of the NCDs that were issued during the quarter covered by this notice. The entries below include information concerning completed decisions as well as sections on program and decision memoranda, which also announce pending decisions or, in some cases, explain why it was not appropriate to issue an NCD. We identify completed decisions by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. Information on completed decisions as well as pending decisions has also been posted on the CMS Web site at *http://cms.hhs.gov/coverage*.

NATIONAL COVERAGE DETERMINATIONS

[January Through March 2005]

Title	NCDM section	TN No.	Issue date	Effective date
Infusion Pumps: C-Peptide Levels as a Criterion for Use	280.14	R27NCD	02/04/05	12/17/04
Update of Laboratory NCDs to Reference New Screening Benefits	190.20/190.23	R28NCD	02/11/05	01/01/05
Implantable Automatic Defibrillators	20.4	R29NCD	03/04/05	01/27/05

NATIONAL COVERAGE DETERMINATIONS—Continued

[January Through March 2005]

Title	NCDM section	TN No.	Issue date	Effective date
Anti-Cancer Chemotherapy for Colorectal Cancer	110.17	R30NCD	03/29/05	01/28/05

Addendum VI. FDA-Approved Category B IDEs [January Through March 2005]

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c) devices fall into one of three classes. To assist CMS under this categorization process, the FDA assigns one of two categories to each FDA-approved IDE. Category A refers to experimental IDEs, and Category B refers to non-experimental IDEs. To obtain more information about the classes or categories, please refer to the **Federal Register** notice published on April 21, 1997 (62 FR 19328).

The following list includes all Category B IDEs approved by FDA during the first quarter, January through March 2005.

IDE	Category
G030069.	
G040051.	
G040161.	
G040166.	
G040195.	
G040196.	
G040218.	
G040219.	
G040224.	
G040227.	
G040228.	
G040230.	
G040232.	
G040233.	
G050001.	
G050004.	
G050009.	
G050011.	
G050018.	
G050019.	
G050021.	

IDE	Category
G050022.	
G050024.	
G050026.	
G050029.	
G050034.	
G050038.	
G050043.	
G050045.	

Addendum VII.—Approval Numbers for Collections of Information

Below we list all approval numbers for collections of information in the referenced sections of CMS regulations in Title 42; Title 45, Subchapter C; and Title 20 of the Code of Federal Regulations, which have been approved by the Office of Management and Budget:

OMB control Nos.	Approved CFR Sections in Title 42, Title 45, and Title 20 (Note: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")
0938–0008	414.40, 424.32, 424.44
0938–0022	413.20, 413.24, 413.106
0938–0023	424.103
0938–0025	406.28, 407.27
0938–0027	486.100–486.110
0938–0033	405.807
0938–0035	407.40
0938–0037	413.20, 413.24
0938–0041	408.6, 408.22
0938–0042	410.40, 424.124
0938–0045	405.711
0938–0046	405.2133
0938–0050	413.20, 413.24
0938–0062	431.151, 435.1009, 440.220, 440.250, 442.1, 442.10–442.16, 442.30, 442.40, 442.42, 442.100–442.119, 483.400–483.480, 488.332, 488.400, 498.3–498.5
0938–0065	485.701–485.729
0938–0074	491.1–491.11
0938–0080	406.7, 406.13
0938–0086	420.200–420.206, 455.100–455.106
0938–0101	430.30
0938–0102	413.20, 413.24
0938–0107	413.20, 413.24
0938–0146	431.800–431.865
0938–0147	431.800–431.865, 493.1405, 493.1411, 493.1417, 493.1423, 493.1443, 493.1449, 493.1455
0938–0151	493.1461, 493.1469, 493.1483, 493.1489
0938–0155	405.2470
0938–0170	493.1269–493.1285
0938–0193	430.10–430.20, 440.167
0938–0202	413.17, 413.20
0938–0214	411.25, 489.2, 489.20
0938–0236	413.20, 413.24
0938–0242	442.30, 488.26
0938–0245	407.10, 407.11
0938–0246	431.800–431.865
0938–0251	406.7
0938–0266	416.41, 416.47, 416.48, 416.83
0938–0267	410.65, 485.56, 485.58, 485.60, 485.64, 485.66
0938–0269	412.116, 412.632, 413.64, 413.350, 484.245
0938–0270	405.376
0938–0272	440.180, 441.300–441.305

OMB control Nos.	Approved CFR Sections in Title 42, Title 45, and Title 20 (Note: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")
0938–0273	485.701–485.729
0938–0279	424.5
0938–0287	447.31
0938–0296	413.170, 413.184
0938–0301	413.20, 413.24
0938–0302	418.22, 418.24, 418.28, 418.56, 418.58, 418.70, 418.74, 418.83, 418.96, 418.100
0938–0313	489.11, 489.20
0938–0328	482.12, 482.13, 482.21, 482.22, 482.27, 482.30, 482.41, 482.43, 482.45, 482.53, 482.56, 482.57, 482.60, 482.61, 482.62, 482.66, 485.618, 485.631
0938–0334	491.9, 491.10
0938–0338	486.104, 486.106, 486.110
0938–0354	441.60
0938–0355	442.30, 488.26
0938–0357	409.40–409.50, 410.36, 410.170, 411.4–411.15, 421.100, 424.22, 484.18, 489.21
0938–0358	412.20–412.30
0938–0359	412.40–412.52
0938–0360	488.60
0938–0365	484.10, 484.11, 484.12, 484.14, 484.16, 484.18, 484.20, 484.36, 484.48, 484.52
0938–0372	414.330
0938–0378	482.60–482.62
0938–0379	442.30, 488.26
0938–0382	442.30, 488.26
0938–0386	405.2100–405.2171
0938–0391	488.18, 488.26, 488.28
0938–0426	476.104, 476.105, 476.116, 476.134
0938–0429	447.53
0938–0443	473.18, 473.34, 473.36, 473.42
0938–0444	1004.40, 1004.50, 1004.60, 1004.70
0938–0445	412.44, 412.46, 431.630, 456.654, 466.71, 466.73, 466.74, 466.78
0938–0447	405.2133
0938–0448	405.2133, 45 CFR 5, 5b; 20 CFR parts 401, 422E
0938–0449	440.180, 441.300–441.310
0938–0454	424.20
0938–0456	412.105
0938–0463	413.20, 413.24, 413.106
0938–0467	431.17, 431.306, 435.910, 435.920, 435.940–435.960
0938–0469	417.126, 422.502, 422.516
0938–0470	417.143, 417.800–417.840, 422.6
0938–0477	412.92
0938–0484	424.123
0938–0501	406.15
0938–0502	433.138
0938–0512	486.304, 486.306, 486.307
0938–0526	475.102, 475.103, 475.104, 475.105, 475.106
0938–0534	410.38, 424.5
0938–0544	493.1–493.2001
0938–0564	411.32
0938–0565	411.20–411.206
0938–0566	411.404, 411.406, 411.408
0938–0573	412.230, 412.256
0938–0578	447.534
0938–0581	493.1–493.2001
0938–0599	493.1–493.2001
0938–0600	405.371, 405.378, 413.20
0938–0610	417.436, 417.801, 422.128, 430.12, 431.20, 431.107, 434.28, 483.10, 484.10, 489.102
0938–0612	493.801, 493.803, 493.1232, 493.1233, 493.1234, 493.1235, 493.1236, 493.1239, 493.1241, 493.1242, 493.1249, 493.1251, 493.1252, 493.1253, 493.1254, 493.1255, 493.1256, 493.1261, 493.1262, 493.1263, 493.1269, 493.1273, 493.1274, 493.1278, 493.1283, 493.1289, 493.1291, 493.1299
0938–0618	433.68, 433.74, 447.272
0938–0653	493.1771, 493.1773, 493.1777
0938–0657	405.2110, 405.2112
0938–0658	405.2110, 405.2112
0938–0667	482.12, 488.18, 489.20, 489.24
0938–0679	410.38
0938–0685	410.32, 410.71, 413.17, 424.57, 424.73, 424.80, 440.30, 484.12
0938–0686	493.551–493.557
0938–0688	486.304, 486.306, 486.307, 486.310, 486.316, 486.318, 486.325
0938–0690	488.4–488.9, 488.201
0938–0691	412.106
0938–0692	466.78, 489.20, 489.27
0938–0701	422.152
0938–0702	45 CFR 146.111, 146.115, 146.117, 146.150, 146.152, 146.160, 146.180
0938–0703	45 CFR 148.120, 148.124, 148.126, 148.128

OMB control Nos.	Approved CFR Sections in Title 42, Title 45, and Title 20 (Note: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")
0938–0714	411.370–411.389
0938–0717	424.57
0938–0721	410.33
0938–0723	421.300–421.318
0938–0730	405.410, 405.430, 405.435, 405.440, 405.445, 405.455, 410.61, 415.110, 424.24
0938–0732	417.126, 417.470
0938–0734	45 CFR 5b
0938–0739	413.337, 413.343, 424.32, 483.20
0938–0742	422.300–422.312
0938–0749	424.57
0938–0753	422.000–422.700
0938–0754	441.151, 441.152
0938–0758	413.20, 413.24
0938–0760	Part 484 subpart E, 484.55
0938–0761	484.11, 484.20
0938–0763	422.1–422.10, 422.50–422.80, 422.100–422.132, 422.300–422.312, 422.400–422.404, 422.560–422.622
0938–0770	410.2
0938–0778	422.64, 422.111
0938–0779	417.126, 417.470, 422.64, 422.210
0938–0781	411.404–411.406, 484.10
0938–0786	438.352, 438.360, 438.362, 438.364
0938–0787	406.28, 407.27
0938–0790	460.12, 460.22, 460.26, 460.30, 460.32, 460.52, 460.60, 460.70, 460.71, 460.72, 460.74, 460.80, 460.82, 460.98, 460.100, 460.102, 460.104, 460.106, 460.110, 460.112, 460.116, 460.118, 460.120, 460.122, 460.124, 460.132, 460.152, 460.154, 460.156, 460.160, 460.164, 460.168, 460.172, 460.190, 460.196, 460.200, 460.202, 460.204, 460.208, 460.210
0938–0792	491.8, 491.11
0938–0798	413.24, 413.65, 419.42
0938–0802	419.43
0938–0818	410.141, 410.142, 410.143, 410.144, 410.145, 410.146, 414.63
0938–0829	422.568
0938–0832	Parts 489 and 491
0938–0833	483.350–483.376
0938–0841	431.636, 457.50, 457.60, 457.70, 457.340, 457.350, 457.431, 457.440, 457.525, 457.560, 457.570, 457.740, 457.750, 457.810, 457.940, 457.945, 457.965, 457.985, 457.1005, 457.1015, 457.1180
0938–0842	412.23, 412.604, 412.606, 412.608, 412.610, 412.614, 412.618, 412.626, 413.64
0938–0846	411.352–411.361
0938–0857	Part 419
0938–0860	Part 419
0938–0866	45 CFR part 162
0938–0872	413.337, 483.20
0938–0873	422.152
0938–0874	45 CFR parts 160 and 162
0938–0878	Part 422 subpart F & G
0938–0883	45 CFR parts 160 and 164
0938–0884	405.940
0938–0887	45 CFR 148.316, 148.318, 148.320
0938–0897	412.22, 412.533
0938–0907	412.230, 412.304, 413.65
0938–0910	422.620, 422.624, 422.626
0938–0911	426.400, 426.500
0938–0916	483.16
0938–0920	438.6, 438.8, 438.10, 438.12, 438.50, 438.56, 438.102, 438.114, 438.202, 438.206, 438.207, 438.240, 438.242, 438.402, 438.404, 438.406, 438.408, 438.410, 438.414, 438.416, 438.710, 438.722, 438.724, 438.810
0938–0921	414.804
0938–0931	45 CFR part 142.408, 162.408, and 162.406
0938–0933	438.50
0938–0934	403.766
0938–0936	423
0938–0940	484 and 488
0938–0944	422.250, 422.252, 422.254, 422.256, 422.258, 422.262, 422.264, 422.266, 422.270, 422.300, 422.304, 422.306, 422.308, 422.310, 422.312, 422.314, 422.316, 422.318, 422.320, 422.322, 422.324, 423.251, 423.258, 423.265, 423.272, 423.279, 423.286, 423.293, 423.301, 423.308, 423.315, 423.322, 423.329, 423.336, 423.343, 423.346, 423.350

Addendum VIII—Medicare-Approved Carotid Stent Facilities (January Through March 2005)

On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high risk patients.

Facility	Provider No.	Effective date
1. Advocate Christ Medical Center, 4440 West 95th Street, Oak Lawn, IL 60453	140208	05/03/2005
2. Advocate Lutheran General Hospital, 1775 Dempster Street, Park Ridge, IL 60068	140223	05/05/2005
3. Aiken Regional Medical Centers, 302 University Parkway, P.O. Drawer 1117, Aiken, SC 29802–1117	420082	05/10/2005
4. Akron General Medical Center, 400 Wabash Avenue, Akron, OH 44266	360027	05/16/2005
5. Albany Medical Center Hospital, 43 New Scotland Avenue, Albany, NY 12208	330013	05/16/2005
6. Alexian Brothers Medical Center, 800 W. Biesterfied Road, Elk Grove Village, IL 60007	140258	04/18/2005
7. Allegheny General Hospital, 320 East North Avenue, Pittsburgh, PA 15212–4772	390050	05/11/2005
8. Arizona Heart Hospital, 1930 E. Thomas Road, Phoenix, AZ 85016	030102	04/18/2005
9. Aspirus Wausau Hospital, Inc, 333 Pine Ridge Boulevard, Wausau, WI 54401	520030	05/10/2005
10. Aurora Sinai Medical Center, 945 N. 12th Street, Milwaukee, WI 53201	520064	05/03/2005
11. Avera Heart Hospital of South Dakota, 4500 West 69th Street, Sioux Falls, SD 57108	430095	05/05/2005
12. Bakersfield Heart Hospital, 3001 Sillect Avenue, Bakersfield, CA 93308	050724	05/25/2005
13. Bakersfield Memorial Hospital, 420 34th Street, Bakersfield, CA 93301	050036	05/23/2005
14. The Baldwin County Eastern Shore Health Care Authority, d/b/a Thomas Hospital, 750 Morphy Avenue, Fairhope, AL 36532	010100	04/07/2005
15. Banner Good Samaritan Medical Center, 1111 E. McDowell Road, Phoenix, AZ 85006	030002	05/23/2005
16. Baptist Hospital East, 4000 Kresge Way, Louisville, KY 40207	180130	04/12/2005
17. Baptist Hospital of East Tennessee, 137 Blount Avenue, Knoxville, TN 37920	440019	04/12/2005
18. Baptist Hospital-Pensacola, 1000 West Moreno Street, Post Office Box 17500, Pensacola, FL 32522–7500	100093	04/27/2005
19. Baptist Medical Center, 1225 North State Street, Jackson, MS 39202	250102	05/05/2005
20. Baptist Medical Center South, 2105 East South Boulevard, P.O. Box 11010, Montgomery, AL 36111–0010	010023	04/20/2005
21. Baptist Memorial Hospital, 6019 Walnut Grove Road, Memphis, TN 38120	440048	04/18/2005
22. Baptist Memorial Hospital-DeSoto, 7601 Southcrest Parkway, Southaven, MS 38671	250141	05/05/2005
23. Baptist Montclair Medical Center, 800 Montclair Road, Birmingham, AL 35213	010104	04/26/2005
24. Barnes-Jewish Hospital, One Barnes-Jewish Hospital Plaza, St. Louis, MO 63110	260032	05/05/2005
25. Bay Medical Center, 615 North Bonita Avenue, Panama City, FL 32401	100026	05/23/2005
26. Baystate Medical Center, 759 Chestnut Street, Springfield, MA 01199	220077	05/16/2005
27. Benefis Healthcare, 1101 26th Street South, Great Falls, MT 59405	270012	05/26/2005
28. Bethesda Hospital, 10500 Montgomery Road, Cincinnati, OH 45242–9508	360179	05/05/2005
29. Blanchard Valley Regional Health Center, 145 West Wallace Street, Findlay, OH 45840	360095	05/26/2005
30. Borgess Medical Center, 1521 Gull Road, Kalamazoo, MI 49048	020117	04/12/2005
31. Bon Secours St. Mary's Hospital, 5801 Bremo Road, Richmond, VA 23226	490059	04/01/2005
32. Brigham and Women's Hospital, 75 Francis Street, Boston, MA 02115	220110	05/16/2005
33. Caritas St. Elizabeth's Medical Center, 736 Cambridge Street, Boston, MA 02135–2997	220036	04/26/2005
34. Cascade Healthcare Community, Dba: St Charles Medical Center Bend, 2500 NE. Neff Road, Bend, OR 97701	380040	05/03/2005
35. Central Baptist Hospital, 1740 Nicholasville Road, Lexington, KY 40503	180103	04/27/2005
36. Central Dupage Hospital, 25 North Winfield Road, Winfield, IL 60190	140242	05/26/2005
37. Central Georgia Health Systems, dba The Medical Center of Central Georgia, 777 Hemlock Street, Macon, GA 31208	110107	05/11/2005
38. Charleston Area Medical Center, 3200 MacCorkle Avenue, SE, Charleston, WV 25304	510022	04/27/2005
39. Charlotte Regional Medical Center, 809 East Marion Avenue, Punta Gorda, FL 33950	100047	05/11/2005
40. [The] Christ Hospital, 2139 Auburn Avenue, Cincinnati, OH 45219	360163	05/26/2005
41. Christiana Care Health Services, 4755 Ogletown-Stanton Road, P.O. Box 6001, Newark, DE 19718–6001	080001	05/23/2005
42. CHRISTUS St. Frances Cabrini Hospital, 3330 Masonic Drive, Alexandria, LA 71301	190019	04/18/2005
43. CJW Medical Center, Chippenham Hospital, 7101 Jahnke Road, Richmond, VA 23225	490112	05/03/2005
44. Clarian Health Partners, Inc, I–65 at 21st Street, P.O. Box 1367, Indianapolis, IN 46206–1367	150056	05/23/2005
45. Clear Lake Regional Medical Center, 500 Medical Center Blvd, Webster, TX 77598	450617	04/01/2005
46. The Cleveland Clinic Foundation, 9500 Euclid Avenue, Cleveland, OH 44195	360180	04/12/2005
47. College Station Medical Center, 1604 Rock Prairie Road, College Station, TX 77845	450299	05/25/2005
48. Community Health Partners, 3700 Kolbe Road, Lorain, OH 44053–1697	360172	05/23/2005
49. Dartmouth Hitchcock Medical Center, One Medical Center Drive, Lebanon, NH 03756	300003	04/27/2005
50. Deaconess Medical Center, PO Box 248, Spokane, WA 99210–0248	500044	05/10/2005
51. Doylestown Hospital, 595 West State Street, Doylestown, PA 18901	390203	04/27/2005
52. Eastern Maine Medical Center, 489 State Street, P.O. Box 404, Bangor, ME 04402–404	200033	04/18/2005
53. El Camino Hospital, 2500 Grant Road, P.O. Box 7025, Mountain View, CA 94039–7025	050308	05/10/2005
54. Eliza Coffee Memorial Hospital, P.O. Box 818, Florence, AL 35631	010006	05/05/2005
55. EMH Regional Medical Center, 630 East River Street, Elyria, OH 44035	360145	05/23/2005
56. Emory Crawford Long Hospital, 550 Peachtree Street, NE, Atlanta, GA 30308–2225	110078	05/16/2005
57. Emory University Hospital, 1364 Clifton Road, NE, Atlanta, GA 30322	110010	04/04/2005
58. Erlanger Health System, 975 East Third Street, Chattanooga, TN 37403	440104	05/23/2005
59. Evanston Hospital, 2650 Ridge Avenue, Evanston, IL 60201	140010	03/30/2005
60. Exempla St. Joseph Hospital, 1835 Franklin Street, Denver, CO 80218–1191	060009	05/10/2005
61. Fletcher Allen Health Care, Medical Center Campus, 111 Colchester Avenue, Burlington, VT 05401–1473	470003	05/26/2005
62. Forsyth Medical Center, 3333 Silas Creek Parkway, Winston Salem, NC 27103	340014	04/20/2005
63. Fort Sanders Regional Medical Center, 1901 W. Clinch Avenue, Knoxville, TN 37916–2398	440125	05/11/2005
64. Fort Walton Beach Medical Center, 1000 Mar Walt Drive, Fort Walton Beach, FL 32547	100223	04/14/2005
65. Fresno Heart Hospital, 15 E. Audubon Drive, Fresno, CA 93720	050732	04/26/2005
66. Fountain Valley Regional Hospital and Medical Center, 17100 Euclid Street, P.O. Box 8010, Fountain Valley, CA 92708	050570	04/26/2005
67. Galichia Heart Hospital, 2610 N. Woodlawn, Wichita, KS 67220–2729	170192	05/16/2005
68. Geisinger Medical Center, 100 North Academy Avenue, Danville, PA 17822	390006	05/05/2005
69. Geisinger Wyoming Valley Medical Center, 1000 East Mountain Boulevard, Wilkes-Barre, PA 18711	390270	05/05/2005
70. Good Samaritan Hospital, 1225 Wilshire Boulevard, Los Angeles, CA 90017	050471	04/12/2005

Facility	Provider No.	Effective date
71. Good Samaritan Hospital, 2425 Samaritan Drive, San Jose, CA 95124	050380	04/12/2005
72. Good Samaritan Hospital, 255 Lafayette Avenue, Suffern, NY 10901	330158	04/27/2005
73. Good Samaritan Hospital, 2222 Philadelphia Drive, Dayton, OH 45406–1891	360052	05/25/2005
74. Good Samaritan Hospital, 375 Dixmyth Avenue, Cincinnati, OH 45220–489	360134	04/18/2005
75. Grandview Hospital and Medical Center, 405 Grand Avenue, Dayton, OH 45405	360133	05/05/2005
76. Greater Baltimore Medical Center, 6701 N. Charles Street, Baltimore, MD 21204	210044	05/11/2005
77. Hackensack University Medical Center, 30 Prospect Avenue, Hackensack, NJ 07601	310001	04/27/2005
78. Hahnemann University Hospital/Tenet, 230 N. Broad Street, Mailstop 119, Philadelphia, PA 19102–1192	390290	05/10/2005
79. Hamot Medical Center, 201 State Street, Erie, PA 16550	390063	05/05/2005
80. Harbor-UCLA Medical Center, 1000 West Carson Street, Torrance, CA 90502	050376	04/12/2005
81. Harper-Hutzel Hospital, 3990 John R Street, Detroit, MI 48201	230104	04/19/2005
82. Harris Methodist Fort Worth Hospital, 1301 Pennsylvania Avenue, Fort Worth, TX 76104	450135	04/20/2005
83. Harris Methodist HEB, 1600 Hospital Parkway, Bedford, TX 76022	450639	05/16/2005
84. Hartford Hospital, 80 Seymour Street, P.O. Box 5037, Hartford, CT 06102–5037	070025	05/23/2005
85. Hays Medical Center, 2220 Canterbury Road, Hays, KS 67601	170013	05/23/2005
86. Hennepin County Medical Center, 701 Park Avenue, Minneapolis, MN 55415–1829	240004	05/16/2005
87. Hialeah Hospital, 651 East 25th Street, Hialeah, FL 33013	100053	05/05/2005
88. High Point Regional Health System, 601 North Elm Street, P.O. Box HP–5, High Point, NC 27261	340004	05/16/2005
89. Hillcrest Hospital, 6780 Mayfield Road, Mayfield Hts., OH 44124	360230	05/16/2005
90. Hoag Memorial Hospital Presbyterian, One Hoag Drive, Newport Beach, CA 92663	050224	04/04/2005
91. Hospital of the University of Pennsylvania, 3400 Spruce Street, Philadelphia, PA 19104	390111	05/23/2005
92. Hunterdon Medical Center, 2100 Wescott Drive, Flemington, NJ 08822	310005	04/12/2005
93. Huntington Hospital, 100 W. California Boulevard, P.O. Box 7013, Pasadena, CA 91109–7013	050438	05/05/2005
94. Iowa Methodist Medical Center, 1200 Pleasant Street, Des Moines, IA 50309	160082	04/18/2005
95. Irvine Regional Hospital & Medical Center, 16200 Sand Canyon Avenue, Irvine, CA 92618	050693	05/10/2005
96. Jewish Hospital, 200 Abraham Flexner Way, Louisville, KY 40202	180040	04/12/2005
97. John Muir Medical Center, 1601 Ygnacio Valley Road, Walnut Creek, CA 94598–3194	050180	05/10/2005
98. Jupiter Medical Center, 1210 S. Old Dixie Hwy, Jupiter, FL 33458	100253	04/20/2005
99. Kaleida Health, Millard Fillmore Hospital, 3 Gates Circle, Buffalo, NY 14209	330005	05/03/2005
100. Kansas Heart Hospital, 3601 N. Webb Road, Wichita, KS 67226	170186	05/23/2005
101. Kent Hospital, 455 Toll Gate Road, Warwick, RI 02886	410009	04/20/2005
102. Kettering Medical Center, 3535 Southern Blvd, Kettering, OH 45429	360079	05/05/2005
103. King's Daughters Medical Center, 2201 Lexington Avenue, Ashland, KY 41101	180009	05/23/2005
104. Lakeland Hospital, 1234 Napier Avenue, St. Joseph, Mi 49085	230021	04/04/2005
105. Lakeland Regional Medical Center, 1324 Lakeland Hills Boulevard, Lakeland, FL 33805	100157	05/25/2005
106. Lakeview Regional Medical Center, 95 E. Fairway Drive, Covington, LA 70433	190177	05/03/2005
107. Lawnwood Medical Center, Inc, d/b/a Lawnwood Regional Medical Center and Heart Institute, 1700 South 23rd Street, Fort Pierce, FL 34950	100246	04/20/2005
108. LDS Hospital, 8th Avenue and C Street, Salt Lake City, UT 84143	460010	04/20/2005
109. Lee's Summit Hospital, 530 NW. Murray Road, Lee's Summit, MO 64081	260190	05/17/2005
110. Lenox Hill Hospital, 100 East 77 Street, New York, NY 10021	330119	05/16/2005
111. Los Alamitos Medical Center, 3751 Katella Avenue, Los Alamitos, CA 90720	050551	05/23/2005
112. Los Robles Hospital and Medical Center, 215 West Janss Road, Thousand Oaks, CA 91360	050549	05/16/2005
113. Louisiana Heart Hospital, 64030 Louisiana Highway 434, Lacombe, LA 70445	190250	04/01/2005
114. Lourdes Vascular Center, Lourdes Hospital, 1530 Lone Oak Road, Paducah, KY 42003	180102	03/30/2005
115. Loyola University Medical Center, 2160 South First Avenue, Maywood, IL 60153	140276	05/05/2005
116. Lutheran Hospital of Indiana, 7950 West Jefferson Boulevard, Fort Wayne, IN 46804	150017	04/18/2005
117. Maricopa Integrated Health System, Maricopa Medical Center, Cardiac Catheterization Laboratory, 2601 E. Roosevelt, Phoenix, AZ 85008	032595	05/23/2005
118. Martha Jefferson Hospital, 459 Locust Avenue, Charlottesville, VA 22902	490077	04/07/2005
119. Mary Greeley Medical Center, 1111 Duff Avenue, Ames, IA 50010	160030	03/30/2005
120. Massachusetts General Hospital, 55 Fruit Street, Boston, MA 02114	220071	05/03/2005
121. Mayo Clinic Hospital, 5777 East Mayo Boulevard, Phoenix, AZ 85054	030103	05/23/2005
122. Medical Center of Plano, 3901 West 15th Street, Plano, TX 75075	450651	05/16/2005
123. Medical College of Ohio, 3000 Arlington Avenue, Toledo, OH 43614	360048	04/27/2005
124. Medical University of South Carolina Hospital Authority, 169 Ashley Avenue, PO Box 250347, Charleston, SC 29425	420004	05/26/2005
125. Memorial Hospital Jacksonville, 3625 University Boulevard, South, Jacksonville, FL 32216	100179	04/27/2005
126. Memorial Medical Center, 2700 Napoleon Ave, New Orleans, LA 70115	190135	05/16/2005
127. Mercy Health Center, 4300 West Memorial Road, Oklahoma City, OK 73120–8304	370013	04/12/2005
128. Mercy Hospital, 500 E. Market Street, Iowa City, IA 52245	160029	05/05/2005
129. Mercy Hospital Fairfield, 3000 Mack Road, Fairfield, OH 45014	360056	05/17/2005
130. Mercy Hospital and Medical Center, 2525 South Michigan Avenue, Chicago, IL 60616	140158	05/05/2005
131. Mercy Medical Center, 701 10th Street SE, Cedar Rapids, IA 52403	160079	04/07/2005
132. Mercy Medical Center, 1111 6th Avenue, Des Moines, IA 50314	160083	04/12/2005
133. Mercy Medical Center, 301 St. Paul Place, Baltimore, MD 21202	210008	05/25/2005
134. Methodist Hospital, 300 West Huntington Drive, P.O. Box 60016, Arcadia, CA 91066–6016	050238	04/12/2005
135. Methodist Medical Center of Oak Ridge, 990 Oak Ridge Turnpike, Oak Ridge, TN 37830	440034	05/03/2005
136. Mid Michigan Medical Center-Midland, 4005 Orchard Drive, Midland, MI 48670	230222	05/10/2005
137. Missouri Baptist Medical Center, 3015 N. Ballas Road, St. Louis, MO 63131	260108	05/23/2005
138. Morton Plant Hospital, 300 Pinellas Street, Clearwater, FL 33756	100127	05/16/2005
139. Moses H. Cone Memorial Hospital, 1200 N. Elm Street, Greensboro, NC 27401	340091	04/18/2005
140. Mount Carmel St. Ann's Hospital, 500 South Cleveland Avenue, Westerville, OH 43081–8998	360012	05/25/2005
141. Mount Diablo Medical Center, 2540 East Street, PO Box 4110, Concord, CA 94524–4110	050496	05/10/2005

Facility	Provider No.	Effective date
142. [The] Mount Sinai Hospital, 1 Gustave L. Levy Place, New York, NY 10029	330024	05/26/2005
143. Mount Sinai Medical Center, 4300 Alton Road, Miami Beach, FL 33140	100034	04/07/2005
144. Mountain View Regional Medical Center, 4311 E. Lohman Avenue, Las Cruces, NM 88011	320085	04/26/2005
145. Munroe Regional Medical Center, 1500 SW. 1st Avenue, Ocala, FL 34474	100062	05/23/2005
146. New York Presbyterian Hospital, 161 Ft. Washington Avenue, HIP1412, New York, NY 10032	330101	05/05/2005
147. Norman Regional Hospital, 901 North Porter, Box 1308, Norman, OK 73070–1308	370008	05/23/2005
148. North Austin Medical Center, 12221 MoPac Expressway North, Austin, TX 78758	450809	04/12/2005
149. North Florida Regional Medical Center, 6500 Newberry Road, Gainesville, FL 32605	100204	04/19/2005
150. North Memorial Health Care, 3300 Oakdale Avenue North, Robbinsdale, MN 55422	240001	05/26/2005
151. North Oakland Medical Centers, 461 W. Huron Street, Pontiac, MI 48341–1651	230013	05/03/2005
152. Northeast Methodist Hospital, 12412 Judson Road, Live Oak, TX 78233	450388	05/11/2005
153. Northwestern Memorial Hospital, 251 East Huron Street, Chicago, IL 60611	140281	04/26/2005
154. Norton Healthcare, P.O. Box 35070, Louisville, KY 40232–5070	180088	05/03/2005
155. Ochsner Clinic Foundation, Department of Cardiology, 1514 Jefferson Highway, New Orleans, LA 70121–2483	190036	04/12/2005
156. Ohio State University, University Medical Center, 452 West 10th Avenue, Columbus, OH 43210	360085	05/05/2005
157. Oklahoma Heart Hospital, 4050 West Memorial Road, Oklahoma City, OK 73120	370215	05/23/2005
158. Orlando Regional Healthcare System, Inc, 1414 Kuhl Avenue, Orlando, FL 32806	100006	05/23/2005
159. [The] Ortenzio Heart Center and Holy Spirit, 503 North 21st Street, Camp Hill, PA 17011–2288	390004	04/27/2005
160. OSF Saint Francis Medical Center, 530 NE. Glen Oak Avenue, Peoria, IL 61637	140067	04/27/2005
161. Our Lady of Bellefonte Hospital, St. Christopher Drive, Ashland, KY 41101	180036	05/26/2005
162. Our Lady of Lourdes Medical Center, 1600 Haddon Avenue, Camden, NJ 08103	310029	05/05/2005
163. Our Lady of Lourdes Regional Medical Center, 611 St. Landry Street, Lafayette, LA 70506	190102	05/03/2005
164. Palomar Medical Center, 555 East Valley Parkway, Escondido, CA 92025	050115	05/10/2005
165. Parkwest Medical Center, 9352 Park West Boulevard, Knoxville, TN 37923	440173	05/05/2005
166. Parkview Hospital, 2200 Randallia Drive, Fort Wayne, IN 46805	150021	05/11/2005
167. Parma Community General Hospital, 7007 Powers Boulevard, Parma, OH 44129–5495	360041	05/05/2005
168. Phoenix Baptist Hospital, Cardiac Catheterization Laboratory/Interventional Radiology Suite, 2000 West Bethany Home Road, Phoenix, AZ 85015	030030	04/01/2005
169. Phoenix Memorial Hospital, Cardiac Catheterization Laboratory/Interventional Radiology Suite, 1201 South 7th Avenue, Phoenix, AZ 85007	030106	05/16/2005
170. Pinnacle Health Hospitals, 111 South Front Street, Harrisburg, PA 17101	390067	05/23/2005
171. Plaza Medical Center of Fort Worth, 900 Eighth Avenue, Fort Worth, TX 76104	450672	05/23/2005
172. Pomerado Hospital, 15615 Pomerado Road, Poway, CA 92064	050636	05/10/2005
173. Presbyterian Hospital of Dallas, 8200 Walnut Hill Lane, Dallas, TX 75231–4496	450462	05/10/2005
174. Princeton Baptist Medical Center, 701 Princeton Avenue, SW, Birmingham, AL 35211–1399	010103	04/12/2005
175. Provena Saint Joseph Hospital, 77 North Airlite Street, Elgin, IL 60123–4912	140217	05/11/2005
176. Providence Portland Medical Center, 4805 Northeast Glisan Street, Portland, OR 97213–2967	380061	05/16/2005
177. Providence St. Vincent Medical Center, 9205 S.W. Barnes Road, Portland, OR 97225	380004	05/16/2005
178. Rapid City Regional Hospital, 353 Fairmont Boulevard, Rapid City, SD 57701	430077	05/26/2005
179. Rapides Regional Medical Center, Box 30101, 211 Fourth Street, Alexandria, LA 71301–8454	190026	05/23/2005
180. Research Medical Center, 2316 East Meyer Boulevard, Kansas City, MO 64132	260027	05/23/2005
181. Resurrection Medical Center, 7435 West Talcott, Chicago, Illinois 60631	140117	04/12/2005
182. Riverside Methodist Hospital, 3535 Olentangy River Road, Columbus, OH 43214	360006	04/20/2005
183. Robert Packer Hospital, One Guthrie Square, Sayre, PA 18840–1698	390079	04/18/2005
184. Rogue Valley Medical Center, 2825 East Barnett Road, Medford, OR 97504	380018	05/05/2005
185. Rush University Medical Center, 1725 West Harrison Street, Suite 364, Chicago, IL 60612–3824	140119	04/20/2005
186. Sacred Heart Health System, 5151 N. Ninth Avenue, P.O. Box 2700, Pensacola, FL 32513	100025	05/05/2005
187. Sacred Heart Medical Center, Oregon Heart & Vascular Institute, 1255 Hilyard Street, P.O. Box 10905, Eugene, OR 97440	380033	05/26/2005
188. Saint Joseph Health Center, 1000 Carondelet Drive, Kansas City, MO 64114	260085	05/16/2005
189. Saint Joseph Medical Center, Twelfth and Walnut Streets, P.O. Box 316, Reading, PA 19603–316	390096	04/01/2005
190. Saint Louis University Hospital, 3635 Vista at Grand Boulevard, P.O. Box 15250, St. Louis, MO 63110	260105	05/17/2005
191. Saint Luke's Hospital of Kansas City, 4401 Wornall Road, Kansas City, MO 64111	260138	04/27/2005
192. Saint Raphael Healthcare System, 1450 Chapel Street, New Haven, CT 06511	070001	05/05/2005
193. Saints Memorial Medical Center, 1 Hospital Drive, Lowell, MA 01852–1389	220082	04/27/2005
194. Samaritan Hospital, 310 South Limestone Street, Lexington, KY 40508	180007	05/17/2005
195. Seton Medical Center, 1900 Sullivan Avenue, Daly City, CA 94015	050289	05/05/2005
196. Shady Grove Adventist Hospital, 9901 Medical Center Drive, Rockville, MD 20850	210057	04/20/2005
197. Shands Jacksonville Medical Center, 655 West Eighth Street, Jacksonville, FL 32209	100001	05/26/2005
198. Shawnee Mission Medical Center, 9100 W. 74th Street, Shawnee Mission, KS 66204	170104	05/16/2005
199. Sierra Medical Center, 1625 Medical Center Drive, El Paso, TX 79902	450668	05/16/2005
200. Sinai-Grace Hospital, 6071 W. Outer Drive, Detroit, MI 48235	230024	04/19/2005
201. Sioux Valley Hospital USD Medical Center, 1305 W. 18th Street, Sioux Falls, SD 57117–5039	430027	04/19/2005
202. Skyline Medical Center, 3441 Dickerson Pike, Nashville, TN 37207	440006	04/07/2005
203. South Austin Hospital, 901 W. Ben White, Austin, TX 78704	450713	04/12/2005
204. Southern Baptist Hospital of Florida, Inc., d/b/a Baptist Medical Center, 800 Prudential Drive, Jacksonville, FL 32207	100088	05/05/2005
205. Southern Maryland Hospital Center, 7503 Surratts Road, Clinton, MD 20735	520054	05/26/2005
206. Southwest Washington Medical Center, P.O. Box 1600, Vancouver, WA 98668	500050	05/26/2005
207. Spectrum Health Hospital, 100 Michigan Street NE, Grand Rapids, MI 49503	230038	04/18/2005
208. SSM St. Joseph Health Center, 300 First Capitol Drive, St. Charles, MO 63301	260005	04/26/2005
209. St. Anthony's Hospital, 1200 7th Avenue North, St. Petersburg, FL 33705	100067	04/19/2005
210. St. Bernardine Medical Center, 2101 N. Waterman Avenue, San Bernardino, CA 92404–4836	050129	05/05/2005

Facility	Provider No.	Effective date
211. St. David's Medical Center, 919 East 32nd Street 78705, P.O. Box 4039, Austin, TX 78765–4039	450431	05/05/2005
212. St. Elizabeth Medical Center, South Unit, 1 Medical Village Drive, Edgewood, KY 41017	180035	04/26/2005
213. St. Francis Hospital and Health Center, 12935 S. Gregory Street, Blue Island, IL 60406	140118	05/11/2005
214. St. Francis Hospital & Health Centers, 1600 Albany Street, Beech Grove, IN 46107	150033	04/01/2005
215. St. John Hospital and Medical Center, 22151 Moross Road, Detroit, MI 48236	230165	04/27/2005
216. St John's Hospital, 800 East Carpenter Street, Springfield, IL 62769	140053	05/10/2005
217. St. John's Regional Medical Center, 2727 McClelland Boulevard, Joplin, MO 64804–1694	260001	04/19/2005
218. St. John West Shore Hospital, 29000 Center Ridge Road, Westlake, OH 44145	360123	05/03/2005
219. St. Joseph Medical Center, Heart Institute, 7601 Osler Drive, Towson, MD 21204–7582	210007	05/17/2005
220. St. Joseph Mercy Hospital, 5301 E. Huron River Drive, P.O. Box 995, Ann Arbor, MI 48106	230156	05/16/2005
221. St. Joseph Regional Medical Center, 5000 West Chambers Street, Milwaukee, WI 53210–1688	520136	05/10/2005
222. St. Joseph's Medical Center, 1800 N. California Street, Stockton, CA 95204	050084	05/17/2005
223. St. Joseph's Mercy Health Center, 300 Werner Street, Hot Springs, AR 71903	040026	05/26/2005
224. St. Joseph's Wayne Hospital, 224 Hamburg Turnpike, Wayne, NJ 07470	310116	03/30/2005
225. St. Luke's, 915 East First Street, Duluth, MN 55805	240047	04/19/2005
226. St. Lukes Episcopal Hospital, 6720 Bertner Avenue, Houston, TX 77030	450193	03/30/2005
227. St. Luke's Hospital, 1026 A Avenue NE, P.O. Box 3026, Cedar Rapids, IA 52406–3026	160045	05/10/2005
228. St. Luke's Medical Center, 2900 W. Oklahoma Avenue, P.O. Box 2901, Milwaukee, WI 53201–2901	520138	04/18/2005
229. St. Luke's-Roosevelt Hospital Center, 1000 Tenth Avenue, New York, NY 10019	330046	05/23/2005
230. St. Mary's Hospital and Medical Center, 2635 North Seventh Street, P.O. Box 1628, Grand Junction, CO 81501	060023	04/20/2005
231. St Mary's Medical Center, 407 East Third Street, Duluth, MN 55805	240002	05/16/2005
232. St. Mary's Medical Center, 3700 Washington Avenue, Evansville, IN 47740–001	150100	05/17/2005
233. St. Patrick Hospital and Health Sciences Center, 500 West Broadway, Missoula, MT 59802	270014	04/12/2005
234. St. Thomas Hospital, 4220 Harding Road, Nashville, TN 37205	440082	04/19/2005
235. Strong Memorial Hospital, 601 Elmwood Avenue, Box 679, Rochester, NY 14642	330285	04/19/2005
236. Swedish American Hospital, 1401 East State Street, Rockford, IL 61104	140228	05/03/2005
237. Swedish Medical Center, 501 East Hampden Ave, Englewood, CO 80113	060034	05/16/2005
238. Swedish Medical Center-First Hill Campus, 747 Broadway, Seattle, WA 98122	500027	05/17/2005
239. Swedish Medical Center-Providence Campus, 747 Broadway, Seattle, WA 98122	500025	05/23/2005
240. Tallahassee Memorial, 1300 Miccosukee Road, Tallahassee, FL 32308	100135	05/16/2005
241. Terrebonne General Medical Center, 8166 Main Street, Houma, LA 70360	190008	04/20/2005
242. Texan Heart Hospital, 6700 IH–10 West, San Antonio, TX 78201	450878	05/26/2005
243. Town and Country Hospital, 6001 Webb Road, Tampa, FL 33615–3241	100255	05/05/2005
244. UC Davis Cardiac Cath Lab/UC Davis Medical Center, 2315 Stockton Boulevard, Sacramento, CA 95817	050599	04/19/2005
245. Union Hospital, 1606 North Seventh Street, Terre Haute, IN 47804–2780	150023	04/27/2005
246. Union Memorial Hospital, 201 East University Parkway, Baltimore, MD 21218–2895	210024	04/07/2005
247. United Regional Health Care System, Eleventh Street Campus, 1600 Eleventh Street, Wichita Falls, TX 76301	450010	05/16/2005
248. University of Alabama Hospital, 619 South 19th Street, Birmingham, AL 35233	010033	05/26/2005
249. University Health System, 1520 Cherokee Trail, Suite 200, Knoxville, TN 37920–2205	440015	05/26/2005
250. University Health System, 4502 Medical Drive, San Antonio, TX 78229	450213	04/27/2005
251. University of Kentucky Hospital, 800 Rose Street, Lexington, KY 40536–0293	180067	05/16/2005
252. University of Louisville Hospital, 530 South Jackson Street, Louisville, KY 40202	180141	05/05/2005
253. University of Pennsylvania Medical Center-Presbyterian, 39th and Market Streets, Philadelphia, PA 19104	390223	04/01/2005
254. UPMC Presbyterian Shadyside, 200 Lothrop Street, Pittsburgh, PA 15213	390164	05/03/2005
255. Utah Valley Regional Medical Center, 1034 North 500 West, Provo, Utah 84605	460001	05/26/2005
256. The Valley Hospital, 223 N. Van Dien Avenue, Ridgewood, NJ 07450–2736	310012	04/20/2005
257. Vassar Brothers Medical Center, 45 Reade Place, Poughkeepsie, NY 12601	330023	05/05/2005
258. Washoe Medical Center, 75 Pringle Way, Reno, NV 89502	290001	04/27/2005
259. Washington Hospital Center, 110 Irving Street, NW., Washington, DC 20010	090011	05/16/2005
260. Wellmont Holston Valley Medical Center, Holston Valley Vascular Institute, 130 W. Ravine Road, Kingsport, TN 37660	440017	05/16/2005
261. Wentworth-Douglass Hospital, 789 Central Avenue, Dover, NH 03820	300018	05/10/2005
262. West Allis Memorial Hospital, 8901 West Lincoln Avenue, West Allis, WI 53227	520139	05/26/2005
263. Westchester Medical Center, 95 Grasslands Road, Valhalla, NY 10595	330234	05/16/2005
264. Western Baptist Hospital, 2501 Kentucky Avenue, Paduach, KY 42003–3200	180104	05/05/2005
265. Western Medical Center-Santa Ana, 1001 North Tustin Avenue, Santa Ana, CA 92705	050746	05/25/2005
266. William Beaumont Hospital, 3601 W. 13 Mile Road, Royal Oak, MI 48073	230130	05/10/2005
267. Willis Knighton Bossier, 2400 Hospital Drive, Bossier City, LA 71111	190236	04/27/2005
268. Willis Knighton Medical Center, 2600 Greenwood Road, Shreveport, LA 71103	190111	04/27/2005
269. Winchester Medical Center, P.O. Box 3340, Winchester, VA 22604–2540	490005	05/16/2005
270. The Wisconsin Heart Hospital, LLC, 10000 West Blue Mound Road, Wauwatosa, WI 53226	520199	05/05/2005
271. Wyoming Valley Health Care System, 575 North River Street, Wilkes Barre, PA 18764	390137	04/26/2005
272. York Hospital, 15 Hospital Drive, York, ME 03909	200020	04/14/2005

[FR Doc. 05–12525 Filed 6–23–05; 8:45 am]
BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1480–N]

RIN 0938–AN92

Medicare Program; Inpatient Rehabilitation Facility Compliance Criteria

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: In accordance with the provisions of the Consolidated Appropriations Act of 2005, this notice announces the Secretary's determination that the requirements for classification as an inpatient rehabilitation facility (IRF) specified in § 412.23(b)(2) are not inconsistent with a report that the Government Accountability Office (GAO) issued concerning classification of a facility as an IRF.

DATES: Effective Date: This notice is effective on June 24, 2005.

FOR FURTHER INFORMATION CONTACT: Pete Diaz, (410) 786–1235.

SUPPLEMENTARY INFORMATION:

I. Background

A. Classification as an Inpatient Rehabilitation Facility Under § 412.23(b)(2)

Sections 1886(d)(1)(B) and 1886(d)(1)(B)(ii) of the Social Security Act (the Act) give the Secretary the discretion to define a rehabilitation hospital and unit. A freestanding rehabilitation hospital and a rehabilitation unit of an acute care hospital are collectively referred to as an inpatient rehabilitation facility (IRF), and are paid under the IRF prospective payment system (PPS). Under the current regulations at 42 CFR 412.1(b)(2), a hospital or unit of a hospital, must first be deemed excluded from the diagnosis-related group (DRG)-based inpatient prospective payment system (IPPS) to be paid under the IRF PPS. A facility must meet the applicable requirements in subpart B of part 412. Secondly, the excluded hospital or unit of the hospital must meet the conditions for payment under the IRF PPS at § 412.604. *See* § 412.23(b). Moreover, a provider, among other requirements, must be in compliance with the criteria specified in § 412.23(b)(2) in order to be classified as an IRF, *see* § 412.604(b).

On May 7, 2004, we published a final rule in the **Federal Register** (69 FR 25752) that responded to public comments on the September 9, 2003 proposed rule (68 FR 26786), and revised the criteria for being classified as an IRF including the criteria at § 412.23(b)(2). The changes in the final rule were effective for cost reporting periods beginning on or after July 1, 2004. Under § 412.23(b)(2), a specific percentage, noted below, of an IRF's total inpatient population must meet at least one of the following medical conditions:

(1) Stroke.
(2) Spinal cord injury.
(3) Congenital deformity.
(4) Amputation.
(5) Major multiple trauma.
(6) Fracture of femur (hip fracture).
(7) Brain injury.
(8) Neurological disorders, including multiple sclerosis, motor neuron diseases, polyneuropathy, muscular dystrophy, and Parkinson's disease.
(9) Burns.
(10) Active, polyarticular rheumatoid arthritis, psoriatic arthritis, and seronegative arthropathies resulting in significant functional impairment of ambulation and other activities of daily living that have not improved after an appropriate, aggressive, and sustained course of outpatient therapy services or services in other less intensive rehabilitation settings immediately preceding the inpatient rehabilitation admission or that result from a systemic disease activation immediately before admission, but have the potential to improve with more intensive rehabilitation.
(11) Systemic vasculidities with joint inflammation, resulting in significant functional impairment of ambulation and other activities of daily living that have not improved after an appropriate, aggressive, and sustained course of outpatient therapy services or services in other less intensive rehabilitation settings immediately preceding the inpatient rehabilitation admission or that result from a systemic disease activation immediately before admission, but have the potential to improve with more intensive rehabilitation.
(12) Severe or advanced osteoarthritis (osteoarthrosis or degenerative joint disease) involving two or more major weight bearing joints (elbow, shoulders, hips, or knees, but not counting a joint with a prosthesis) with joint deformity and substantial loss of range of motion, atrophy of muscles surrounding the joint, significant functional impairment of ambulation and other activities of daily living that have not improved after the patient has participated in an appropriate, aggressive, and sustained course of outpatient therapy services or services in other less intensive rehabilitation settings immediately preceding the inpatient rehabilitation admission but have the potential to improve with more intensive rehabilitation. (A joint replaced by a prosthesis no longer is considered to have osteoarthritis, or other arthritis, even though this condition was the reason for the joint replacement.)
(13) Knee or hip joint replacement, or both, during an acute hospitalization immediately preceding the inpatient rehabilitation stay and also meets one or more of the following specific criteria:
(i) The patient underwent bilateral knee or bilateral hip joint replacement surgery during the acute hospital admission immediately preceding the IRF admission.
(ii) The patient is extremely obese with a Body Mass Index of at least 50 at the time of admission to the IRF.
(iii) The patient is age 85 or older at the time of admission to the IRF.

The percentage of an IRF's inpatient population that must meet at least one of the above medical conditions is determined by the IRF's cost reporting period. The following are the percentages of an IRF's inpatient population that must meet at least one of the medical conditions specified above:

For cost reporting periods beginning on or after July 1, 2004, and before July 1, 2005, the compliance threshold will be 50 percent of the IRF's total inpatient population.

For cost reporting periods beginning on or after July 1, 2005, and before July 1, 2006, the compliance threshold will be 60 percent of the IRF's total inpatient population.

For cost reporting periods beginning on or after July 1, 2006 and before July 1, 2007, the compliance threshold will be 65 percent of the IRF's total inpatient population. Furthermore, for those cost reporting periods beginning before July 1, 2007, the regulations also permit certain comorbidities, as defined in § 412.602, to be counted towards the applicable inpatient population percentage, if certain requirements are met as specified in § 412.23(b)(2)(i). For cost reporting periods beginning on or after July 1, 2007, patient comorbidity as described in § 412.23(b)(2)(i) is not included in the inpatient population that counts toward the compliance threshold percentage.

For cost reporting periods beginning on or after July 1, 2007, the compliance

threshold will be 75 percent of the IRF's total inpatient population.

B. Verification of Compliance With § 412.23(b)(2)

The fiscal intermediaries (FIs) determine if an IRF met the requirements specified in § 412.23(b)(2). In order to provide guidance to the FIs regarding how they should determine compliance with § 412.23(b)(2), we issued Program Transmittal 221 on June 25, 2004. In order to clarify the instructions in Program Transmittal 221, we issued Program Transmittal 347 on October 29, 2004, and Program Transmittal 478 on February 18, 2005.

In accordance with the instructions in the above-noted Program Transmittals, the FI reports an IRF's compliance percentage to the appropriate CMS Regional Office (RO). If the IRF did not meet the compliance percentage threshold, then the RO terminates the facility's classification as an IRF and notifies the FI and the facility of this action. The facility would then be paid as an acute care hospital under the IPPS if the facility met the requirements to be paid under the IPPS. In the case of the termination of the classification of a critical access hospital (CAH) rehabilitation distinct part unit (DPU) as an IRF, the DPU may be paid in accordance with the payment system Medicare uses to pay CAHs, but only if such payment to the DPU does not violate any of Medicare's CAH regulations or operational policies.

C. Effect of the Consolidated Appropriations Act of 2005

Section 219 of the Consolidated Appropriations Act of 2005 (Pub. L. 108–447), enacted on December 8, 2004, specifies that if a facility was classified as an IRF as of June 30, 2004, we could not change the classification of the facility and treat it as an acute care hospital to be paid under the IPPS until the Secretary either: (1) Determined that the requirements specified in § 412.23(b)(2) are not inconsistent with a report that the Government Accountability Office (GAO) would issue concerning the clinically appropriate standard for the IRF classification criteria under § 412.23(b)(2); or (2) In accordance with the provisions of that GAO report, we issue an interim final rule revising the classification criteria specified in § 412.23(b)(2). Accordingly, under the Consolidated Appropriations Act of 2005, we have not changed the classification of facilities classified as IRFs as of June 30, 2004 on the basis of any non-compliance with § 412.23(b)(2), but we continued to have the FIs perform their classification compliance reviews.

D. The GAO Report

In April 2005 the GAO issued its report and recommended the following:

- We should ensure that FIs routinely conduct targeted reviews for medical necessity for IRF admissions.
- We should conduct additional activities to encourage research on the effectiveness of intensive inpatient rehabilitation and the factors that predict patient need for intensive inpatient rehabilitation.
- We should use the information obtained from reviews for medical necessity, research activities, and other sources to refine the rule to describe more thoroughly the subgroups of patients within a condition that are appropriate for IRFs rather than other settings, and may consider using other factors in the descriptions, such as functional status.

We share GAO's view that it would be beneficial to obtain information from the reviews for medical necessity, research activities, and other sources to describe subgroups of patients within a condition in order to better delineate which patients can most appropriately be treated in an IRF and those that can be more appropriately cared for in other settings. To obtain this information, we have expanded our efforts to provide greater oversight of IRF admissions through a number of Local Coverage Decisions that are now in effect or in advance stages of development. In addition, we are actively encouraging government clinical research organizations, academic institutions, and industry rehabilitation groups to conduct both general and targeted research that would inform all interested parties regarding the types of patients that would most benefit from intensive inpatient rehabilitation. We also requested that the National Institute of Health (NIH) convene a research panel to recommend future research regarding the types of patients that would most benefit from intensive inpatient rehabilitation. The agency is currently evaluating the recommendations of this panel. The recommendations will be used to guide research that will help determine which facility and patient factors may be considered to classify a facility as an IRF. We will collaborate with NIH to determine how best to promote this research.

E. Results of CMS' Review of the GAO Recommendations

Medicare covers rehabilitation care in a variety of settings, including the home, skilled nursing facilities, outpatient facilities, hospitals and IRFs. We are committed to ensuring that beneficiaries have access to high quality rehabilitation services in the most appropriate setting. Medicare's payments to IRFs are made at a level commensurate with the type of intensive inpatient rehabilitation services these facilities are intended to provide. Consequently, Medicare maintains the compliance criteria and other policies to ensure its higher payments to IRFs are appropriately directed to this more intense level of service. We believe the regulations as revised in the May 7, 2004 final rule reflect the need for Medicare payments to be appropriately directed towards those beneficiaries who require intensive rehabilitation.

II. Provisions of the Notice

After careful consideration, the Secretary has determined that the recommendations in the GAO's IRF report are not inconsistent with our regulations as revised in the May 7, 2004 final rule. Therefore, we will immediately enforce the procedures specified in Program Transmittals 221, 347, and 478, as well as any additional Program Transmittals or instructions that we may issue if the facility does not meet the requirements specified in § 412.23(b)(2).

Authority: Section 1886(j) of the Social Security Act (42 U.S.C. 1395ww(j)).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 17, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Approved: June 10, 2005.

Michael O. Leavitt,

Secretary.

[FR Doc. 05–12593 Filed 6–21–05; 4:07 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5033–N5]

Medicare Program; Meeting of the Advisory Board on the Demonstration of a Bundled Case-Mix Adjusted Payment System for End-Stage Renal Disease Services—July 14 Through July 15, 2005

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the third public meeting of the Advisory Board on the Demonstration of a Bundled Case-Mix Adjusted Payment System for End-Stage Renal Disease (ESRD) Services. Notice of this meeting is required by the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). The Advisory Board will provide advice and recommendations with respect to the establishment and operation of the demonstration mandated by section 623(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

DATES: The meeting is on Thursday, July 14, 2005, from 9 a.m. to 5 p.m., eastern standard time and Friday, July 15, 2005, from 9 a.m. to 3 p.m. eastern standard time.

Special Accomodations: Persons attending the meeting, who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to notify Pamela Morrow by July 7, 2005, by e-mail at *ESRDAdvisoryBoard@cms.hhs.gov* or by telephone at (410) 786–2461.

ADDRESSES: The meeting will be held at the Marriott Hotel—BWI Airport, 1743 West Nursery Rd., Baltimore, MD 21240. Attendance is limited to the space available, so seating will be on a first come, first served basis.

Web site: Up-to-date information on this meeting is located at *http://www.cms.hhs.gov/faca/esrd.*

Hotline: Up-to-date information on this meeting is located on the CMS Advisory Committee Hotline at 1 (877) 449–5659 (toll free) or in the Baltimore area at (410) 786–9379.

FOR FURTHER INFORMATION CONTACT: Pamela Morrow by e-mail at *ESRDAdvisoryBoard@cms.hhs.gov* or telephone at (410) 786–2461.

SUPPLEMENTARY INFORMATION: On June 2, 2004, we published a **Federal Register** notice requesting nominations for individuals to serve on the Advisory Board on the Demonstration of a Bundled Case-Mix Adjusted Payment System for End-Stage Renal Disease (ESRD) Services. The June 2, 2004, notice also announced the establishment of the Advisory Board and the signing by the Secretary on May 11, 2004, of the charter establishing the Advisory Board. On January 28, 2005, we published a **Federal Register** notice announcing the appointment of eleven individuals to serve as members of the Advisory Board on the Demonstration of a Bundled Case-Mix Adjusted Payment System for ESRD Services, including one individual to serve as co-chairperson, and one additional co-chairperson, who is employed by CMS. The first public meeting of the Advisory Board was held on February 16, 2005. The second public meeting of the Advisory Board was held on May 24, 2005. This notice announces the third public meeting of this Advisory Board.

I. Topics of the Advisory Board Meeting

The Advisory Board on the Demonstration of a Bundled Case-Mix Adjusted Payment System for ESRD Services will study and make recommendations on the following issues:

- The drugs, biologicals, and clinical laboratory tests to be bundled into the demonstration payment rates.
- The method and approach to be used for the patient characteristics to be included in the fully case-mix adjusted demonstration payment system.
- The manner in which payment for bundled services provided by non-demonstration providers should be handled for beneficiaries participating in the demonstration.
- The feasibility of providing financial incentives and penalties to organizations operating under the demonstration that meet or fail to meet applicable quality standards.
- The specific quality standards to be used.
- The feasibility of using disease management techniques to improve quality and patient satisfaction and reduce costs of care for the beneficiaries participating in the demonstration.
- The selection criteria for demonstration organizations.

II. Procedure and Agenda of the Advisory Board Meeting

This meeting is open to the public. The Advisory Board will hear background presentations from CMS. The Advisory Board will then deliberate openly on the general topic and will make recommendations on specific topics for future meetings. The Advisory Board will also allow at least a 30-minute open public session. Interested parties may speak or ask questions during the public comment period. Comments may be limited by the time available. Written questions should be submitted by July 7, 2005, to *ESRDAdvisoryBoard@cms.hhs.gov.* Parties may also submit written comments following the meeting to the contact listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Authority: 5 U.S.C. App. 2, section 10(a).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 16, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–12523 Filed 6–23–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Adoption and Foster Care Analysis and Reporting System for Title IV–B and Title IV–E

OMB No.: 0980–0267.

Description: Section 479 of title IV–E of the Social Security Act directs States to establish and implement an adoption and foster care reporting system. The data are used for a number of reasons, including responding to Congressional requests for current data on children in foster care or those who have been adopted; responding to questions and requests from other Federal departments and agencies; trend analyses and short- and long-term planning; targeting areas for greater or potential technical assistance efforts; and determining and assessing outcomes for children and families.

Respondents: States, the District of Columbia and Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
AFCARS (Electronic Format)	52	2	2,972.89	309,077

Estimated Total Annual Burden Hours: 309,077.

Additional Information: Copies of the proposed collection maybe obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail: *grjohnson@acf,hhs.gov*.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the *Federal Register*. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF, E-mail: *Katherine__T.__Astrick@omb.eop.gov*.

Dated: June 20, 2005.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 05–12515 Filed 6–23–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; National Institutes of Health Construction Grants—42 CFR Part 52b (Final Rule)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on December 7, 2004, pages 70697—70698, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The NIH may not conduct or sponsor, and the respondent is not required to respond to, an information that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: National Institutes of Health Construction Grants—42 CFR Part 52b (Final Rule). *Type of Information Collection Request:* Extension of No. 0925–0424, expiration date 3/31/2005. *Need and Use of the Information Collection:* This request is for OMB review and approval of an extension for the information collection and recordkeeping requirements contained in the regulation codified at 42 CFR part 52b. The purpose of the regulation is to govern the awarding and administration of grants awarded by NIH and its components for construction of new buildings and the alteration, renovation, remodeling, improvement, expansion, and repair of existing buildings, including the provision of equipment necessary to make the buildings (or applicable part of the buildings) suitable for the purpose for which it was constructed. In terms of reporting requirements: Section 52b.9(b) of the regulation requires the transferor of a facility which is sold or transferred, or owner of a facility, the use of which has changed, to provide written notice of the sale, transfer or change within 30 days. Section 52b.10(f) requires a grantee to submit an approved copy of the construction schedule prior to the start of construction. Section 52b.10(g) requires a grantee to provide daily construction logs and monthly status reports upon request at the job site. Section 52b.11(b) requires applicants for a project involving the acquisition of existing facilities to provide the estimated cost of the project, cost of the acquisition of existing facilities, and cost of remodeling, renovating, or altering facilities to serve the purposes for which they are acquired. In terms of recordkeeping requirements: Section 52b.10(g) requires grantees to maintain daily construction logs and monthly status reports at the job site. *Frequency of Response:* On occasion. *Affected Public:* Non-profit organizations and Federal agencies. *Type of respondents:* Grantees. The estimated respondent burden is as follows:

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

	Estimated annual number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total hour burden	Estimated total annual burden hours requested
Reporting:					
Section 52b.9(b)	1	1	.50	.50	.50
Section 52b.10(f)	(60)	1	1	60	60
Section 52b.10(g)	(60)	12	1	720	720
Section 52b.11(b)	100	1	1	100	100
Recordkeeping:					
Section 52b.10(g)	(60)	260	1	15,600	15,600
Total	101			16,481	16,481

The annualized cost to the public, based on an average of 60 active grants in the construction phase, is estimated at: $576,818. There are no Capital Costs to report. There are no operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information and recordkeeping are necessary for the proper performance of the function 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 and recordkeeping, including the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected and the recordkeeping information to be maintained; and (4) 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 and recordkeeping techniques of other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Regulatory Affairs, New Executive Building, Room 10235, Washington, DC 20503, Attention Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Jerry Moore, NIH Regulations Officer, Office of Management Assessment, Division of Management Support, National Institutes of Health, 6011 Executive Boulevard, Room 601, MSC 7669, Rockville, Maryland 20852; call 301–496–4607 (this is not a toll-free number) or e-mail your request to *jm40z@nih.gov*.

Comments Due Date: Comments regarding this information collection and recordkeeping are best assured of having full effect if received on or before July 25, 2005.

Dated: June 17, 2005.

Jerry Moore,

Regulations Officer, National Institutes of Health.

[FR Doc. 05–12596 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Public Notice

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

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), National Center for Infectious Disease (NCID), Division of Bacterial and Mycotic Diseases (DBMD) through its component Branches has lead technical responsibility for a number of Category A, B and C bioterrorism agents and their associated toxins (*Bacillus anthracis, Clostridium botulinum, Brucella sps., Burkholderia sps., Staphylococcus* entertoxin B, other food-or waterborne bacterial pathogens, and other bacterial agents). DBMD provides technical support for the Nation's prevention and control efforts for human anthrax disease. Since 2001, DBMD has been collecting anthrax immune plasma from Department of Defense volunteers who received the licensed Anthrax Vaccine Adsorbed (AVA) according to the licensed schedule. DBMD has contracted with industry to produce anthrax immune globulin (AIG) from the collected anthrax immune plasma using anion-exchange chromatography. Since 2003, DBMD has been evaluating the efficacy and pharmacokinetics of AIG in small animals. Preliminary results of these studies are now available, and are being released to the public domain to facilitate development of immunotherapeutic agents for treatment of human inhalational anthrax disease. DBMD will continue to conduct AIG studies in animals, and will release data to the public as soon as the results become available.

Persons or organizations who are interested in receiving the preliminary animal AIG study results, and in receiving future updates, should contact CDC and provide a mailing address.

CDC prefers to receive requests for data electronically. These requests can be e-mailed to the attention of Michael J. Detmer at *MDetmer@cdc.gov.* Mailed responses can be sent to the following address: Michael J. Detmer, Division of Bacterial and Mycotic Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Rd., NE., Mail Stop C–09, Atlanta, GA 30333.

FOR FURTHER INFORMATION CONTACT: *Technical:* Clare A. Dykewicz, M.D., M.P.H. Division of Bacterial and Mycotic Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Rd. NE., Mail Stop C 09, Atlanta, GA 30333. Telephone (404) 639–4138, e-mail: *cad3@cdc.gov.*

Dated: June 13, 2005.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention.

[FR Doc. 05–12497 Filed 6–23–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel ZAA1 HH (40) SPECIAL EMPHASIS PANEL REVIEW OF FELLOWSHIP APPLICATIONS.

Date: August 2, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lorraine Gunzerath, PhD, MBA Scientific Review Administrator, National Institute on Alcohol Abuse and Alcoholism, Office of Extramural Activities, Extramural Project Review Branch, 5635 Fishers Lane, Room 3043, Bethesda, MD 20892–9304, 301–443–2369, *lgunzera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: June 16, 2005.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12598 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of General Medical Sciences Special Emphasis Panel, June 20, 2005, 6 p.m. to June 21, 2005, 6 p.m., Bethesda Park Hotel, 8400 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on June 3, 2005, 70 FR 32635–36236.

The meeting will now be held at Holiday Inn Chevy Chase, MD. The meeting is closed to the public.

Dated: June 16, 2005.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12599 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Minority Programs Review Committee MBRS Review Subcommittee B.

Date: July 11–12, 2005.

Time: 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Rebecca H Johnson, PhD, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18C, Bethesda, MD 20892, 301–594–2771, *johnsonrh@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: June 16, 2005

Anna Snoufer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12600 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel Mentored Scientist Training Review Meeting.

Date: July 7, 2005.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John F. Connaughton, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel Pediatric Diabetes Care.

Date: July 20, 2005.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michele L. Barnard, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 16, 2005.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12601 Filed 6–23–05; 8:45 am]

BILLING CODE 4141–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases, Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel Ancillary Study to Adult Liver Transplantation Clinical Research.

Date: July 22, 2005.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Xiaodu Guo, MD, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 705, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 496–4724, *quox@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel Model Organisms for Obesity.

Date: August 4, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal City Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Maxine A. Lesniak, MPH, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7792, *lesniakm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 16, 2005.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12602 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases, Notice of Closed Meetings.

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel R18 and Translational Research for the Prevention and Control of Diabetes.

Date: July 27, 2005.

Time: 11 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert Wellner, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 592–4721, *rw175w@nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel Regulation of KLF 4.

Date: July 29, 2005.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telehpone Conference Call).

Contact Person: Robert Wellner, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301)594–4721, *rw175w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 16, 2005,

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12603 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel Collaborative Studies on Angiogenensis and Diabetic Complications.

Date: July 28, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Park Hotel, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Barbara A. Woynarowska, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–402–7172, *woynarowskab@niddk.nih.bov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 16, 2005.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12604 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research, Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6). Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 05–90, Review R21.

Date: July 13, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, National Inst of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 05–89, Review R21.

Date: July 20, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, National Inst of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: June 16, 2005.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12605 Filed 6–23–05; 8:45 am]

BILLING CODE 4149–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Evaluation of Colposcopy for Use in Vaginal Product Development.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6902, *khanh@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 17, 2005.

Anna P. Snouffer

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12606 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(b), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel NIGMS Initiative for Minority Student Development.

Date: July 14–15, 2005.

Time: 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Carole H. Latker, PhD, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–13, Bethesda, MD 20892, (301) 594–2848.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: June 17, 2005.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12607 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Membrane Protein Production and Structure Determination.

Date: July 14–15, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: C. Craig Hyde, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Building 45, Room 3AN18, Bethesda, MD 20892. 301–435–3825. *ch2v@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: June 17, 2005

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12609 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review, Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Bioengineering Research Partnerships.

Date: June 20, 2005.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Syed M. Quadri, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6210, MSC 7804, Bethesda, MD 20892, (301) 435–1211, *quadris@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel Neuroscience SBIRs SEPS.

Date: June 21, 2005.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, (301) 435–1242, *driscolb@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel Infection, Accessory Cells and Immunity Special Emphasis Panel.

Date: June 22, 2005.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Patrick K. Lai, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2215, MSC 7812, Bethesda, MD 20892, (301) 435–1052, *laip@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: June 17, 2005

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–12608 Filed 6–23–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–21609]

Navigation Safety Advisory Council; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Navigation Safety Advisory Council (NAVSAC). NAVSAC provides advice and makes recommendations to the Secretary on matters relating to prevention of collisions, groundings, and rammings.

DATES: Application forms should reach us on or before September 1, 2005.

ADDRESSES: You may request an application form by writing to NAVSAC Application, Commandant (G-MW), Room 1406, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001; by calling 202–267–2384; or by faxing 202–267–4700. Send your original completed and signed application in written form to the above street address. This notice and the application are available on the Internet at *http://dms.dot.gov* and the application form is also available at *http://www.uscg.mil/hq/g-m/advisory/index.htm.*

FOR FURTHER INFORMATION CONTACT: Mr. John Bobb; Assistant Executive Director of NAVSAC, telephone 202–267–2384, fax 202–267–4700, or e-mail *jbobb@comdt.uscg.mil.*

SUPPLEMENTARY INFORMATION: The Navigation Safety Advisory Council (NAVSAC) is a Federal advisory committee under 5 U.S.C. App. 2. It advises the Secretary on matters relating to prevention of collisions, groundings, and rammings. This includes but is not limited to: Inland and International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. This advice also assists the Coast Guard in formulating the position of the United States in advance of meetings of the International Maritime Organization.

NAVSAC meets at least twice a year at Coast Guard Headquarters, Washington, DC, or another location selected by the Coast Guard. It may also meet for extraordinary purposes. Its working groups may meet to consider specific problems as required. We will consider applications for eight positions that are vacant or whose terms will expire in November 2005 as follows: three members who are recognized experts and leaders in organizations having an active interest in Rules of the Road and vessel and port safety; two members with an interest in maritime law (individuals selected for these two categories should reflect a geographical balance); one member who is a federal or state official with responsibility for vessel and port safety; one member from recreational boating; and one member representing professional mariners. To be eligible, applicants should have particular expertise, knowledge, and experience in the Inland and International Rules of the Road, Aids to Navigation, Navigation Safety Equipment, Vessel Traffic Service, Traffic Separation Schemes and Vessel Routing. Each member serves for a term of up to three years. A few members may serve consecutive terms. All members serve at their own expense but receive reimbursement for travel and per diem expenses from the Federal Government.

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Dated: June 17, 2005.

Howard L. Hime,

Acting Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 05–12539 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–21610]

Nontank Vessel Oil Response Plans

AGENCY: Coast Guard, DHS.

ACTION: Notice and Request for Comments.

SUMMARY: This notice informs the public of issues related to recent legislation requiring owners and operators of nontank vessels to prepare plans for responding to discharges of oil from their vessels. These issues include questions on the size of the population of vessels affected and enforcement of the legislation by the Coast Guard. The notice also discusses Coast Guard's efforts to engage the regulated community at the earliest stages and to encourage early public participation in the process of responding to this new legislation.

DATES: Comments and related material must reach the Docket Management Facility on or before September 22, 2005.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2005–21610 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, please contact Lieutenant Eric A. Bauer, Project Manager, Office of Response (G–MOR–2), U.S. Coast Guard Headquarters, telephone 202–267–6714. 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:

Background and Purpose

The Coast Guard and Maritime Transportation Act of 2004 (Pub. L. 108–293) (2004 Act), in section 701, requires owners and operators of nontank vessels to prepare and submit to the Coast Guard plans for responding to a worst case discharge, and to a substantial threat of such a discharge, of oil from their vessels. The 2004 Act also mandates that the Coast Guard issue regulations requiring the submission of the plans. This legislation raises the following questions.

1. *What is the size of the affected vessel population?* One issue raised by the 2004 Act significantly affects the size of the population of vessels subject to the Act. The Act defines a ''nontank vessel'' as a self-propelled vessel of 400 gross tons as measured under 46 U.S.C. 14302 (the Convention measurement system) or greater, other than a tank vessel, that carries oil of any kind as fuel for main propulsion and that is a vessel of the United States or that operates on the navigable waters of the United States. Accordingly, the Act applies to vessels that are 400 gross tons as measured under 46 U.S.C. 14302 and to vessels that would be 400 gross tons if measured under 46 U.S.C. 14302. The Act does not specify how it applies to vessels which do not have a current measurement under the Convention measurement system (*i.e.*, those vessels measured only under the regulatory measurement system under 46 U.S.C. 14502). It is unclear whether any relationship was intended between a vessel's tonnage and the quantity of oil it is capable of carrying. These are issues that must be addressed during the rulemaking process and on which we particularly welcome your advice.

2. *When will the 2004 Act be enforced by the Coast Guard?* The 2004 Act requires that the response plans be prepared and submitted by August 9, 2005 (*i.e.*, one year after the enactment of the 2004 Act). In addition, the Act requires the President (Coast Guard) to issue regulations requiring the submission of plans. Because of the length of time needed to provide the necessary opportunity for, and consideration of, public comments, final regulations may not be in effect on that date. This raises the question of whether the Coast Guard intends to enforce the Act—specifically the nontank vessel response plan submission requirement—if it does not have regulations in place on August 9, 2005. The Coast Guard will not enforce the Act until regulations are issued and in effect.

3. *What is the Coast Guard doing in the interim?* On February 4, 2005, we published Navigation and Vessel Information Circular 01–05 (NVIC 01–05) entitled ''Interim Guidance for the Development and Review of Response Plans for Nontank Vessels.'' The NVIC is available at *http://www.uscg.mil/hg/g-m/nvic* or in the docket for this notice (See ''Viewing comments and documents'' below.). It provides guidance to owners and operators of nontank vessels for preparing and submitting plans to the Coast Guard and is not itself enforceable by the Coast Guard.

NVIC 01–05 describes a voluntary process for submitting response plans and for obtaining interim authorization letters from the Coast Guard. As the issue of vessel population is yet to be resolved, the NVIC explains that the Act does not exempt vessels that have not been measured under the Convention measurement system. These vessels are referred to in the NVIC as those that have not been issued an International Tonnage Certificate (ITC). However, an ITC is not always issued when a vessel is measured under the Convention measurement system; a U.S. Tonnage Certificate may be used instead to reflect tonnage measurement under the Convention measurement system. The Coast Guard considers owners of vessels not measured under the Convention measurement system subject to the Act if there is no question that the vessel would be 400 gross tons if measured under 46 U.S.C. 14302. To be prudent, we would advise owners of vessels not measured under the Convention measurement system that a vessel's tonnage measured under the regulatory measurement system is generally less than that vessel's tonnage measured under the Convention system. Therefore, it is likely that vessels of or near 400 gross register tons when measured under the regulatory measurement system will be subject to the response plan requirements of the Act. Disparities between the two measurement systems and the applicability of the Act to vessels measured under the regulatory measurement system would need to be addressed during the rulemaking process. Although we will not know precisely which vessels must comply with the response plan requirements until rulemaking is complete, vessels not measured under the Convention measurement system, whether they are 400 gross register tons under the regulatory measurement system or not, may ultimately be covered under the

regulations. Therefore, vessel owners and operators who want to secure interim authorization letters because they believe their vessels may be covered by the response plan regulations are highly encouraged to use the voluntary interim authorization process under NVIC 01–05.

Request for Comments

This notice, as well as the NVIC, is part of the Coast Guard's effort to engage the public at the outset of our efforts to carry out the response plan provisions of the 2004 Act. Therefore, we encourage you to submit comments on this notice and on the subject in general that it addresses. 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 notice (USCG–2005–21610) and give the reason for each comment. You may submit your comments by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments 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 received during the comment period.

Viewing comments and documents: To view comments, 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.*

Dated: June 20, 2005.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 05–12541 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4980–N–25]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitablity for possible use to assist the homeless.

EFFECTIVE DATE: June 24, 2005.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: June 16, 2005.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 05–12241 Filed 6–23–05; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Final Comprehensive Conservation Plan and Environmental Assessment for the Detroit River International Wildlife Refuge (IWR), Wayne and Monroe Counties, MI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service announces that the Final Comprehensive Conservation Plan (CCP) and Environmental Assessment (EA) is available for Detroit River IWR, Michigan. The CCP was prepared pursuant to the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, and the National Environmental Policy Act of 1969. Goals and objectives in the CCP describe how the agency intends to manage the Refuge over the next 15 years.

ADDRESSES: Copies of the Final CCP are available on compact disk or hard copy. You may access and download a copy via the planning Web site (*http://www.fws.gov/midwest/planning/detroitriver/index.html*) or you may obtain a copy by writing to the following address: U.S. Fish and Wildlife Service, Division of Conservation Planning, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111.

FOR FURTHER INFORMATION CONTACT: John Hartig at (734) 692–7608.

SUPPLEMENTARY INFORMATION: The approved boundary of the Detroit River IWR is located along 42 miles of the lower Detroit River and Michigan's Lake Erie shoreline to the Ohio state border. The Refuge was established by legislation in December 2001 and expanded in May 2003. Refuge ownership is currently small and limited to several islands in the Detroit River and two coastal parcels in Monroe County.

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee *et seq*) requires a CCP. The purpose in developing CCPs is to provide refuge managers with a 15-year strategy for achieving Refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management

direction for conserving wildlife and their habitats, the CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update these CCPs at least every 15 years in accordance with the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, and the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370d).

The major focus of the Refuge for the next 15 years will be building a refuge land base, programs, and staff primarily through partnerships and cooperative agreements with landowners and local non-government organizations. The Refuge's key biological focus will be conserving and enhancing remnant coastal wetlands and island habitats for the benefit of the migratory birds, especially diving waterfowl. A modest visitor services program is proposed on existing Refuge lands. Grassy Island is closed due to safety concerns and Mud and Calf Islands can only be reached using watercraft. However, public programs could expand if a shared visitor center is built adjacent to the Refuge's Humbug Marsh.

Dated: December 2, 2004.

Charles M. Wooley,

Acting Regional Director, U.S. Fish and Wildlife Service, Ft. Snelling, Minnesota.

[FR Doc. 05–12501 Filed 6–23–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–220–1220–MA]

Notice of Continuation of Temporary Closure of Castle Rocks State Park and Castle Rocks Inter-Agency Recreation Area near Almo, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management announces the continuation of temporary closure of certain public lands in Cassia County. This closure prohibits bolting and placement of fixed anchors to rocks, and overnight camping. This is to allow further time for analysis of a fixed anchor management plan.

DATES: A temporary closure in this area is now in place, currently set to expire on June 1, 2005. This notice will continue the closure for another year, to remain in effect through June 1, 2006.

Effective Dates: This extension of closure is effective June 1, 2005, and shall remain effective until June 1, 2006.

FOR FURTHER INFORMATION CONTACT: Dennis Thompson, Burley Field Office, 200 South 15 East, Burley, ID 83318. Telephone (208) 677–6641.

SUPPLEMENTARY INFORMATION: The public lands affected by this closure are all lands administered by the BLM within T. 15 S., R. 24 E., Sec. 8, Boise Meridian. This area is known as Castle Rocks State Park and Castle Rocks Inter-Agency Recreation Area. A closure notice including time periods will be posted near the entry point at the Castle Rocks Ranch House.

Authority: This notice is issued under the authority of the 43 CFR 8364.1. Violations of this closure are punishable by a fine not to exceed $1,000 or imprisonment not to exceed 12 months.

Persons who are administratively exempt from the closure contained in this notice include: any Federal, State or local officer or employee acting within the scope of their duties, members of any organized rescue or fire-fighting force in the performance of an official duty, and any person holding written authorization from the BLM.

Dated: May 18, 2005.

Wendy Reynolds,

Burley Field Manager.

[FR Doc. 05–12476 Filed 6–23–05; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–921–05–1320–EL–P; MTM 94393]

Notice of Coal Lease Application—MTM 94393—Decker Coal Company

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice of Decker Coal Company's Coal Lease Application MTM 94393 for certain coal resources within the Powder River Coal Region. The land included in Coal Lease Application MTM 94393 is located in Big Horn County, Montana, and is described as follows:

T. 9 S., R. 40 E., P.M.M.
Sec. 5: SE¼SE¼
Sec. 8: NW¼NE¼NE¼

The 49.60-acre tract contains an estimated 4 million tons of recoverable coal reserves.

The application will be processed in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181, *et seq.*), and the implementing regulations at 43 CFR part 3400. A decision to allow leasing of the coal reserves in said tract will result in a competitive lease sale to be held at a time and place to be announced through publication pursuant to 43 CFR part 3422.

FOR FURTHER INFORMATION CONTACT: Rebecca Sprugin, Coal Coordinator, at telephone 406–896–5080, Bureau of Land Management, Montana State Office, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107–6800.

SUPPLEMENTARY INFORMATION: Decker Coal Company is the operator of the West Decker Mine. The entire area included within this lease application lies within the West Decker Mine SMP87001C permit area.

The area applied for would be mined as an extension of the West Decker Mine and would utilize the same methods as those currently being used. The lease being applied for can extend the life of the mine by about 1 year and enable recovery of coal that might never be mined if not mined as a logical extension of current pits.

Notice of Availability: The application is available for review between the hours of 9 a.m. and 4 p.m. at the Bureau of Land Management, Montana State Office, 5001 Southgate Drive, Billings, Montana 59101, and at the Bureau of Land Management, Miles City Field Office, 111 Garryowen Road, Miles City, Montana, 59301–0940, between the hours of 8 a.m. and 4 p.m.

March 30, 2005.

Randy D. Heuscher,

Chief, Branch of Solid Minerals.

[FR Doc. 05–12474 Filed 6–23–05; 8:45 am]

BILLING CODE 4310–88–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PN]

Notice of Availability of the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States, Including Proposed Amendments to Selected Land Use Plans

AGENCY: Bureau of Land Management.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA) and the Federal Land Policy and Management Act of 1976, the Bureau of Land Management (BLM) has

prepared a Final Programmatic Environmental Impact Statement (PEIS) for wind energy development in eleven western states, excluding Alaska, that also proposes to amend 52 land use plans.

DATES: BLM land use planning regulations (43 CFR 1610.5–2) state that any person who participated in the planning process, and has an interest that may be adversely affected, may protest. The protest must be filed within 30 days of the date that the Environmental Protection Agency publishes this notice in the **Federal Register**. Instructions for filing of protests are described in the ''Dear Reader'' letter in the front of the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States and are included in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Ray Brady, Group Manager, Lands and Realty (WO–350), Bureau of Land Management, 1849 C St., NW., Mail Stop 1000 LS, Washington, DC 20240. Ph: 202–452–7773.

SUPPLEMENTARY INFORMATION: The BLM prepared the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States to (1) assess the environmental, social, and economic impacts associated with wind energy development on public lands in eleven western states (excluding Alaska) and (2) evaluate a number of alternatives to determine the best management approach to mitigating potential impacts and facilitating wind energy development. The Final PEIS analyzes three alternatives for managing wind energy development on BLM-administered lands. The alternatives are: (1) The proposed action, which would implement a Wind Energy Development Program, establish policies and best management practices (BMPs) for wind energy right-of-way (ROW) authorizations, and amend 52 BLM land use plans; (2) the no action alternative, which would allow continued wind energy development under the terms and conditions of the BLM Interim Wind Energy Development Policy, and (3) a limited wind energy development alternative, which would allow wind energy development only in selected locations. The proposed action to implement a Wind Energy Development Program is the BLM's preferred alternative.

As stated above, the proposed action would establish a comprehensive program to address wind energy development on BLM-administered lands. The policies and BMPs developed under the proposed Wind Energy Development Program would establish minimum requirements for management of individual wind energy projects. The proposed policies identify management objectives and address the administration of wind energy development activities. The proposed BMPs identify required mitigation measures that would need to be incorporated into project-specific wind energy development proposals. In addition, the proposed action would amend 52 BLM land use plans. The proposed land use plan amendments include: (1) the adoption of programmatic wind energy development policies and BMPs and (2) identification of specific areas where wind energy development would not be allowed. The purpose of the proposed land use plan amendments is to facilitate preparation and consideration of potential wind energy development ROW applications on BLM-administered lands, but not to eliminate the need for site-specific analysis of individual development proposals.

The following Resource Management Plan (RMP) and Management Framework Plan (MFP) land use plans, itemized in Appendix C of the Final PEIS, are proposed for amendment: *Colorado:* Royal Gorge RMP and San Luis RMP; *Idaho:* Cascade RMP, Challis RMP, Jarbridge RMP, Kuna MFP, Lemhi RMP, Owyhee RMP, and Twin Falls MFP; *Montana:* Billings RMP, Garnet RMP, Headwaters RMP, Judith-Valley-Phillips RMP, and West HiLine RMP; *Nevada:* Elko RMP, Las Vegas RMP, Paradise-Denio MFP, Shoshone-Eureka RMP, Sonoma-Gerlach MFP, Tonopah RMP, and Wells RMP; *New Mexico:* Carlsbad RMP, Mimbres RMP, Roswell RMP, and White Sands RMP; *Oregon:* Andrews/Steens RMP (currently being revised to replace the Andrews MFP and revise part of the Three Rivers RMP), Brothers/La Pine RMP, Coos Bay RMP, Eugene RMP, John Day RMP, Medford RMP, Salem RMP, Southeast Oregon RMP, Three Rivers RMP, Two Rivers RMP, and Upper Deschutes RMP (currently being revised to replace a portion of the Brothers/LaPine RMP); *Utah:* Cedar-Beaver-Garfield-Antimony RMP, Escalante MFP, Paria MFP, Pinyon MFP, Randolf MFP, St. George RMP, Vermillion MFP, and Zion MFP; *Washington:* Spokane RMP; *Wyoming:* Buffalo RMP, Cody RMP, Grass Creek RMP, Green River RMP, Lander RMP, New Castle RMP, and Washakie RMP. No land use plans are proposed for amendment in Arizona or California as part of the Final PEIS; ongoing and future land use plan amendments in these states will address wind energy development where developable wind resources are present.

The Draft Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States was made available for public review and comment from September 10, 2004, to December 10, 2004. The Draft PEIS was posted on the project Web site at *http://windeis.anl.gov* and provided on request as a CD or printed document. More than 120 individuals and organizations participated in the public comment process, including more than 60 recognized organizations (public and private). About 77% of the documents were received via the project Web site and 23% were received via regular mail. On the basis of comment categorization, approximately 718 individual comments were identified.

Volume 3 of the Final PEIS contains the public comments on the Draft PEIS and the BLM's responses. Public comments addressed a broad range of issues. About 31% of the comments were categorized as addressing ecological issues, including monitoring and mitigation; 21% addressed policy issues; 17% addressed avian issues, 10% addressed bat issues; 8% addressed issues related to the scope of the PEIS and the alternatives evaluated; 6% addressed sage-grouse issues; 6% addressed transmission issues; and 4% of the comments addressed land use issues. The remainder of the issues were divided across a number of topics (each comprising less than 3% of the total), including engineering, cumulative impacts, cultural resources, economics, visual impacts, wind resource modeling approach, noise, regulatory issues, water, waste, air quality, geology, and transportation issues. (The percentages total more than 100% because many of the comments can be categorized under more than one key issue). Public comments on the Draft PEIS, including the proposed land use plan amendments, and internal BLM review comments were incorporated into the Final PEIS. Public comments resulted in the addition of clarifying text, but did not significantly change the proposed action or proposed land use plan amendments.

Government-to-Government consultation regarding potential wind energy development and land use plan amendments on BLM-administered lands was conducted with Tribal entities whose interests might be

directly and substantially affected. The Tribal entities contacted are listed in Chapter 7 in the Final PEIS.

The U.S. Department of Energy (DOE) cooperated with the BLM in preparation of the PEIS. In addition, the BLM consulted with other federal agencies during preparation of the Draft and Final PEIS, including the U.S. Fish and Wildlife Service (USFWS), U.S. Air Force, and agency representatives to the Federal Energy Resources Network. In accordance with a memorandum of agreement between the BLM and the USFWS, the BLM is consulting with the USFWS regarding the proposed land use plan amendments. These consultations will be conducted in accordance with the requirements of Section 7 of the Endangered Species Act (16 U.S.C. 1536) and are expected to result in the issuance of a programmatic biological assessment and biological opinion.

In addition, the BLM initiated activities to coordinate and consult with the governors of each of the eleven western states addressed in the PEIS and with state agencies. Prior to the issuance of a record of decision and approval of proposed land use plan amendments, the governor of each state will be given the opportunity to identify any inconsistencies between the proposed land use plan amendments and state or local plans and to provide recommendations in writing during the 60-day consistency review period required by the BLM land use planning regulations (43 CFR 1610.3–2).

Copies of the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States, including the proposed land use plan amendments (Appendix C), have been sent to the Environmental Protection Agency, DOI Office of Environmental Policy and Compliance, DOI Library, and the governors office in each of the eleven western states. Copies of the Final PEIS are available at the BLM State Offices in the eleven western states and the BLM Washington Office, Public Affairs Office. Interested persons may also review the Final PEIS and proposed land use plan amendments on the Internet at *http://windeis.anl.gov.*

Instructions for filing a protest regarding the proposed land use plan amendments may be found at 43 CFR 1610.5. A protest may only raise those issues which were submitted for the record during the NEPA/planning process. E-mail and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, the e-mail or faxed protest will be considered as an advance copy and it will receive full consideration. If you wish to provide such advance notification, please direct faxed protests to the attention of the BLM protest coordinator at 202–452–5112, and e-mails to *Brenda_Hudgens-Williams@blm.gov.*

Please direct the follow-up letter to the appropriate address provided below.

The protest must contain:

a. The name, mailing address, telephone number, and interest of the person filing the protest.

b. A statement of the specific land use plan(s) by name and the amendment(s) being protested.

c. A copy of all documents addressing the issue(s) that the protesting party submitted during the NEPA/planning process or a statement of the date they were discussed for the record.

d. A concise statement explaining why the protestor believes the proposed land use plan amendment(s) is wrong.

All protests must be in writing and mailed to the following address:

Regular Mail: Bureau of Land Management, Director (210), Attention: Brenda Williams, P.O. Box 66538, Washington, DC 20035.

Overnight Mail: Bureau of Land Management, Director (210), Attention: Brenda Williams, 1620 L Street, NW., Suite 1075, Washington, DC 20036.

Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

A decision shall be rendered promptly on the protest. The decision will be in writing and will be sent to the protesting party by certified mail, return receipt requested.

Dated: May 13, 2005.

Ray Brady,

Group Manager, Lands and Realty.

[FR Doc. 05–12475 Filed 6–23–05; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–020–1020–PK]

Notice of Public Meeting, Eastern Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), Eastern Montana Resource Advisory Council will meet as indicated below.

DATES: A meeting will be held July 20, 2005, at the Wyoming Game and Fish Department, 700 Valley View Drive, Sheridan, Wyoming, beginning at 8 a.m. The public comment period will begin at 11:30 a.m.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in eastern Montana. All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, or other reasonable accommodations, should contact the BLM as provided below. The Council will hear updates on the Miles City Resource Management Plan, coalbed natural gas, and other issues.

FOR FURTHER INFORMATION CONTACT: Mary Apple, Resource Advisory Council Coordinator, Montana State Office, 5001 Southgate Drive, Billings, Montana, 59101, telephone 406–896–5258 or Sandra S. Brooks, Field Manager, Billings Field Office, telephone 406–896–5013.

Dated: June 20, 2005.

Sandra S. Brooks,

Field Manager.

[FR Doc. 05–12634 Filed 6–23–05; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MTM 91063]

Cancellation of Proposed Withdrawal; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Forest Service canceled its application to withdraw 2,173 acres of land from location and entry under the United States mining laws during completion of reclamation activities.

DATES: Effective June 24, 2005.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, Bureau of Land Management, Montana State Office, P.O. Box 36800, Billings, Montana 59107–6800, 406–896–5052.

SUPPLEMENTARY INFORMATION: Notice of the filing by the United States Forest Service of a withdrawal application with respect to the following described lands was published in the **Federal Register** on September 24, 2001:

Principal Meridian, Montana

Beaverhead-Deerlodge National Forest

Basin Creek Mine (approximately 1,456 Acres)

T. 8 N., R. 5 W.,
Sec. 19, lots 7, 10, 12, and 15;
Sec. 30, lots 7 and 17.
T. 8 N., R. 6 W.,
Sec. 24, lot 11;
Sec. 25, lots 1 to 7, inclusive;
Sec. 26, lots 4, 5, and 7, SE¼SW¼, and SW¼SE¼;
Sec. 35, lots 1, 4, 5, and 6;
Sec. 36, lots 3 and 4.

Beal Mountain Mine (716.59 Acres)

T. 2 N., R. 10 W.,
Sec. 5, N½NE¼ and W½, excluding Patent Nos. 532788, 4955, 562258, and 53541;
Sec. 6, E½, E½NW¼, and NE¼SW¼, excluding Patent Nos. 433087, 535541, 562258, and 881285.
T. 3 N., R. 10 W.,
Sec. 31, SE¼NE¼, SE¼SW¼, and SE¼;
Sec. 32, W¼NE¼, W½, and SE¼, excluding Patent No. 532788.

The areas described aggregate approximately 2,173 acres in Silver Bow, Jefferson, Powell, and Lewis and Clark Counties, Montana.

Publication of the notice of the withdrawal application segregated the lands for a two-year period, which expired on September 24, 2003, pursuant to 43 CFR 2091.5–1(b)(1). Publication did not segregate the lands from surface entry and mineral leasing.

The proposed withdrawal is no longer necessary, because the Forest Service has completed all reclamation activities in this area. The withdrawal application is, therefore, cancelled.

Authority: 43 CFR 2310.2–1(c).

Dated: March 16, 2005.

Howard A. Lemm,

Deputy State Director, Division of Resources.

[FR Doc. 05–12587 Filed 6–23–05; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

Minor Boundary Revision at Biscayne National Park

AGENCY: National Park Service, Interior.

ACTION: Announcement of park boundary revision.

SUMMARY: Notice is given that the boundary of the Biscayne National Park has been revised pursuant to the Acts as specified below, to encompass lands depicted on Drawing 169/80,001, Segment 104, Biscayne National Park, revised February 14, 2005, prepared by the National Park Service. The revision to the boundary includes tract 104–16, as depicted on the map.

FOR FURTHER INFORMATION CONTACT: Superintendent, Biscayne National Park, 9700 S.W. 328th Street, Homestead, Florida 33033.

SUPPLEMENTARY INFORMATION: The Act of October 18, 1968 (82 Stat. 1188) authorized the establishment of Biscayne National Monument which was designated as a national park by Pub. L. 96–287 on June 28, 1980 (94 Stat. 599). Section 7(c) of the Land and Water Conservation Fund Act, as amended by the Act of June 10, 1977 (Pub. L. 95–42, 91 Stat. 210), and the Act of March 10, 1980 (Pub. L. 103–333, 110 Stat. 4194) further authorized the Secretary of Interior to make minor revisions in the boundaries whenever the Secretary determines that it is necessary for the preservation, protection, interpretation or management of an area.

The map is on file and available for inspection in the Land Resources Program Center, Southeast Regional Office, 100 Alabama Street, SW., Atlanta, GA 30303, and in the Offices of the National Park Service, Department of the Interior, Washington, DC 20013–7127.

Dated: March 23, 2005.

Patricia A. Hooks,

Regional Director, Southeast Region.

[FR Doc. 05–12534 Filed 6–23–05; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Fire Management Plan, Final Environmental Impact Statement, Chiricahua National Monument, Arizona

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement for the Fire Management Plan, Chiricahua National Monument.

SUMMARY: Pursuant to National Environmental Policy Act of 1969, 42 U.S.C. 4332(C), the National Park Service announces the availability of a Final Environmental Impact Statement for the Fire Management Plan, Chiricahua National Monument, Arizona.

DATES: The National Park Service will execute a Record of Decision (ROD) no sooner than 30 days following publication by the Environmental Protection Agency of the Notice of Availability of the Final Environmental Impact Statement.

ADDRESSES: Information will be available for public inspection in the office of the Superintendent, and at the following locations: Alan Whalon, Superintendent, 13063 E. Bonita Canyon Road, Willcox, AZ 85643; Chiricahua National Monument Web site *http://www.nps.gov/chir.*

FOR FURTHER INFORMATION CONTACT: Carrie Dennett, Ecologist, 13063 E. Bonita Canyon Road, Willcox, AZ 85643. (520) 824–3560 x308. *Carrie_Dennett@nps.gov.*

Dated: April 19, 2005.

Rick Frost,

Acting Regional Director, Intermountain Region, National Park Service.

[FR Doc. 05–12536 Filed 6–23–05; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of the Draft General Management Plan and Environmental Impact Statement for the Lincoln Boyhood National Memorial, Indiana

AGENCY: National Park Service, Interior.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of the draft general management plan and environmental impact statement (GMP/

EIS) for the Lincoln Boyhood National Memorial (Memorial).

DATES: The GMP/EIS will remain available for public review for 60 days following the publishing of the notice of availability in the**Federal Register** by the Environmental Protection Agency. Public meetings will be announced in the local media.

ADDRESSES: Copies of the GMP/EIS are available by request by writing to the Superintendent at Lincoln Boyhood National Memorial, PO Box 1816, Lincoln City, Indiana 47552–1816; by telephoning the park office at (812) 937–4541; or by e-mail at*randy_wester@nps.gov*. The document can also be found on the Internet at the Lincoln Boyhood National Memorial Web site at:*http://www.nps.gov/libo/pphtml/documents.html*; and at the NPS Planning, Environment, and Public Comment (PEPC) Web site:*http://parkplanning.nps.gov/publicHome.cfm*. This latter Web site allows the public to review and comment directly on this document. Finally, the document is available to be picked up in person at the Memorial.

FOR FURTHER INFORMATION CONTACT: Superintendent, Lincoln Boyhood National Memorial, PO Box 1816, Lincoln City, Indiana 47552–1816.

SUPPLEMENTARY INFORMATION: The Memorial is an area of the national park system. The Memorial was established to preserve the site associated with the boyhood and family of President Abraham Lincoln. The site includes a portion of the original Tom Lincoln farm and the nearby gravesite of Nancy Hanks Lincoln.

The GMP/EIS describes and analyzes the environmental impacts of the proposed management action and one other action alternative for the future management direction of the park. A no-action management alternative is also evaluated.

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

Dated: May 9, 2005.

Ernest Quintana,

Regional Director, Midwest Region.

[FR Doc. 05–12535 Filed 6–23–05; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Warner Valley Comprehensive Site Plan, Lassen Volcanic National Park, Plumas County, CA; Notice of Intent To Prepare an Environmental Impact Statement

Summary: In accordance with the National Environmental Policy Act of 1969 and pursuant to regulations of the President's Council on Environmental Quality (40 CFR 1501.7 and 1508.22) the National Park Service will prepare an Environmental Impact Statement (EIS) for a Comprehensive Site Plan for the Warner Valley area in Lassen Volcanic National Park. This notice supersedes a previous Notice of Intent which was published on April 4, 2003 (V68; N65; Pp16548–49) for a proposed Dream Lake Dam Management Plan. Subsequent to issuance of that notice it has been determined that future management of Dream Lake, located within Warner Valley, should be assessed as a part of a wider Warner Valley Comprehensive Site Plan (CSP). This notice hereby extends the scoping process and comment period; all comments received in response to the previous notice are documented in the project administrative record and need not be resubmitted.

Background: The purpose of the CSP/EIS will be to determine the desired future resource conditions in Warner Valley and outline the steps that will be taken in order to achieve those conditions. The CSP/EIS will evaluate the natural and cultural resources, aesthetics, and visitor experience in this area of the Park. Some topics that have already been identified as needing to be assessed include: (1) Future management of Dream Lake Dam, (2) impacts on wetlands, (3) historic structures, (4) protection of Drakesbad Meadow and Fen, (5) alternative energy, (6) water and sewage systems, (7) parking, (8) trail system, (9) accessibility, (10) safety, and (11) effluent from the horse corral (currently going into the meadow). The CSP will guide the management of Warner Valley over the subsequent 10–15 years.

Comments: Persons wishing to comment or express concerns on the management issues and future management direction of these lands should address their written responses to the Superintendent, Lassen Volcanic National Park, P.O. Box 100, Mineral, California 96063 (comments can also be e-mailed to: *law_planning@nps.gov*). All comment letters must be postmarked or transmitted not later than 30 days following the date this notice is published in the **Federal Register** (immediately upon confirmation of that date, it will be announced on the park Web site: *http://www.nps.gov/law*). Please note that names and addresses of people who comment become part of the public record. If individuals commenting request that their name or/and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold from the record a respondent's identity, as allowable by law. As always: the NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

At this time it is anticipated that three public workshops to hear additional comments and suggestions will be conducted in mid-June in the towns of Red Bluff (June 13), Chester (June 14), and Vacaville (June 15), California. The confirmed meeting times and locations will be posted on the park's website and announced via press release to local newspapers. Questions regarding the plan or scoping sessions should be addressed to the Superintendent either by mail to the above address, or by telephone at (530) 595–4444.

Decision: At this time it is anticipated that the Draft EIS/CSP would be released for public review during the spring of 2006, and depending on the nature and extent of public comment the Final EIS/CSP would be completed in winter of 2006. As a delegated EIS, the official responsible for the final decision is the Regional Director, Pacific West Region, National Park Service; subsequently the official responsible for implementing the approved plan would be the Superintendent, Lassen Volcanic National Park.

Dated: May 16, 2005.

Jonathan B. Jarvis,

Regional Director, Pacific West Region.

[FR Doc. 05–12537 Filed 6–23–05; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Winter Use Plans, Environmental Impact Statement, Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway, Wyoming, Montana, and Idaho

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement for the Winter Use Plans, Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service is preparing an Environmental Impact Statement (EIS) for the Winter Use Plans for Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway. These three park units are located in Wyoming, Montana, and Idaho. This effort will result in a comprehensive management plan for winter recreational use of the parks. The NPS will be inviting several other government agencies to participate in the development of the EIS as cooperating agencies, including the states of Wyoming, Montana, and Idaho; the counties of Park and Teton, Wyoming, Gallatin and Park, Montana, and Fremont, Idaho; the Environmental Protection Agency; and the U.S. Forest Service.

A scoping letter has been prepared that details the issues identified to date. Copies of that information may be obtained online at *http://parkplanning.nps.gov* or from Yellowstone National Park, P.O. Box 168, Yellowstone National Park, WY 82190, 307–344–2019.

The NPS is interested in obtaining comments from the public on the scope of the EIS, the issues that the EIS should address and the alternatives that should be considered in the EIS. Comments submitted during this scoping period will allow the NPS to address these public concerns as the EIS is prepared.

Background: The NPS is preparing this EIS to develop a long-term plan for managing winter recreational use in three park units. Currently, winter use in the parks is operating under a temporary winter use plan. This plan and environmental assessment were completed with the signing of a finding of no significant impact on November 4, 2004, and implementing regulations published on November 10, 2004. The plan is intended to be in effect for three winter seasons (*i.e.*, the winters of 2004–2005, 2005–2006, and 2006–2007), while the NPS prepares a long-term plan and analysis of the effects of winter use in the parks. This notice of intent formally begins the long-term planning process.

The temporary winter use plan allows for a maximum of 720 snowmobiles in Yellowstone each day. All recreational snowmobiles in Yellowstone must be led by commercial guides. In Grand Teton, 50 snowmobiles are allowed per day on the Continental Divide Snowmobile Trial and Grassy Lake Road and 40 snowmobiles are allowed per day on Jackson Lake in order to provide access for ice fishing. With few exceptions, all snowmobiles are required to be ''Best Available Technology'' (BAT), which are the cleanest and quietest commercially available snowmobiles. Snowplanes are not allowed on Jackson Lake. Snowcoaches are also permitted in Yellowstone and the Rockefeller Parkway, and are required to have functioning emissions control equipment.

Because the temporary winter use plan is only in effect for three winter seasons, the NPS intends to complete this EIS process and issue new regulations (if necessary) prior to the start of the 2007–2008 winter season.

The purpose of the EIS will be to ensure that park visitors have a range of appropriate winter recreational opportunities, while ensuring that these recreational activities are in an appropriate setting and do not impair or irreparably harm park resources or values. Alternatives to be considered in the EIS will focus on responding to the purpose and need. Specifically, the NPS will include alternatives allowing varying amounts and types of snowmobile and/or snowcoach use. The NPS will also consider alternatives with varying guiding requirements, including allowing for some unguided or non-commercially snowmobile guided use. In addition, the EIS will examine the effects of road grooming (which is necessary to allow for oversnow travel for both administrative and recreational use of snowmobiles and snowcoaches) on bison and other ungulates. To assess this issue, the EIS will consider an alternative or alternatives that would eliminate road grooming on some or all park roads.

Major issues to be addressed in the EIS include the environmental effects of winter use on air quality and visibility, natural soundscapes, employee and visitor health and safety, wildlife (including the effects of road grooming on bison and other ungulates), visitor experience, and socioeconomics.

A more detailed history of the winter use issue is available online at *http://www.nps.gov/yell/planvisit/winteruse/index.htm.*

DATES: The National Park Service will accept comments from the public on the scope of the EIS for 60 days from the date this notice is published in the **Federal Register**.

ADDRESSES: Information will be available for public review online at *http://parkplanning.nps.gov* and at Yellowstone National Park headquarters, Mammoth Hot Springs, Wyoming, and at Grand Teton National Park headquarters, Moose, Wyoming.

FOR FURTHER INFORMATION CONTACT: Debbie VanDePolder, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, WY 82190; 307–344–2019.

SUPPLEMENTARY INFORMATION: If you wish to comment on the issues or alternatives to be addressed in the EIS, or on any other issues associated with the plan, you may submit your comments by any one of several methods. You may mail comments to Winter Use Scoping, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, WY 82190. You may also comment via the Internet at *http://parkplanning.nps.gov.* Finally, you may hand-deliver comments to Yellowstone National Park headquarters, Mammoth Hot Springs, Wyoming. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: June 3, 2005.

Michael D. Snyder,

Acting Director, Intermountain Region, National Park Service.

[FR Doc. 05–12538 Filed 6–23–05; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–377 (Second Review)]

Internal Combustion Industrial Forklift Trucks From Japan

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on internal combustion industrial forklift trucks from Japan.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty order on internal combusion industrial forklift trucks from Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective date:* June 6, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On June 6, 2005, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (70 FR 9971, March 1, 2005) was adequate [1] and that the respondent interested party group response was inadequate. The Commission also found that other circumstances warranted conducting a full review.[2] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: June 17, 2005.

By order of the Commission

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–12480 Filed 6–23–05; 8:45 am]

BILLING CODE 7020–02–M

[1] Vice Chairman Deanna Tanner Okun dissenting.

[2] Chairman Stephen Koplan dissenting.

INTERNATIONAL TRADE COMMISSION

[Investigation No. NAFTA–103–012]

Probable Effect of Certain Modifications to the North American Free Trade Agreement Rules of Origin

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and request for written submissions.

EFFECTIVE DATE: June 3, 2005.

SUMMARY: Following receipt of a request on May 23, 2005 (as modified by a letter received on June 16, 2005), from the United States Trade Representative (USTR) under authority delegated by the President and pursuant to section 103 of the North American Free Trade Agreement (NAFTA) Implementation Act (19 U.S.C. 3313), the Commission instituted investigation No. NAFTA–103–012, Probable Effect of Certain Modifications to the NAFTA Rules of Origin.

FOR FURTHER INFORMATION CONTACT: Information may be obtained from Linda White, Office of Industries (202–205–3427, *linda.white@usitc.gov*), or Judith-Anne Webster, Office of Industries (202–205–3489, *judith-anne.webster@usitc.gov*). For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202–205–3091, *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819, *margaret.olaughlin@usitc.gov*).

Background: According to the USTR's letter, U.S. negotiators have recently reached agreement in principle with representatives of the governments of Canada and Mexico on proposed modifications to Annexes 401 and 403 of the NAFTA. Chapter 4 and Annexes 401 and 403 of the NAFTA set forth the rules of origin for applying the tariff provisions of the NAFTA to trade in goods. Section 202(q) of the NAFTA Implementation Act (the Act) authorizes the President, subject to the consultation and layover requirements of section 103 of the Act, to proclaim such modifications to the rules as may from time to time be agreed to by the NAFTA countries. One of the requirements set out in section 103 of the Act is that the President obtain advice from the United States International Trade Commission.

The USTR has requested that the Commission provide advice on the probable effect of the modifications on U.S. trade under the NAFTA and on domestic industries. The modifications concern rules of origin in NAFTA Annexes 401 and 403 for (1) Cocoa and cocoa preparations; (2) cranberry juice; (3) ores, slag and ash; (4) leather; (5) cork and articles of cork; (6) prepared feathers and down and articles made of feather or of down, artificial flowers, and articles of human hair; (7) glass and glassware; (8) copper; (9) nickel and articles thereof; (10) lead; (11) zinc and articles thereof; (12) tin; (13) other base metals; (14) televisions; (15) information technology agreement goods; and (16) controls.

A detailed list of the proposed modifications is available from the Office of the Secretary to the Commission or by accessing the electronic version of this notice at the Commission's Internet site (*http://www.usitc.gov*). This list was amended by the USTR, as conveyed in a letter dated June 16, 2005, from Assistant U.S. Trade Representative Carmen Suro-Bredie, to delete filament yarns of viscose rayon, tri-lobal rayon staple fiber, and untextured yarns of nylon, as the Commission had previously provided probable effect advice concerning modifications to rules of origin for these products in Investigation Nos. NAFTA–103–7 (October 2004) and NAFTA–103–9 (December 2004).

The U.S. NAFTA rules of origin can be found in General Note 12 of the 2005 Harmonized Tariff Schedule of the United States (see ''General Notes'' link at *http://www.usitc.gov/tata/hts/bychapter/index.htm*) and the most recent updates to the current U.S. NAFTA rules of origin can be found in

Presidential Proclamation 7870 of February 9, 2005 (70 FR 7611). As requested, the Commission will forward its advice to the USTR by September 26, 2005.

Written Submissions: Interested parties are invited to submit written statements concerning the probable effect of the modifications. Submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. To be assured of consideration by the Commission, written statements should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on August 3, 2005. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, from which the confidential business information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://hotdocs.usitc.gov/pubs/electronic_filing_handbook.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov*).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''nonconfidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the USTR and the President. As requested by the USTR, the Commission will publish a public version of the report. However, in the public version, the Commission will not publish confidential business information in a manner that would reveal the operations of the firm supplying the information.

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

By order of the Commission.

Issued: June 21, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–12570 Filed 6–23–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Executive Office for United States Trustees; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day emergency notice of information collection under review: application for approval as a provider of a personal financial management instructional course.

The Department of Justice (DOJ), Executive Office for United States Trustees (EOUST) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by July 1, 2005. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Comments are encouraged and will be accepted for 60 days until August 23, 2005.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mark Neal, Assistant United States Trustee, Executive Office for United States Trustees, Department of Justice, 20 Massachusetts Avenue, NW., Suite 8000, Washington, DC 20530, or by facsimile at 202–307–2397.

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:

(1) *Type of information collection:* New Collection.

(2) *The title of the form/collection:* Application for Approval as a Provider of a Personal Financial Management Instructional Course.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: None. Executive Office for United States Trustees.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Not-for-profit Institutions. Congress passed a new bankruptcy law that requires individuals who file for bankruptcy to complete an approved personal financial management instructional course as a condition of receiving a discharge.

(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 1,000 respondents will complete the application in approximately 3 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total annual

public burden associated with this application is 3,000 hours.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: June 21, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–12571 Filed 6–23–05; 8:45 am]

BILLING CODE 4410–40–P

DEPARTMENT OF LABOR

Office of the Secretary

Combating Exploitive Child Labor Through Education in Angola; Modification

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Modification.

SUMMARY: In notice document 05–10620 beginning on page 30787 in the issue of Friday, May 27, 2005, make the following modification:

On page 30787, in the second column, under the heading ''Agency'', the language, ''Key Dates: Deadline for Submission of Application is July 11, 2005.'', should be changed to read, ''Key Dates: Deadline for Submission of Application is July 15, 2005.''.

On page 30787, in the second column, first sentence of the ''Summary'', the language ''The U.S. Department of Labor, Bureau of International Labor Affairs, will award up to U.S. $2 million through one or more cooperative agreements to an organization or organizations* * *'', should be changed to read, ''The U.S. Department of Labor, Bureau of International Labor Affairs, will award up to U.S. $4 million through one or more cooperative agreements to an organization or organizations* * *''.

On page 30791, in the second column, first sentence of the second paragraph of Section II ''Award Information'', the language, ''Up to U.S. $2 million will be awarded under this solicitation'', should be changed to read, ''Up to U.S. $4 million will be awarded under this solicitation.''

Dated: June 21, 2005.

Lisa Harvey,

Grant Officer.

[FR Doc. 05–12527 Filed 6–23–05; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Office of the Secretary

Combating Exploitive Child Labor Through Education in Sierra Leone and Liberia; Modification

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Modification.

SUMMARY: In notice document 05–10621 beginning on page 30801 in the issue of Friday, May 27, 2005, make the following modifications:

On page 30801, in the first column, first sentence of the ''Summary'', the language ''The U.S. Department of Labor, Bureau of International Labor Affairs, will award up to U.S. $5 million through one or more cooperative agreements to an organization or organizations* * *'', should be changed to read. ''The U.S. Department of Labor, Bureau of International Labor Affairs, will award up to U.S. $6 million through one or more cooperative agreements to an organization or organizations* * *''

On page 30805, in the third column, first sentence of the second paragraph of Section II ''Award Information'', the language, ''Up to U.S. $5 million will be awarded under this solicitation'', should be changed to read, ''Up to U.S. $6 million will be awarded under this solicitation''.

Dated: June 21, 2005.

Lisa Harvey,

Grant Officer.

[FR Doc. 05–12528 Filed 6–28–05; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described herein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from the date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration to the Department. Further information and self-explanatory forms for the purpose of

submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decision being modified.

Volume I

Connecticut
CT20030001 (Jun. 13, 2003)
CT20030003 (Jun. 13, 2003)
CT20030004 (Jun. 13, 2003)
New Hampshire
NH20030004 (Jun. 13, 2003)

Volume II

District of Columbia
DC20030001 (Jun. 13, 2003)
DC20030003 (Jun. 13, 2003)
Maryland
MD20030048 (Jun. 13, 2003)
MD20030057 (Jun. 13, 2003)
Pennsylvania
PA20030005 (Jun. 13, 2003)
PA20030007 (Jun. 13, 2003)
PA20030008 (Jun. 13, 2003)
PA20030010 (Jun. 13, 2003)
PA20030011 (Jun. 13, 2003)
PA20030014 (Jun. 13, 2003)
PA20030019 (Jun. 13, 2003)
PA20030020 (Jun. 13, 2003)
PA20030021 (Jun. 13, 2003)
PA20030023 (Jun. 13, 2003)
PA20030026 (Jun. 13, 2003)
PA20030031 (Jun. 13, 2003)
PA20030040 (Jun. 13, 2003)
PA20030061 (Jun. 13, 2003)
Virginia
VA20030025 (Jun. 13, 2003)
VA20030052 (Jun. 13, 2003)
VA20030092 (Jun. 13, 2003)
VA20030099 (Jun. 13, 2003)
West Virginia
WV20030001 (Jun. 13, 2003)
WV20030002 (Jun. 13, 2003)
WV20030006 (Jun. 13, 2003)
WV20030009 (Jun. 13, 2003)
WV20030011 (Jun. 13, 2003)

Volume III

None

Volume IV

Illinois
IL20030001 (Jun. 13, 2003)
IL20030002 (Jun. 13, 2003)
IL20030003 (Jun. 13, 2003)
IL20030005 (Jun. 13, 2003)
IL20030011 (Jun. 13, 2003)
IL20030014 (Jun. 13, 2003)
IL20030015 (Jun. 13, 2003)
IL20030016 (Jun. 13, 2003)
IL20030043 (Jun. 13, 2003)
IL20030044 (Jun. 13, 2003)
IL20030045 (Jun. 13, 2003)
IL20030046 (Jun. 13, 2003)
IL20030050 (Jun. 13, 2003)
IL20030051 (Jun. 13, 2003)
IL20030052 (Jun. 13, 2003)
IL20030056 (Jun. 13, 2003)
IL20030058 (Jun. 13, 2003)
IL20030059 (Jun. 13, 2003)
IL20030064 (Jun. 13, 2003)
IL20030066 (Jun. 13, 2003)
IL20030067 (Jun. 13, 2003)
IL20030069 (Jun. 13, 2003)
Michigan
MI20030007 (Jun. 13, 2003)

Volume V

Missouri
MO20030001 (Jun. 13, 2003)
MO20030002 (Jun. 13, 2003)
MO20030008 (Jun. 13, 2003)
MO20030009 (Jun. 13, 2003)
MO20030011 (Jun. 13, 2003)
MO20030044 (Jun. 13, 2003)
MO20030049 (Jun. 13, 2003)
MO20030051 (Jun. 13, 2003)
MO20030055 (Jun. 13, 2003)
MO20030056 (Jun. 13, 2003)
Nebraska
NE20030001 (Jun. 13, 2003)
NE20030003 (Jun. 13, 2003)
NE20030007 (Jun. 13, 2003)
NE20030010 (Jun. 13, 2003)
NE20030011 (Jun. 13, 2003)
NE20030019 (Jun. 13, 2003)

Volume VI

Montana
MT20030001 (Jun. 13, 2003)
MT20030003 (Jun. 13, 2003)
MT20030004 (Jun. 13, 2003)
MT20030005 (Jun. 13, 2003)
MT20030006 (Jun. 13, 2003)
MT20030007 (Jun. 13, 2003)
Utah
UT20030004 (Jun. 13, 2003)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Dated: Signed at Washington, DC This 16th Day of June 2005.

John Frank,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 05–12232 Filed 6–23–05; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement of the ''Current Population Survey (CPS) Displaced Worker, Job Tenure, and Occupational Mobility Supplement,'' to be conducted in January 2006.

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before August 23, 2005.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See Addresses section.)

SUPPLEMENTARY INFORMATION:

I. Background

The CPS Displaced Worker, Job Tenure, and Occupational Mobility Supplement is conducted biennially and was last collected in January 2004.

This supplement will gather information on workers who have lost or left their jobs because their plant or company closed or moved, there was insufficient work for them to do, or their position or shift was abolished. Data will be collected on the extent to which displaced workers received advance notice of job cutbacks or the closing of their plant or business. For those workers who have been reemployed, the supplement will gather data on the types of jobs they found and will compare current earnings with those from the lost job.

The incidence and nature of occupational changes in the preceding year will be queried. The survey also probes for the length of time workers (including those who have not been displaced) have been with their current employer. Additional data to be collected include information on the receipt of unemployment compensation, the loss of health insurance coverage, and the length of time spent without a job.

Because this supplement is part of the CPS, the same detailed demographic information collected in the CPS will be available on respondents to the supplement. Comparisons will be possible across characteristics such as sex, race, age, and educational attainment of the respondent.

The information collected by this survey will be used to determine the size and nature of the population affected by job displacements and the needs and scope of programs serving adult displaced workers. It also will be used to assess employment stability by determining the length of time workers have been with their current employer and estimating the incidence of occupational change over the course of a year. Combining the questions on displacement, job tenure, and occupational mobility will enable analysts to obtain a more complete picture of employment stability.

II. Current Action

Office of Management and Budget clearance is being sought for the CPS Displaced Worker, Job Tenure, and Occupational Mobility Supplement to the CPS.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics.

Title: CPS Displaced Worker, Job Tenure, and Occupational Mobility Supplement.

OMB Number: 1220–0104.

Affected Public: Households.

Total Respondents: 55,000.

Frequency: Monthly.

Total Responses: 55,000.

Average Time Per Response: 8 minutes.

Estimated Total Burden Hours: 7,333 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 16th day of June, 2005.

Cathy Kazanowski,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 05–12517 Filed 6–23–05; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 05–106]

NASA Advisory Council, Planetary Protection Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC), Planetary Protection Advisory Committee (PPAC).

DATES: Tuesday, July 26, 2005, 8:30 a.m. to 5:30 p.m., and Wednesday, July 27, 2005, 8:30 a.m. to 4:30 p.m.

ADDRESSES: University of Maryland Inn and Conference Center, 3501 University Boulevard, East, Adelphi, MD 20783.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–4452, e-mail *mnorris@nasa.gov*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Planetary Protection Program Update
—Solar System Exploration Overview
—Mars Forward Contamination Requirements
—Mars Mission Implementation Status
—Mars Sample Return Mission, Planning, and Status
—Future Outer Planet Missions
—Planning for Future Human Missions to the Moon and Mars

Attendees will be requested to sign a register. It is imperative that the meeting be held on these dates to accommodate

the scheduling priorities of the key participants.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 05–12595 Filed 6–23–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINSTRATION

[Notice 05–107]

Return to Flight Task Group; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Return to Flight Task Group (RTF TG).

DATES: Monday June 27, 2005, from 1 p.m. until 3 p.m. eastern daylight time.

ADDRESSES: Residence Inn Capitol, 333 E Street SW., Washington DC 20024. The meeting will be held in the Capitol Room.

FOR FURTHER INFORMATION CONTACT: Mr. Vincent D. Watkins at (281) 792–7523.

Rationale for Exception to Less Than 15 Day Notice: This event is directly related to scheduling constraints imposed by the nation's Space Shuttle Program return to flight launch activities. Critical data necessary for the Task Group to complete its assessment was made available based on necessary milestones required for the agency to ensure a safe return to flight. The proximity of those milestones to the new STS–114 launch date prevents the Task Group from scheduling its last public meeting within the 15 day notice requirement.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the meeting room. Attendees will be requested to sign a register. Audio of the meeting will be distributed via the Internet at *http://returntoflight.org*.

The agenda for the meeting is as follows:

—Welcome remarks from Co-Chair
—Discussion of status of NASA's implementation of selected Columbia Accident Investigation Board return to flight recommendations
—Action item summary from Executive Secretary
—Closing remarks from Co-Chair

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 05–12594 Filed 6–23–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antaric Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by July 25, 2005. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antaric Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antaric Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

Permit Application No. 2006–015

1. *Applicant:* Shane B. Kanatous, Southwestern Medical Center, University of Texas, 5323 Harry Hines Boulevard, Dallas, TX 75390–8573.

Activity for Which Permit is Requested

Take and Import into the United States. The applicant proposes to capture up to 10 each of Weddell seal newborn pups, sub adults, and adults each season to be weighed and to collect muscle samples. The samples will be returned to the U.S. for further scientific study. The applicant plans to build on his previous work that characterized the enzymatic, and ultra-structural adaptations for diving that occur in the skeletal muscles of newly weaned, juvenile and adult Weddell seals. Study results will increase understanding of both the ontogeny and molecular mechanisms by which young seals acquire the physiological capabilities to make deep (up to 700 meters) and long aerobic dives (@ min.). The study will also advance knowledge of the molecular regulation for the adaptations that enable active skeletal muscle to function under hypoxic conditions, which has broader application for human medicine especially in regards to cardiac and pulmonary disease.

Location: McMurdo Sound sea ice.

Dates: October 1, 2005 to February 28, 2008.

Permit Application No. 2006–016

2. *Applicant:* Wayne Z. Trivelpiece, Antarctic Ecosystem Research Division, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA 92037.

Activity for Which Permit Is Requested

Take, Enter an Antarctic Specially Protected Area, and Import into the United States. THe applicant is continuing a study of the behavioral and population biology of the Adelie, gentoo, and chinstrap penguins and the interactions of these species and their principal avian predators: skuas, gulls, sheathbills, and giant petrels. Up to 500 each of Adelie and gentoo penguin chicks and adults will be banded. Up to 50 adult penguins per species will have radio-transmitters (Txs), satellite tags (PTTs), and time-depth recorders (TDRs) attached to continue the study of the penguins' foraging habits. Up to 40 adult penguins per species will have their stomachs pumped, and data will be collected on egg sizes and adult weights for a maximum of 100 nest per species. In addition, blood, tissue and uropigial gland oil will be collected for further study.

Location: Western Shore of Admiralty Bay, King George Island (ASPA #128) and Lion's Rump, King George Island (ASPA #151).

Dates: October 1, 2005 to April 1, 2010.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 05–12543 Filed 6–23–05; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

EarthScope Science and Education Advisory Committee Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

Name: EarthScope Science and Education Advisory Committee (#16638)

Dates/Time: 8:30 a.m.–5:30 p.m.–Tuesday, July 26, 2005. 8:30 a.m.–3 p.m.–Wednesday, July 27, 2005.

Place: Nevada Bureau of Mines & Geology, Univ. of Nevada, Reno, NV 89557–0088.

Type of Meeting: Open.

Contact Person: Dr. Kaye Shedlock, Program Director, EarthScope Program, Division of Earth Sciences, Room 785, National Science Foundation, Arlington, VA, (703) 292–4693.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research, education and outreach in the EarthScope Program.

Agenda: To provide advice on EarthScope Program measures of success, education and outreach plans, webpage development and other program issues.

Dated: June 21, 2005.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 05–12542 Filed 6–23–05; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8905]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Rio Algom Mining, LLC

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Robert A. Nelson, Chief, Uranium Processing Section, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–7298 fax number: (301) 415–5955; e-mail: *ran@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is issuing an amendment to Materials License No. SUA–1475 issued to Rio Algom Mining, LLC (the licensee), to authorize the consolidating and transporting of materials associated with the lined evaporation ponds at its Ambrosia Lake facility near Grants, NM. NRC has prepared an Environmental Assessment (EA) in support of this amendment in accordance with the requirements of 10 CFR Part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

II. EA Summary

The proposed action is the relocation of the lined evaporation ponds (Section 4 Ponds and Pond 9) at the Ambrosia Lake facility. The action includes the consolidation and removal of byproduct material, transport of the material to the disposal site and disposal of material in accordance with NRC regulations.

In a letter dated November 1, 2004, Rio Algom Mining, LLC (Rio Algom) submitted to the NRC, a *Closure Plan-Lined Evaporation Ponds* (*Relocation Plan*) for its Ambrosia Lake uranium mill facility. In a follow-up to the proposed plan, Rio Algom submitted, under letter dated January 28, 2005, a response to a request for additional information and a Revised Relocation Plan. Rio Algom requested that the Revised Relocation Plan be considered initially by NRC so that work can commence at the site. The staff has prepared the EA in support of the proposed license amendment. Staff considered impacts to the land surface, water, air, vegetation, public and worker health and safety, cultural resources, wildlife, and wildlife habitat. The staff found that the potential impacts of the proposed action are limited to the land surface and are temporary due to construction activities. The site Health, Safety and Environment Management System provides adequate assurances to control impacts to the environment. The proposed action will not result in adverse impacts to cultural and historic properties or impact any threatened or endangered species. The overall aesthetics of the area will improve.

III. Finding of No Significant Impact

On the basis of the EA, NRC has concluded that there are no significant environmental impacts from the proposed amendment and has determined not to prepare an environmental impact statement.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are as follows:

Document	ADAMS accession No.	Date
Rio Algom Mining LLC, ''Closure Plan-Lined Evaporation Ponds''	ML050240058	11/1/04
Rio Algom Mining LLC, ''Response to Request for Additional Information for Closure Plan—Lined Evaporation Ponds at Rio Algom Mining LLC's Ambrosia Lake Facility''	ML050730258	1/28/05
U.S. Fish and Wildlife Service Letter to J. Caverly	ML042780480	9/20/04
State of New Mexico Environment Department Letter to G. Janosko	ML051570252	4/22/05
Rio Algom Mining, LLC, ''Response to Request for Additional Information Concerning Environmental Review''	ML051670429	6/15/05
Environmental Assessment	ML051680226	6/17/05

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, MD this 17th day of June, 2005.

For the Nuclear Regulatory Commission.

Robert A. Nelson,

Chief, Uranium Processing Section, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E5–3291 Filed 6–23–05; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Acquisition Advisory Panel; Notification of Upcoming Meetings of the Acquisition Advisory Panel

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Office of Management and Budget announces a meeting of the Acquisition Advisory Panel (AAP or ''Panel'') established in accordance with the Services Acquisition Reform Act of 2003.

DATES: A public meeting of the Panel will be held on July 12, 2005 beginning at 9 a.m. eastern time and ending no later than 5 p.m.

ADDRESSES: The July 12, 2005 meeting will be held at the Federal Deposit Insurance Corporation (FDIC), Basement Auditorium, 801 17th Street, NW., Washington, DC 20434. The public is asked to pre-register one week in advance for the meeting due to security and seating limitations (see below for information on pre-registration).

FOR FURTHER INFORMATION CONTACT: Members of the public wishing further information concerning this meeting, the Acquisition Advisory Panel, or to pre-register for the meeting, should contact Ms. Laura Auletta, Designated Federal Officer (DFO), at: *laura.auletta@gsa.gov,* phone/voice mail (202) 208–7279, or mail at: General Services Administration, 1800 F. Street, NW., Room 4006, Washington, DC 20405. Members of the public wishing to reserve speaking time must contact Ms. Anne Terry, AAP Staff Analyst, in writing at: *anne.terry@gsa.gov,* by FAX at 202–501–3341, or mail at the address given above for the DFO, no later than one week prior to the meeting.

SUPPLEMENTARY INFORMATION: *(a) Background:* The purpose of the Panel is to provide independent advice and recommendations to the Office of Federal Procurement Policy and Congress pursuant to Section 1423 of the Services Acquisition Reform Act of 2003. The Panel's statutory charter is to review Federal contracting laws, regulations, and governmentwide policies, including the use of commercial practices, performance-based contracting, performance of acquisition functions across agency lines of responsibility, and governmentwide contracts. Interested parties are invited to attend the meeting. The Panel also expects to hear from additional invited speakers from the public and private sectors who will address issues related to the Panel's statutory charter. In addition to invited speakers, the Panel also invites oral public comments at this meeting and has reserved an estimated one hour for this purpose. Members of the public wishing to address the Panel during the meeting must contact Ms. Anne Terry, in writing, as soon as possible to reserve time (see contact information above). Additional time for oral public comments is expected at future public meetings to be announced in the **Federal Register**.

(b) Availability of Materials for the Meetings: Please see the Acquisition Advisory Panel Web site for any available materials, including the draft agenda for this meeting which will be posted prior to the meeting (*http://www.acqnet.gov/aap*). Questions/issues of particular interest to the Panel are also available to the public on this Web site. The Panel asks that the public focus on these questions/issues when presenting oral public comments or submitting written statements to the Panel. The public may also obtain copies of Initial Working Group Reports presented at the March 30, 2005 public meeting, scope reports provided by each working group at the June 14, 2005 meeting (if a presentation was used), and public presentations made to the Panel at its Web site under ''Meeting Materials'' and ''Working Groups'' at *http://www.acqnet.gov/aap.*

(c) Procedures for Providing Public Comments: It is the policy of the Acquisition Advisory Panel to accept written public statements of any length, and to accommodate oral public comments whenever possible. To facilitate Panel discussions at its meetings, the Panel may not accept oral comments at all meetings. The Panel Staff expects that public statements presented at Panel meetings will be focused on the Panel's statutory charter, working group topics, and posted questions/issues, and not be repetitive of previously submitted oral or written statements, and that comments will be relevant to the issues under discussion. Oral Comments: Speaking times will be confirmed by Panel staff on a ''first-come/first-serve'' basis. To accommodate as many speakers as possible, oral public comments must be no longer than 10 minutes for the July 12th meeting. Because Panel members may ask questions, reserved times will be approximate. Interested parties must contact Ms. Anne Terry, in writing (via mail, e-mail, or fax identified above for Ms. Terry) at least one week prior to the meeting in order to be placed on the public speaker list for the meeting. Oral requests for speaking time will not be taken. Speakers are requested to bring extra copies of their comments and presentation slides for distribution to the Panel at the meeting. Speakers wishing to use a Power Point presentation must e-mail the presentation to Ms. Terry one week in advance of the meeting. Written Statements: Although written statements are accepted until the date of the meeting (unless otherwise stated), written statements should be received by the Panel Staff at least one week prior to the meeting date so that they may be made available to the Panel for their consideration prior to the meeting. Written statements should be supplied to the DFO at the address/contact information given in this **Federal Register** Notice in one of the following formats (Adobe Acrobat, WordPerfect, Word, or Rich Text files, in IBM–PC/Windows 98/2000/XP format). Please note: Since the Panel operates under the provisions of the Federal Advisory Committee Act, as amended, all public presentations or written statements will be treated as public documents and will be made available for public inspection, up to and including being posted on the Panel's Web site.

(d) Meeting Accommodations: Individuals requiring special accommodation to access the public meetings listed above should contact Ms. Auletta at least five business days

prior to the meeting so that appropriate arrangements can be made.

Laura Auletta,

Designated Federal Officer (Executive Director), Acquisition Advisory Panel.

[FR Doc. 05–12578 Filed 6–21–05; 2:06 pm]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 18f–1, SEC File No. 270–187, OMB Control No. 3235–0211
Form N–18F–1, SEC File No. 270–187, OMB Control No. 3235–0211

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 18f–1 [17 CFR 270.18f–1] enables a registered open-endmanagement investment company (''fund'') that may redeem its securities in-kind, by making a one-time election, to commit to make cash redemptions pursuant to certain requirements without violating section 18(f) of the Investment Company Act of 1940 [15 U.S.C. 80a–18(f)]. A fund relying on the rule must file Form N–18F–1 [17 CFR 274.51] to notify the Commission of this election. The Commission staff estimates that approximately 38 funds file Form N–18F–1 annually, and that each response takes approximately one hour. Based on these estimates, the total annual burden hours associated with the rule is estimated to be 38 hours.

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. The collection of information required by rule 18f–1 is necessary to obtain the benefits of the rule. Responses to the collection of information will not be kept confidential. 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 control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; or email to: *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 16, 2005.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3280 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services,Washington, DC 20549.

Extension:
Rule 11Ab2–1, SEC File No. 270–23, OMB Control No. 3235–0043; Form SIP, SEC File No. 270–23, OMB Control No. 3235–0043.

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 (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 11Ab2–1 (Form of Application and Amendments) and Form SIP establish the procedures by which a Securities Information Processor (''SIP'') files and amends its SIP registration form. The information filed with the Commission pursuant to Rule 11Ab2–1 and Form SIP is designed to provide the Commission with the information necessary to make the required findings under the Act before granting the SIP's application for registration. In addition, the requirement that a SIP file an amendment to correct any inaccurate information is designed to assure that the Commission has current, accurate information with respect to the SIP. This information is also made available to members of the public.

Only exclusive SIPs are required to register with the Commission. An exclusive SIP is a SIP that engages on an exclusive basis on behalf of any national securities exchange or registered securities association, or any national securities exchange or registered securities association which engages on an exclusive basis on its own behalf, in collecting, processing, or preparing for distribution or publication, any information with respect to (i) transactions or quotations on or effected or made by means of any facility of such exchange or (ii) quotations distributed or published by means of any electronic quotation system operated by such association. The federal securities laws require that before the Commission may approve the registration of an exclusive SIP, it must make certain mandatory findings. It takes a SIP applicant approximately 400 hours to prepare documents which include sufficient information to enable the Commission to make those findings. Currently, there are only two exclusive SIPs registered with the Commission; The Securities Information Automation Corporation (''SIAC'') and The Nasdaq Stock Market, Inc. (''Nasdaq''). SIAC and Nasdaq are required to keep the information on file with the Commission current, which entails filing a form SIP annually to update information. Accordingly, the annual reporting and recordkeeping burden for Rule 11Ab2–1 and Form SIP is 400 hours. This annual reporting and recordkeeping burden does not include the burden hours or cost of amending a Form SIP because the Commission has already overstated the compliance burdens by assuming that the Commission will receive one initial registration pursuant to Rule 11Ab2–1 on Form SIP a year.

Rule 11Ab2–1 and Form SIP do not impose a retention period for any recordkeeping requirements. Completing and filing Form SIP is mandatory before an entity may become an exclusive SIP. Except in cases where confidential treatment is requested by an applicant and granted by the Commission pursuant to the Freedom of Information Act and the rules of the Commission thereunder, information provided in the Form SIP will be routinely available for public inspection. Please note that 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 control number.

Written comments regarding the above information should be directed to the following persons: (1) The Desk Officer for the Securities and Exchange

Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC, 20503 or by sending an e-mail to: *David__Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, 100 F Street, NE., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 16, 2005.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3286 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 15c2–11, SEC File No. 270–196, OMB Control No. 3235–0202.

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 (''Commission'') has submitted to the Office of Management and Budget request for extension of the previously approved collection of information discussed below.

The Commission adopted Rule 15c2–11 [1] (Rule 15c2–11 or Rule) in 1971 under the Securities Exchange Act of 1934 [2] (Exchange Act) to regulate the initiation or resumption of quotations in a quotation medium by a broker-dealer for over-the-counter (OTC) securities. The Rule was designed primarily to prevent certain manipulative and fraudulent trading schemes that had arisen in connection with the distribution and trading of unregistered securities issued by shell companies or other companies having outstanding but infrequently traded securities. Subject to certain exceptions, the Rule prohibits brokers-dealers from publishing a quotation for a security, or submitting a quotation for publication, in a quotation medium unless they have reviewed specified information concerning the security and the issuer.

According to NASDR estimates, we also believe that approximately 1,200 new applications from broker-dealers to initiate or resume publication of covered OTC securities in the OTC Bulletin Board and/or the Pink Sheets or other quotation mediums were received by the NASDR for the 2004 calendar year. We estimate that 80% of the covered OTC securities were issued by reporting issuers, while the other 20% were issued by non-reporting issuers. We believe that it will take a broker-dealer about 4 hours to collect, review, record, retain, and supply to the NASDR the information pertaining to a reporting issuer, and about 8 hours to collect, review, record, retain, and supply to the NASDR the information pertaining to a non-reporting issuer.

We therefore estimate that broker-dealers who are the first to publish the first quote for a covered OTC security of a reporting issuer will require 3,840 hours ($1,200 \times 80\% \times 4$) to collect, review, record, retain, and supply to the NASDR the information required by the Rule. We estimate that the broker-dealers who are the first to publish the first quote for a covered OTC security of a non-reporting issuer will require 1,920 hours ($1,200 \times 20\% \times 8$) to collect, review, record, retain, and supply to the NASDR the information required by the Rule. We therefore estimate the total annual burden hours for the first broker-dealers to be 5,760 hours (3,840 + 1,920). The Commission estimates that the annual cost to comply with Rule 15c2–11 is $115,200 ($20 per hour times 5,760 hours).

Subject to certain exceptions, the Rule prohibits brokers-dealers from publishing a quotation for a security, or submitting a quotation for publication, in a quotation medium unless they have reviewed specified information concerning the security and the issuer. The broker-dealer just also make the information reasonably available upon request to any person expressing an interest in a proposed transaction in the security with such broker or dealer. The collection of information that is submitted to the NASDR for review and approval is currently not available to the public from the NASDR.

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 control number.

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.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to *David__Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 16, 2005.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3287 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26910; File No. 812–13127]

GE Life and Annuity Assurance Company, et al., Notice of Application

June 17, 2005.

AGENCY: The Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an Order pursuant to Section 26(c) of the Investment Company Act of 1940 (''1940 Act'').

Applicants: GE Life and Annuity Assurance Company and GE Capital Life Assurance Company of New York (collectively, the ''Companies''), and GE Capital Life Separate Account II and GE Life & Annuity Separate Account II and GE Life & Annuity Separate Account 4 (collectively, the ''Separate Accounts'') (the Companies and the Separate Accounts collectively referred to as the ''Applicants'').

Summary of the Application: Applicants request an Order pursuant to Section 26(c) of the 1940 Act to permit the substitution of shares of the GE Investments Funds, Inc.—Global Income Fund (''GE Global Fund''), currently held in the Separate Accounts, for shares of the Franklin Templeton Variable Insurance Products Trust—Templeton Global Income Securities Fund—Class 1 (''FT Global Fund'').

[1] 17 CFR 240.15c2-11.

[2] 15 U.S.C. 78a et seq.

Filing Date: The application was filed on September 17, 2004, and amended and restated on June 2, 2005.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 12, 2005, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303. Applicants, Heather Harker, Vice President and Associate General Counsel, Genworth Financial, 6610 West Broad Street, Richmond, Virginia 23230.

FOR FURTHER INFORMATION CONTACT: Mark Cowan, Senior Counsel, or Zandra Bailes, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 100 F Street, NE., Room 1580, Washington, DC 20549 (telephone (202) 551–5850).

Applicant's Representations

1. GE Life and Annuity Assurance Company (''GELAAC''), located at 6610 West Broad Street, Richmond, Virginia 23230, is a stock life insurance company incorporated under the laws of the Commonwealth of Virginia and operating under a charter granted by the Commonwealth in 1871. GELAAC principally offers annuity contracts, guaranteed investment contracts, funding agreements and life insurance. GELAAC is licensed to do business in the District of Columbia and all states except New York. GELAAC is an indirect wholly-owned subsidiary of Genworth Financial, Inc. (''Genworth''), a publicly-traded company. General Electric Company (''GE''), through its indirect wholly owned subsidiary, GE Financial Assurance Holdings, Inc., owns approximately 70% of the outstanding common stock of Genworth.

2. GE Life & Annuity Separate Account II (''Separate Account II'') was established by GELAAC pursuant to the laws of the Commonwealth of Virginia on August 21, 1986 as a segregated asset account and is registered under the 1940 Act as a unit investment trust (File No. 811–4885). Separate Account II supports variable life insurance policies, the interests in which are registered under the Securities Act of 1933 (the ''1933 Act'') (File Nos. 33–09651, 333–32071, 333–82311, 333–41031, and 333–111208).

3. GE Life & Annuity Separate Account 4 (''Separate Account 4'') was established by GELAAC pursuant to the laws of the Commonwealth of Virginia on August 19, 1987 as a segregated asset account and is registered under the 1940 Act as a unit investment trust (File No. 811–5343). Separate Account 4 supports deferred variable annuity contracts, the interests in which are registered under the 1933 Act (File Nos. 33–17428, 33–76336, 33–76334, 333–96513, 333–62695, and 333–63531).

4. GE Capital Life Assurance Company of New York (''GECLANY''), located at 622 Third Avenue, 33rd Floor, New York, New York 10017, is a stock life insurance company that was incorporated under the laws of the State of New York in 1988. GECLANY principally offers variable annuities and variable life insurance policies. GECLANY is licensed to do business in the State of New York. GECLANY is an indirect, wholly-owned subsidiary of Genworth.

5. GE Capital Life Separate Account II (''Capital Account II'') was established by GECLANY pursuant to the laws of the State of New York on April 1, 1996 as a segregated asset account and is registered under the 1940 Act as a unit investment trust (File No. 811–8475). Capital Account II supports deferred variable annuity contracts, the interests in which are registered under the 1933 Act (File No. 333–39955).

6. Each variable annuity contract and variable life insurance policy (collectively, the ''Contracts'') issued by the Companies through the Separate Accounts has a variable investment component that allows an investor to allocate purchase payments among a specific menu of underlying mutual fund options. Some of the Contracts also provide for a fixed account allocation, which is supported by the assets of the Company's general account. The Separate Accounts maintain separate sub-accounts for each underlying mutual fund available under the Contracts. Contract owners may currently choose to have purchase payments allocated to one or more sub-accounts, each of which invests in an underlying mutual fund.

7. The current prospectuses for the Contracts, and the Contracts themselves, contain provisions stipulating the Companies' right to substitute shares of one underlying mutual fund for shares of another underlying mutual fund in the event that: (i) the underlying mutual fund option currently available under the Contracts is no longer available for investment by the Separate Accounts; or (ii) in the judgment of the Company's management, further investment in currently available underlying mutual fund shares is inappropriate in view of the purposes of the Contracts.

8. None of the Contracts are being actively marketed by the Companies. Although existing Contract owners are permitted to make additional subsequent purchase payments, the Companies do not anticipate acquiring new assets through new Contract owners.

9. The GE Global Fund is a series of GE Investments Funds, Inc. (''GIF''). GIF is registered with the Commission as an open-end management investment company and presently consists of 14 separate series (File Nos. 2–91369; 811–04041). GE Asset Management Incorporated (''GEAM'') is the investment adviser and administrator of the GE Global Fund. GEAM is a wholly-owned subsidiary of GE and, by virtue of GE's indirect ownership of approximately 70% of the outstanding common stock of Genworth, could be deemed to be an affiliated person of the Companies. The GE Global Fund is available only through the Contracts, which as noted previously are no longer being sold by the Companies.

10. Applicants have been informed that GEAM wishes to liquidate the GE Global Fund and terminate its operations. GEAM has explained to Applicants that the GE Global Fund was created to serve as an investment option for variable annuity contracts and variable life insurance policies offered by GE-affiliated insurers. According to GEAM, the GE Global Fund has not attracted sufficient assets to grow to an efficient size and there is no realistic expectation that it will do so in the future as the Contracts are no longer actively marketed by the Companies. Thus, it is not anticipated that the GE Global Fund will attain economies of scale and the benefits associated therewith. Additionally, the GE Global Fund consistently has been out-performed by other mutual funds with similar objectives. In light of these factors, GEAM has presented the GIF Board of Directors with a proposal to liquidate the GE Global Fund and the

GIF Board has determined that liquidating the GE Global Fund is in the best interest of shareholders.

11. In light of the foregoing, Applicants propose to substitute shares of the GE Global Fund with shares of the FT Global Fund. The FT Global Fund is a series of the Franklin Templeton Variable Insurance Products Trust (File Nos. 33–23493; 811–5583). The FT Global Fund and its investment adviser, Franklin Advisers, Inc., are not affiliated with the Companies or their Separate Accounts.

12. Applicants believe that the FT Global Fund is an appropriate substitute for the GE Global Fund because the FT Global Fund has: (i) investment objectives, strategies and risks that are substantially similar to those of the GE Global Fund; (ii) lower total operating expenses than the GE Global Fund; (iii) a larger asset base than the GE Global Fund; and (iv) returns that demonstrate that it has significantly outperformed the GE Global Fund.

13. The discussion below compares the investment objectives, investment risks and strategies of the GE Global Fund and the FT Global Fund. Applicants submit that the investment objectives, strategies and risks of the GE Global Fund are substantially similar to those of the FT Global Fund.

14. GE Global Fund—Investment Objectives and Strategies. The GE Global Fund seeks high return, emphasizing current income, and, to a lesser extent, capital appreciation. The GE Global Fund seeks to achieve its objective by investing in a combination of foreign and domestic debt securities, with an emphasis in foreign debt securities. Under normal circumstances, the Fund invests in securities of companies or governments representing at least three different countries, one of which may be the United States. The particular types of securities in which the Fund invests include foreign government securities, foreign and domestic corporate bonds, U.S. Government securities, and money market instruments. The Fund may invest up to 25% of its net assets in below-investment grade debt securities rated B or higher by S&P or Moodys (or otherwise comparably rated). Of that 25%, no more than 10% may be represented by securities in the B rating category. The Fund may also invest in securities of emerging market issuers and in derivatives. In selecting investments for the Fund, the portfolio manager considers factors such as: currency and interest rate trends; the instrument's duration; yield; issuer credit quality; and prospects for capital appreciation. The Fund is non-diversified as defined by Section 5(b)(2) of the 1940 Act.

15. GE Global Fund—Investment Risks. Because the GE Global Fund invests primarily in debt securities, the principal risks of investing in this Fund are interest rate and credit risk. The Fund is also subject to foreign securities risk because its assets are invested in securities of issuers from around the world, including issuers located or doing business in emerging markets, which exposes the Fund to emerging markets risk. To the extent the Fund invests in below-investment grade debt securities, the Fund is subject to the risks associated with high-yield, lower-rated instruments. Finally, the Fund may invest in derivative instruments which carry derivative instruments risk.

16. FT Global Fund—Investment Objectives and Strategies. The Fund's investment objective is high current income, consistent with preservation of capital. Capital appreciation is a secondary consideration. Under normal market conditions, the Fund invests mainly in debt securities of governments and their political subdivisions and agencies, supranational organizations and companies located anywhere in the world, including emerging markets. Under normal circumstances, the Fund's assets are invested in issuers in at least three countries, one of which may be the United States. The Fund focuses on investment grade debt securities but may invest up to 30% of its net assets in lower-rated securities, including debt obligations of emerging market issuers, and up to 10% in defaulted debt securities. The manager allocates the Fund's assets among issuers, geographic regions, and currencies based upon its assesment of: Relative interest rates among currencies, outlook for changes in interest rates, and credit risks. The Fund is non-diversified as defined by Section 5(b)(2) of the 1940 Act.

17. FT Global Fund—Investment Risks. Like the GE Global Fund, the FT Global Fund is subject to interest rate and credit risk with respect to its investments in debt securities. Because the Fund invests its assets around the world, the Fund is also subject to foreign securities risk as well as emerging markets risk. To the extent the Fund invests in below-investment grade debt securities, the Fund will be subject to the risks associated with high yield, lower-rated instruments. In addition, as the manager uses derivatives in managing the portfolio, the Fund is subject to the risks associated with those instruments.

18. The table below compares the audited fees and expenses (as of December 31, 2004) of the GE Global Fund and the FT Global Fund. As the table reflects, the total expenses of the FT Global Fund are lower than those of the GE Global Fund.

	GE Global fund (percent)	FT Global fund (percent)
Management Fees	0.60	0.62
Other Expenses	0.26	0.16
12b–1 Fees	None	None
Total Expenses	0.86	0.78

19. The table below compares the asset size of the GE Global Fund and the FT Global Fund as well as their respective performance history as of December 31, 2004.

	GE Global fund (percent)	FT Global fund (percent)
Inception Date	05/01/97	01/24/89
Net Assets (in millions)	$16.7	$49.5
Average Annual Total Return for the Periods Ended December 31, 2004		
1 Year	5.72	15.09
3 Years	12.55	19.79
5 Years	6.84	12.91
10 Years	N/A	9.08

20. The prospectuses, as well as the Contracts, state that the Companies may substitute, eliminate, and/or combine shares of one mutual fund for shares of another mutual fund already purchased or to be purchased in the future if either of the following occurs: (i) Shares of a current mutual fund are no longer available for investment; or (ii) in the judgment of our Company's management, investment in a mutual fund's shares are inappropriate for purposes of the Contracts.

21. Applicants note that in view of the fact that GEAM has proposed to liquidate the GE Global Fund, Applicants are exercising their contractual right, subject to Commission approval, to provide Contract owners with alternative investment options through a substitution transaction. Applicants have taken several steps toward accomplishing the proposed substitution. The Companies have added the FT Global Fund to the Contract registration statements via a post-effective amendment and have delivered a current prospectus for the FT Global Fund to all Contract owners. In addition, supplements have been sent

to all Contract owners informing Contract owners that the Companies have filed an application with the Commission to effect a substitution of shares of the FT Global Fund for shares of the GE Global Fund. The substitution transaction will be effected on a date designated by the Companies (the ''Exchange Date'').

22. Contract owners also will be advised that they are free to transfer assets from the GE Global Fund to any of the investment options available under the Contracts, in accordance with the terms of the Contracts, in advance of the Exchange Date without the imposition of any restrictions or fees. Likewise, after the Exchange Date, Contract owners affected by the substitution will be free to transfer assets from the FT Global Fund to any other investment option without restriction or the imposition of any fees for at least thirty (30) days after the Exchange Date. Contract owners may still be restricted to trade via U.S. mail or overnight delivery service as described in the current prospectus. All necessary forms and other information necessary for Contract owners to effectuate exchanges among investment options will continue to be provided. In addition, Applicants represent that they will not exercise their right to impose a fee on transfers involving the GE Global Fund during the thirty day period leading up to the substitution or on transfers involving the FT Global Fund during the thirty day period following the substitution. Moreover, Applicants presently permit Contract owners to make unlimited transfers. However, any transfer after the 12th in a calendar year must be submitted by U.S. mail or overnight delivery. Applicants represent that they will honor, during the 30 day periods prior to and after the substitution, one transfer request involving the FT Global Fund that is not submitted by U.S. mail or overnight delivery by a Contract owner who has exceeded or, because of such transfer, will exceed the 12 transfer limitation.

23. On the Exchange Date, shares of the GE Global Fund held by the Separate Account will be redeemed. Contemporaneously with this redemption, proceeds received from the GE Global Fund will be used to purchase shares in the FT Global Fund. All shares will be purchased and redeemed at each Fund's current net asset value per share next computed after receipt of the purchase and redemption requests, consistent with Section 22(c) of the 1940 Act and Rule 22c–1 thereunder. Applicants submit that there will be no change in the amount of any Contract owner's Contract value or in the dollar value of his or her investment in the Separate Account. Fees charged under the Contracts will not increase because of the substitution. In addition, no charges will be assessed in connection with the substitution transaction. The Companies will bear all of the costs (including legal, accounting, brokerage, and other expenses) associated with the substitution. The proposed substitution will not impose any tax liability on Contract owners and will not cause the fees and charges currently being paid by existing Contract owners to be greater after the proposed substitution than before the proposed substitution. The substitution will in no way alter the insurance benefits to Contract owners or the contractual obligations of the Companies.

24. Within five (5) days after the Exchange Date, all Contract owners affected by the substitution transaction will receive a written confirmation. The confirmation will state that Contract owners may transfer Contract value allocated to the FT Global Fund as a result of the substitution transaction to any other available sub-accounts. The notice will also reiterate that the Companies will not exercise any right reserved by them under the Contracts to impose any fees on transfers involving the FT Global Fund until at least thirty (30) days after the Exchange Date. However, as discussed above, Contract owners who have exceeded the 12 transfer limitation may be required to submit transfer requests involving the Funds by U.S. mail or overnight delivery.

Applicants' Legal Analysis

1. Section 26(c) of the 1940 Act prohibits a depositor or trustee of a registered unit investment trust holding the securities of the single issuer from substituting another security for such security unless the Commission approves the substitution, finding that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. The legislative history makes clear that the purpose of Section 26(c) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate shares of a particular issuer by preventing unscrutinized substitutions that might, in effect, force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial premium payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Moreover, in the insurance product context, a contract owner forced to redeem may suffer adverse tax consequences. Section 26(c) affords protection to investors by preventing a depositor or trustee of a unit investment trust that holds shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves that substitution.

3. Applicants submit that the proposed substitution is in the best interests of Contract owners and will not give rise to the type of costly forced redemption that Section 26(c) was intended to guard against. Applicants further submit that, for the reasons discussed below, the Commission should find that the substitution is consistent with the protection of investors and the purposes fairly intended by the 1940 Act.

4. Applicants have proposed the substitution in response to GEAM's decision to recommend the liquidation of the GE Global Fund to the GIF Board of Directors. Applicants have been informed that the GIF Board believes it is in the best interest of shareholders to liquidate the GE Global Fund and is expected to act on GEAM's proposal pending the outcome of the application. As discussed previously, GEAM proposed the liquidation because the GE Global Fund has not attracted assets sufficient to achieve economies of scale, and the Fund's performance has lagged behind that of its peers. Because the GE Global Fund is available only through the Contracts and the Companies no longer sell the Contracts, there is no realistic expectation that the GE Global Fund will grow in size.

5. Applicants submit that the FT Global Fund is an appropriate substitute for the GE Global Fund. The FT Global Fund has investment objectives, strategies and risks that are substantially similar to those of the GE Global Fund. Accordingly, the proposed substitution should not cause Contract owners to surrender their Contracts for purposes of seeking out other investment opportunities in order to maintain a desired investment strategy. On the contrary, Applicants believe that the FT Global Fund should provide Contract owners with continuity of investment objectives and expectations. In this connection, Applicants submit that the Funds have substantially similar investment objectives as they both seek high returns, with an emphasis on current income. Capital appreciation is a secondary consideration for both Funds. The investment strategies of the Funds are also substantially similar as both Funds invest primarily in debts securities of issuers from around the

world. The assets of each Fund are represented by issuers from at least three countries, one of which may be the United States. In addition, both Funds may invest in securities of issuers located, or that do business in, emerging markets. Although the Funds have authority to invest in below-investment grade debt securities, they both focus their investments on investment-grade debt. And, while the FT Global Fund may invest a greater percentage of its assets in below-investment grade debt than the GE Global Fund (30% vs. 25%), Applicants submit that this limited flexibility does not significantly or meaningfully increase the risk profile of the FT Global Fund as compared to that of the GE Global Fund because of the FT Global Fund's stated focus on investment-grade debt. In fact, the average credit quality of the debt securities comprising the FT Global Fund as of December 31, 2004 was AA-/A+. Moreover, annual returns, which can provide an indication of the risks of investing in a fund, demonstrate that, year after year, the FT Global Fund is a more consistent performer than the GE Global Fund. Furthermore, the FT Global Fund's consistently higher income ratios strongly suggest that the Fund's investment approach to achieving its objective of high current income is superior to and more effective than the GE Global Fund's approach.

6. Because both Funds have substantially similar objectives and strategies, their portfolios are subject to the same types of principal risks, including the following: Interest rate risk, credit risk, foreign securities risk, emerging markets risk, derivatives risk, and non-diversification risk.

7. Furthermore, the performance history of the FT Global Fund is significantly better than that of the GE Global Fund. Given the reasons offered by GEAM for the liquidation of the GE Global Fund, Applicants believe that the FT Global Fund should continue to outperform the GE Global Fund. Factoring into this conclusion is the fact that the FT Global Fund has substantially greater assets than the GE Global Fund. This creates the opportunity for better performance because the FT Global Fund's fixed costs are spread across a larger number of shareholders. The economies of scale inherent in the FT Global Fund's greater asset size will be passed to Contract owners.

8. Importantly, the total operating expenses of the FT Global Fund are lower than those of the GE Global Fund. Given that there is no expectation for any significant growth in the assets of the GE Global Fund, Applicants believe that the expenses of the GE Global Fund will remain higher than those of the FT Global Fund. Thus, the substitution will not result in Contract owners paying a higher level of expenses.

9. Applicants asset that after taking all of these factors into consideration—namely that (1) the investment objectives, strategies and risks of the Funds are substantially similar, (2) the FT Global Fund consistently has outperformed the GE Global Fund, (3) the FT Global Fund has produced a higher level of income for its shareholders year after year, (4) the FT Global Fund has lower operating expenses than the GE Global, and (5) the GIF Board has determined that the liquidation of the GE Global Fund would be in the best interests of its shareholders—if Contract owners are not satisfied with the FT Global Fund as a replacement for the GE Global Fund, it is important to note that they will have a myriad of options under their Contracts, managed by a diverse group of quality investment advisers, from which to choose if they decide to transfer their assets.

10. Furthermore, the Companies submit that the substitution and the selection of the FT Global Fund were not motivated by any financial consideration paid or to be paid to the Companies or their affiliates by the FT Global Fund, its advisor or underwriter, or their respective affiliates. In this connection, Applicants represent that the Companies will not receive, for 36 months following the Exchange Date, any direct or indirect benefits from the FT Global Fund, its advisor or underwriter (or their affiliates) at a rate higher than that which they had received from the GE Global Fund, its advisor or underwriter (or their affiliates), including without limitation 12b-1, shareholder service, administration or other service fees, revenue sharing or other arrangements.

11. In addition to the foregoing, Applicants submit that the proposed substitution satisfies the standards of Section 26(c) because:

(a) The costs of the substitution, including any brokerage costs, will be borne by the Companies and will not be borne by Contract owners. No charges will be assessed to effect the substitution.

(b) The substitution will be effected at the net asset values of the respective shares without the imposition of any transfer or similar charge and with no change in the amount of any Contract owner's accumulation value.

(c) The Substitution will not cause the fees and charges under the Contracts currently being paid by Contract owners to be greater after the substitution than before the substitution.

(d) All Contract owners will be given prior notice of the substitution and will have an opportunity for 30 days after the Exchange Date to reallocate Contract value among other available sub-accounts without the restriction or the imposition of any fees.

(e) Within five days after the substitution, the Companies will send to affected Contract owners written confirmation that the substitution has occurred.

(f) The substitution will in no way alter the insurance benefits to Contract owners or the contractual obligations of the Companies.

(g) The substitution will have no adverse tax consequences to Contract owners and will in no way alter the tax benefits to Contract owners.

Conclusion: Applicants request an order of the Commission pursuant to Section 26(c) of the 1940 Act approving the Substitution. Section 26(c), in pertinent part, provides that the Commission shall issue an order approving a substitution of securities if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Thus, Applicants assert that, for the reasons and upon the facts set forth above, the requested order meets the standards set forth in Section 26(c) and should, therefore, be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3279 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of June 27, 2005:

An Open Meeting will be held on Wednesday, June 29, 2005, at 10 a.m. in Room L–002, the Auditorium, at the Securities and Exchange Commission's new headquarters located at 100 F Street, NE., and a Closed Meeting will be held on Thursday, June 30, 2005 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain

staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Chairman Donaldson, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the Open Meeting scheduled for Wednesday, June 29, 2005 will be:

1. The Commission will consider whether to adopt final rules that would modify and advance significantly the registration, communications, and offering processes under the Securities Act of 1933. The rules would eliminate unnecessary and outmoded restrictions on offerings. In addition, the rules would provide more timely investment information to investors without mandating inappropriate delays in the offering process. The rules also continue our long-term efforts toward integrating disclosure and processes under the Securities Act and the Securities Exchange Act of 1934. The rules accomplish these goals by addressing communications related to registered securities offerings, delivery of information to investors, and procedural restrictions in the offering and capital formation process.

For further information, please contact Amy Starr, Daniel Horwood, or Anne Nguyen, Division of Corporation Finance, at (202) 551–3115 or, with regard to investment companies, Kieran Brown, Division of Investment Management, at (202) 551–6825.

2. The Commission will consider whether to adopt final rules amending Form S–8, Form 8-K, and Form 20-F, as well as defining the term ''shell company'' and amending the definition of the term ''succession.'' The rules would address: (1) The use of Form S–8 by shell companies; and (2) the information required to be disclosed in a report on Form 8-K or Form 20-F filed when a company becomes a shell company or ceases to be a shell company. The rules are designed to assure that investors in shell companies that acquire operations or assets have access on a timely basis to the same kind of information as is available to investors in public companies with continuing operations.

For further information, please contact Gerald J. Laporte, Chief, or Kevin M. O'Neill, Special Counsel, Office of Small Business Policy, Division of Corporation Finance, at (202) 551–3460.

3. The Commission will consider the matters remanded to the Commission by the U.S. Court of Appeals for the District of Columbia Circuit on June 21, 2005 in its decision in *Chamber of Commerce v. SEC* regarding the Commission's ''Investment Company Governance'' rules (69 FR 46378 (Aug. 2, 2004)). The remanded matters, as discussed more fully in the court's opinion (*http://www.cadc.uscourts.gov*), are (1) costs of complying with the 75% independent director condition and the independent chairman condition and (2) a disclosure alternative to the independent chairman condition.

For further information, please contact Penelope Saltzman, Division of Investment Management, at (202) 551–6792.

The subject matters of the Closed Meeting scheduled for Thursday, June 30, 2005, will be:

Post-argument discussion;

Settlement of injunctive actions; Institution and settlement of administrative proceedings of an enforcement nature; and an Adjudicatory matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: June 22, 2005.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 05–12647 Filed 6–22–05; 11:43 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51873; File No. SR–Amex–2005–033]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendment No. 1 Thereto To Amend Rule 918—ANTE(a)(4) Regarding Closing Rotations

June 17, 2005.

On March 17, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] to amend Amex Rule 918—ANTE(a)(4) to eliminate the requirement that a closing rotation be held in every option series at the end of every trading day. The Amex submitted an amendment to the proposal on April 14, 2005.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on May 13, 2005.[4] The Commission received no comments on the proposal, as amended.

After careful review, the Commission finds that the proposal, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,[6] because 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 regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the Commission believes that the proposal to eliminate the requirement that a closing rotation be held in every option series at the end of every trading day is reasonable given the Exchange's representations that use of the ANTE System during the last eleven months has shown closing rotation to be unnecessary when no market-on-close or limit-on-close orders have been submitted. Accordingly, the Commission believes it is appropriate for the Exchange to revise Amex Rule 918—ANTE(a)(4) to provide that closing rotations shall only occur in those options series in which market-on-close and limit-on-close orders have been submitted.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change, as amended, (SR–Amex–2005–033) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3276 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Form 19b–4 dated April 14, 2005 (Amendment No. 1), replacing the original filing in its entirety.

[4] *See* Securities Exchange Act Release No. 51671 (May 9, 2005), 70 FR 25629.

[5] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51868; File No. SR–Amex—2005–044]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change Relating to Dissemination of the Underlying Index Value for Portfolio Depositary Receipts and Index Fund Shares

June 17, 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 April 22, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. In addition, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend the listing standards for Portfolio Depositary Receipts (''PDRs'') and Index Fund Shares (''IFSs'') to provide that the current value of the underlying index must be widely disseminated by one or more major market data vendors at least every 15 seconds during the time the PDR or IFS trades on the Exchange. The text of the proposed rule change is available on the Amex's Web site (*http://www.amex.com*), at the Amex's principal office, 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 had received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex Rule 1000, Commentary .02 and Amex Rule 1000A, Commentary .03 provide listing standards for PDRs and IFSs, respectively, to permit listing and trading of these securities pursuant to Rule 19b–4(e) under the Act.[3] Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to Section 19(b) of the Act, the self-regulatory organization's trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the self regulatory organization has a surveillance program for the product class.[4]

The Amex rules for PDRs and IFSs currently provide that the current index value for the index underlying a series of PDRs (in the case of Amex Rule 1000) and IFSs (in the case of Amex Rule 1000A) will be disseminated every 15 seconds over the consolidated tape. The Amex believes that, rather than identifying specifically in their rules the index dissemination service (that is, the consolidated tape), it is preferable to reflect in the rules a requirement for wide dissemination of the underlying index values. This proposed rule change would make clear that the value of the underlying index must be widely disseminated by a reputable index dissemination service, such as the Consolidated Tape Association, Reuters or Bloomberg. The Amex believes that the specific identity of the index dissemination service is not necessary, and the purpose of the rule would be achieved, as long as the service used for dissemination is reputable, accepted in the investment community, and effects appropriately wide dissemination of the particular index.

The Exchange therefore proposes to change the listing standards for PDRs and IFSs to provide that the value of the underlying index must be widely disseminated by one or more major market data vendors at least every 15 seconds during the time when the PDR or IFS trades on the Exchange.

As currently is the case, if the official index does not change during some or all of the period when trading is occurring (as is typically the case with pre-market-open and after-hours trading, and also with foreign indexes because of time zone differences or holidays in the countries where such indexes' components trade), then the last official calculated index value must remain available throughout the Amex trading hours.

[3] 17 CFR 240.19b–4(e).

[4] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22,1998).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Amex believes that clarifying the rules helps all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would 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–Amex–2005–044 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

All submissions should refer to File Number SR–Amex–2005–044. 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, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–Amex–2005–044 and should be submitted on or before July 15, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change 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 believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires among other things, that the rules of the Exchange are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposed index dissemination requirement, which is similar to the index dissemination requirement used in the listing standards for narrow-based index options,[9] will help to ensure the transparency of current index values for indexes underlying PDRs and IFSs.

The Amex has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission notes that it has recently approved a similar proposal regarding the dissemination of the underlying index value for PDRs and IFSs traded on Nasdaq.[10] The Commission believes that granting accelerated approval of the proposal will allow the Amex to immediately implement these similar listing standards already in place on Nasdaq. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[11] for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–Amex–2005–044) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3278 Filed 6–23–05; 8:45 am]

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[7] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] *See e.g.*, Chicago Board Options Exchange Rule 24.2(b); International Securities Exchange Rule 2002(b); Pacific Exchange Rule 5.13; and Philadelphia Stock Exchange Rule 1009A(b) (listing standards for narrow-based index options requiring that, among other things, the current underlying index value be reported at least once every 15 seconds during the time the index option trades on the exchange).

[10] *See* Securities Exchange Act Release No. 51748 (May 26, 2005) (order approving File No. SR–NASD–2005–024 relating to dissemination of the underlying index value for PDRs and IFSs trading on Nasdaq).

[11] 15 U.S.C. 78s(b)(2).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51879; File No. SR–BSE–2004–58]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change, and Amendments No. 1, 2, 3, and 4 Thereto, Relating to the Composition of the Board of Directors and Executive Committee of Boston Options Exchange Regulation LLC

June 20, 2005.

I. Introduction

On December 9, 2004, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain sections of the By-laws of Boston Options Exchange Regulation LLC (''BOXR'') relating to BSE Governor representation on BOXR's Board of Directors (''BOXR Board'') and Executive Committee. BOXR is a wholly owned subsidiary of the Exchange and the Exchange has delegated certain functions to BOXR so that BOXR is responsible for the regulatory oversight of the Boston Options Exchange, a facility of the BSE.

On December 13, 2004, the BSE filed Amendment No. 1 to the proposed rule change.[3] On December 16, 2004, the BSE filed Amendment No. 2 to the proposed rule change.[4] On March 8, 2005, the BSE filed Amendment No. 3 to the proposed rule change.[5] On March 10, 2005, the BSE filed Amendment No. 4 to the proposed rule change.[6] The proposed rule change, as amended, was published for comment in the **Federal Register** on March 24, 2005.[7] The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange revised the proposed rule text. Amendment No. 1 replaced the BSE's original filing in its entirety.

[4] In Amendment No. 2, the Exchange withdrew its request that the proposed rule change become immediately effective and requested that the proposed rule change become effective pursuant to Section 19(b)(2) of the Act.

[5] In Amendment No. 3, the Exchange revised the purpose section and rule text of the proposed rule change. Amendment No. 3 replaced Amendment No. 1, as amended by Amendment No. 2, in its entirety.

[6] In Amendment No. 4, the Exchange amended its filing to reflect that Amendment No. 3 was incorrectly filed pursuant to Rule 19(b)(3)(A) of the Act and should have been filed pursuant to section 19(b)(2) of the Act.

[7] *See* Securities Exchange Act Release No. 51388 (March 17, 2005), 70 FR 15135.

Commission received no comments on the proposal.

II. Description of the Proposal

The Exchange proposed the following amendments to BOXR's By-laws: (1) Replace the requirement in Section 4 that the BSE Chairman be a member of the BOXR Board with the requirement that at least one Governor of the BSE Board of Governors must be a member of the BOXR Board; (2) replace the requirement in Section 14 that the BSE Chairman must be a member of BOXR's Executive Committee with the requirement that at least one Governor of the BSE Board of Governors, who shall also be a member of the BOXR Board, must be a member of BOXR's Executive Committee; and (3) eliminate language in both Sections 3 and 4 that provides that the BSE Chairman shall not be considered a member of the BOXR Board for ''qualification purposes.'' Section 4 of BOXR's By-laws provides that at least 50% of the Directors on the BOXR Board must be Public Directors [8] and at least 20% of the Directors on the BOXR Board must be representatives of BOX Options Participants.[9] However, currently, the BSE Chairman is not considered to be a Public Director, BOX Options Participant Director or Industry Director [10] and is not taken into account when determining whether the composition of the BOXR Board complies with the composition requirements of Section 4, although the BSE Chairman is a voting member of the BOXR Board. The proposed rule change, however, would require BOXR to consider the BSE Governor representative on the BOXR Board for the purpose of determining compliance with the composition requirements of Section 4, whether the BSE Governor representative is the BSE's Chairman or another member of the BSE Board of Governors.

III. Discussion and Commission Findings

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 [11] and, in particular, the requirements of Section 6(b) of the Act [12] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change, as amended, is consistent with Section 6(b)(1) of the Act,[13] in that the proposal is designed so that the Exchange is organized and has the capacity to carry out the purposes of the Act; Section 6(b)(3) of the Act,[14] in that the proposal is designed so the rules of the Exchange assure a fair representation of its members in the selection of its directors and the administration of its affairs; and Section 6(b)(5) of the Act,[15] in that the proposal is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

The Commission notes that the proposal is designed to provide the Exchange with greater flexibility with respect to the appointment of a BSE Governor to serve on the BOXR Board and Executive Committee. The Exchange's Constitution permits, but does not mandate, that the Exchange's Chairman and Chief Executive Officer (''CEO'') positions be separated. If the positions are in fact held by two individuals, then the Exchange's Chairman would be responsible for the regulatory functions of the Exchange and it would be consistent with BOXR's regulatory mandate to have the BSE Chairman be a member of the BOXR Board and Executive Committee. However, in the event that the positions are held by a single individual, then the Exchange's Board would be able to appoint a BSE Governor other than the BSE Chairman to the BOXR Board. The Commission considers it appropriate for the Exchange to have a BSE Governor other than the Exchange's Chairman be appointed to the BOXR Board and Executive Committee, particularly in light of the Exchange's goal to maintain an adequate separation between its business and regulatory functions.

In addition, the proposal would allow the BSE Governor that serves on the BOXR Board to be considered for the purpose of determining the qualification percentages of the BOXR Board. The Commission notes that this provision would not alter the current requirement of the BOXR By-laws that at least 20% of the BOXR Directors (but no fewer than two Directors) be officers or directors of a firm approved as a BOX Option Participant. Therefore, in the Commission's view, the proposal is consistent with the Act's requirement that the Exchange assure the fair representation of members in the selection of its directors and administration of its affairs.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–BSE–2004–58), as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3274 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

[8] *See* Definitions, Paragraph (p) of the BOXR By-laws.

[9] *See* Definitions, Paragraph (o) of the BOXR By-laws.

[10] *See* Article II, Section 1 of the BSE Constitution.

[11] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(1).

[14] 15 U.S.C. 78f(b)(3).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51881; File No. SR–BSE–2005–15]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating to Listing Fees

June 20, 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 May 31, 2005, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Listing Fees schedule by increasing its listing fees. The text of the proposed rule change appears below. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

LISTING FEE SCHEDULE

Stocks

Listing Application Fee: [$250.00] *$500* per original listing application. Fee is non-refundable, but will be applied

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

toward the [$7,500.00] *$10,000* original listing application fee upon acceptance for listing.

Original Listing Fee: [$7,500 each] *$10,000* for *one* security applied for in the original listing application on the date of filing *and $15,000 for two or more securities applied for in the original listing application on the date of filing.*

Annual Listing Maintenance Fee: [$1,000] *$1,500* for the first and $750 for each subsequent issue, payable on the anniversary date of listing.

Listing Fees for Additional Shares: In the event that a listed corporation applies for listing of additional shares subsequent to the original listing, a fee will be charged on the basis of [½] *1* cent for each additional share applied for, not to exceed [$5,000] *$7,500* (i.e., if the additional amount applied for exceeds [1,000,000] *750,000* shares the fee is [$5,000] *$7,500* regardless of the amount). The minimum fee for each such applicant is [$250] *$500*.

The original listing fee schedule also shall be applied, but not limited, to the following circumstances where a listed company:

- Authorizes a change of a listed security where, in the opinion of the exchange, a new security is created or such change alters any of the listed security's rights, preferences or privileges;
- Merges or consolidates with another listed company which results in the creation of a new company or into an unlisted company which becomes listed; or
- Creates a holding company or a new company is created by operation of law or through an offer to exchange shares.

In the event that a listed corporation reduces its outstanding stock through an exchange of shares whereby the shares listed on the Exchange are exchangeable for a lesser amount, the fee for the listing of the number of shares of new stock issuable in exchange for shares previously listed will be charged on the basis of [½] *1* cent for each new share. The maximum fee on each such application is [$5,000] *$7,500*; the minimum fee is [$250] *$500*.

Supplemental Applications: Should a listed corporation change its name or the par value of its listed shares without any increase or decrease in outstanding stock, the fee for such application will be the minimum of [$250] *$500*.

Bonds

Original Listing Fee: $7,500 for each class of indenture applied for in the original listing application on the date of filing. For additional listing under the same indenture, the fee is $50 per one million dollars face value in a maximum fee of $2,500 and a minimum fee of [$250] *$500*.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The BSE proposes to amend its Listing Fee schedule by increasing its listing fees. The purpose of this change is to better reflect the Exchange's costs and the value of the services that the Exchange provides.[3]

2. Statutory Basis

The BSE believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(4) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The BSE 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

No written comments were solicited or received with respect to the proposed rule change.

[3] The Commission notes that the Exchange has not raised its listing fees since 1991. *See* Securities Exchange Act Release No. 29276 (June 5, 1991), 56 FR 27060 (June 12, 1991).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–BSE–2005–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–BSE–2005–15. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. 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–BSE–2005–15 and should be submitted on or before July 15, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3294 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51880; File No. SR–CBOE–2005–38]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Sales Value Fee

June 20, 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 May 13, 2005, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 CBOE. The Exchange filed a proposed rule change as a ''non-controversial'' rule change pursuant to Rule[2] 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its Fees Schedule and rules and issue a Regulatory Circular relating to its ''Sales Value Fee.'' The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

Chicago Board Options Exchange, Inc.—Fees Schedule

[May 2] *May 13,* 2005

1.–4. Unchanged.

Notes: (1)–(15) Unchanged.

5. ETFs, STRUCTURED PRODUCTS, RIGHTS, WARRANTS (per round lot):

	MAXIMUM FEE:
(A) TRANSACTION FEES:	
Customer $.00	N/A
Member Firm Proprietary .10	$100 per side
Market Maker .05	$100 per side

(B) LISTING FEES:

Initial Fee (minimum) $10,000.

Annual Fee 2,500—10,000.

(C) SEC VALUE FEE:

$0.00252 for every $100 of value sold (seller only)].

6. SALES VALUE FEE:

The Sales Value Fee (''Fee'') is assessed by CBOE to each member for sales of securities on CBOE with respect to which CBOE is obligated to pay a fee to the SEC under Section 31 of the Exchange Act. To the extent there may be any excess monies collected under this Section 6, the Exchange may retain those monies to help fund its general operating expenses. The sales transactions to which the Fee applies are sales of options (other than options on a security index), sales of non-option securities, and sales of securities resulting from the exercise of physical-delivery options traded on CBOE. The Fee is collected indirectly from members through their clearing firms by OCC on behalf of CBOE with respect to options sales and options exercises. CBOE collects the Fee indirectly from members through their clearing firms with respect to non-option sales. Consistent with CBOE Rule 3.23, the Fee is collected by billing the member's designated clearing firm for the amount owed by the member to the Exchange. The amount of the Fee is calculated as described below.

Calculation of Fee for Options Sales and Options Exercises: The Sales Value Fee is equal to (i) the Section 31 fee rate multiplied by (ii) the member's aggregate dollar amount of covered sales resulting from options transactions occurring on the Exchange during any computational period. *Calculation of Fee for Non-Options Sales: The Sales Value Fee is calculated using the same formula as the formula above for options transactions, except as applied only to the member's covered sales other than those resulting from options transactions.*

6.–9. Renumbered 7.–10. Otherwise unchanged.

[10. {Reserved}]

11.–23. Unchanged.

Remainder of Fee Schedule—Unchanged.

* * * * *

CHAPTER XXX

Stocks, Warrants and Other Securities

[Rule 30.60. Securities and Exchange Commission Transaction Fee There shall be paid to the Exchange by each member and member organization, in such manner and at such time as the Exchange shall direct, the sum of one cent for each $300 or fraction thereof of the dollar volume of securities sold by such member or member organization on the Exchange. The monies so paid to the Exchange shall be paid to the Securities and Exchange Commission as the transaction fee imposed upon the Exchange under the Exchange Act.

* * * Interpretations and Policies:

.01 The fee required to be paid under this Rule does not apply to any bond, debenture, or other evidence of indebtedness, or any security which the Securities and Exchange Commission may, by rule, exempt from imposition of the fee.]

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

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 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. The CBOE 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, Proposed Rule Change

1. Purpose

Pursuant to Section 5(c) of the CBOE Fees Schedule and CBOE Rule 30.60, the Exchange currently assesses a fee on its members for sales of securities on the Exchange to recoup amounts paid by the Exchange to the Commission under Section 31 of the Act.[4] On June 28, 2004,[5] the Commission established new procedures governing the calculation, payment, and collection of fees and assessments on securities transactions owed by national securities exchanges and associations under Section 31 of the Act (''Adopting Release'').[6] In the Adopting Release, the Commission stated that the fees SROs pass to their members and the fees members pass to their customers are not ''Section 31 Fees'' or ''SEC Fees'' and should not be labeled as such.[7]

In response to the statements made by the Commission in the Adopting Release, the Exchange proposes to amend its Fees Schedule to change the name of its fee, provide greater explanation and description of the fee and how it is collected, and clarify that it applies with respect to both covered sales of options and covered sales of non-option securities. The Exchange also proposes to delete CBOE Rule 30.60 since the fee will be set forth and fully described in the CBOE Fees Schedule.

Specifically, the Exchange proposes to delete Section 5(c) of the CBOE Fees Schedule, which is currently labeled ''SEC Value Fee.'' The Exchange proposes to add a new CBOE Section 6 to the Fees Schedule labeled ''Sales Value Fee.'' Proposed new CBOE Section 6 defines the Sales Value Fee (''Fee'') as the fee assessed by CBOE to each member for sales of securities on CBOE with respect to which CBOE is obligated to pay a fee to the SEC under Section 31 of the Act. Proposed CBOE Section 6 provides that, to the extent the Exchange may collect more from members under CBOE Section 6 than is due from the Exchange to the Commission under Section 31 of the Act, for example due to rounding differences, the excess monies collected may be used by the Exchange to fund its general operating expenses.

Proposed CBOE Section 6 explains that the transactions to which the Fee applies are sales of options (other than options on a security index), sales of non-option securities, and sales of securities resulting from the exercise of physical-delivery options traded on CBOE. The Fee is collected indirectly from members through their clearing firms by the Options Clearing Corporation (''OCC'') on behalf of the Exchange with respect to options sales and options exercises. The Exchange collects the Fee indirectly from members through their clearing firms with respect to non-option sales. Consistent with CBOE Rule 3.23, the Fee is collected by billing the member's designated clearing firm for the amount owed by the member to the Exchange.

Proposed CBOE Section 6 also sets forth the formula for calculating the Fee with respect to covered options and non-options transactions. The Fee with respect to options sales and options exercises is equal to (i) the Commission's Section 31 fee rate multiplied by (ii) the member's aggregate dollar amount of covered sales resulting from options transactions occurring on the Exchange during any computational period. The Fee with respect to non-options sales is calculated using the same formula as the formula for options transactions, except as applied only to the member's covered sales other than those resulting from options transactions. The Exchange notes that, if the Commission's Section 31 fee rate changes in the middle of a month, the Exchange will perform a separate calculation with respect to covered sales under the new fee rate for the remaining portion of the month.

In further response to the statements made by the Commission in the Adopting Release, the Exchange proposes to issue a Regulatory Circular to its members that prohibits members from characterizing the pass-through of the CBOE Sales Value Fee to their customers as a ''Section 31 fee,'' ''SEC fee,'' or other label that implies an SEC rule or requirement that these funds be collected from broker-dealers or customers. The proposed Regulatory Circular would become effective approximately 45 days following effectiveness of the proposed rule change.

2. Statutory Basis

The Exchange believes that for this proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which permits the rules of an Exchange to provide for the equitable allocation of reasonable dues, fees, and other charges among its members, and issuers and other persons using its facilities. In addition, the Exchange believes that the proposed rule change, including the proposed Regulatory Circular, is consistent with Section 6(b)(5) of the Act[9] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

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 purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder[11] because it does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days after the date of filing (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest). A proposed rule change filed under 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule

[4] 15 U.S.C. 78ee.

[5] In the notice prepared by the CBOE in its Form 19b–4 filing, the CBOE inadvertently referred to this date as July 28, 2004. Telephone conversation between Jamie Galvin, Senior Attorney, CBOE and Hong-Anh Tran, Special Counsel, Division of Market Regulation (''Division''), Commission, dated May 17, 2005.

[6] *See* Securities Exchange Act Release No. 49928 (June 28, 2004), 69 FR 41060 (July 7, 2004).

[7] *Id.* at 41072.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange satisfied the five-day pre-filing requirement. The Exchange requests that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[12] and designate the proposed rule change to become operative immediately.

The Commission hereby grants that request.[13] The Commission believes that waiving the 30-day operative date is consistent with the protection of investors and the public interest because doing so will allow the Exchange's Fees Schedule and Rules to be consistent with the Commission's guidance on Section 31 without undue delay.

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.

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–2005–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–CBOE–2005–38. 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. 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–2005–38 and should be submitted on or before July 15, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3295 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 C.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51870; File No. SR–DTC–2005–03]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change Relating to a Modification of the Fee Structure

June 17, 2005.

I. Introduction

On April 26, 2005, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTC–2005–03 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on May 13, 2005.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 51675, (May 9, 2005), 70 FR 25630.

II. Description

DTC is a subsidiary of the Depository Trust and Clearing Corporation (''DTCC''). Participants of DTC and their affiliates may from time to time utilize the services of DTCC subsidiaries that are not registered as clearing agencies with the Commission. Such subsidiaries include Global Asset Solutions LLC and DTCC Deriv/Serv LLC. In addition, participants of DTC and their affiliates may utilize the services of other third parties through DTCC. DTC has determined that it would be more efficient and less costly if the fees that participants agree to pay for such services were collected by DTC rather than through independent billing mechanisms that would otherwise have to be established by each subsidiary of DTCC that is not a registered clearing agency and by each third party that is not a registered clearing agency.

The proposed rule change will make clear that DTC may collect from its participants fees and charges of other subsidiaries of DTCC and of other third party service providers. DTC will enter into appropriate agreements with such subsidiaries and other third party service providers regarding DTC's collection of fees. Furthermore, the rule change makes clear that as a part of its collecting fees and charges for services provided to its participants, DTC may similarly collect fees and charges for services provided to affiliates of its participants.

III. Discussion

Section 17A(a)(1)(B) of the Act provides that inefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors.[3] Although the services provided by unregulated DTCC subsidiaries and by other third parties are not core clearance and settlement services, they are related to the clearance and settlement operations of DTC and of its participants. By streamlining the fee collection process for these services so that DTC's participants will pay these fees to DTC as a part of their normal monthly DTC bills, the proposed rule change should help to improve efficiency in the operations of DTC participants and thereby should remove unnecessary cost for DTC participants and for the persons (*i.e.,* the DTCC subsidiaries and the other entities providing services to DTC participants) facilitating transactions by and acting on behalf of investors. Accordingly, the Commission finds that

[3] 15 U.S.C. 78q–1(a)(A)(B).

the proposed rule change is consistent with the requirements of Section 17A of the Act.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2005–03) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3283 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51875; File No. SR–FICC–2005–01]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving a Proposed Rule Change Relating to Timely Notification of Significant Events That Effect a Change in Control of a Member or Could Have a Substantial Impact on a Member's Business or Financial Condition

June 17, 2005.

On January 6, 2005, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and on May 13, 2005, amended the proposed rule change.[2] Notice of the proposal was published in the **Federal Register** on May 10, 2005.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change will require certain FICC members to notify FICC when they experience an event that would effect a change in control of such member or could have a substantial impact on such member's business or financial condition. Under the rule change, GSD netting members and MBSD participants will be required to notify FICC upon experiencing a ''reportable event.'' The term ''reportable event'' is defined as an event that would effect a change in control of a GSD netting member or an MBSD participant or an event that could have a substantial impact on a netting member's/participant's business or financial condition including, but not limited to: (a) Material organizational changes including mergers, acquisitions, changes in corporate form, name changes, changes in the ownership of a netting member/participant or its affiliates, and material changes in management; (b) material changes in business lines, including new business lines undertaken; and (c) status as a defendant in litigation which could reasonably impact the netting member's/participant's financial condition or ability to conduct business.[4]

In order to provide FICC with enough time to analyze the implications of a ''reportable event'' and to determine an appropriate course of action, a netting member/participant must submit written notice to FICC at least 90 calendar days prior to the effective date of such ''reportable event'' unless the netting member/participant demonstrates that it could not have reasonably done so and also has provided oral and written notice to FICC as soon as possible. Failure to so notify FICC will result in a $5,000 fine.

II. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing be designed to assure the safeguarding of securities and funds which are in its custody or control.[5] The proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it should enhance FICC's ability to collect and evaluate in a timely manner the type of information that it needs in order to properly manage risks and thereby to better safeguard the securities and funds for which it is in control.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–FICC–2005–01) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3281 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51865; File No. SR–FICC–2005–11]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change to Institute a Netting Process for Fail Deliver and Fail Receive Obligations for Netting Members in Its Government Securities Division

June 17, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 19, 2005, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this proposed rule change is to amend the rules of FICC's Government Securities Division (''GSD'') to institute a process to net netting members' fail deliver and fail receive obligations with their current settlement obligations on a daily basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Republication of the notice is not required because the amendment to the proposed rule change merely renumbered certain proposed and existing sections of the rule text that were included in the original filing.

[3] Securities Exchange Act Release No. 51643 (May 2, 2005); 70 FR 24665.

[4] A similar requirement was added as Addendum T to the National Securities Clearing Corporation's Rules in 1998. Securities Exchange Act Release No. 40582 (Oct. 20, 1998), 63 FR 57346 (Oct. 27, 1998).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78q–1.

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

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. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The rules of the GSD provide that FICC may, in its sole discretion, net a netting member's fail deliver and fail receive obligations with the member's current settlement obligations. FICC is proposing to amend the GSD's rules to institute this fail netting process on a daily basis.

Since the implementation of the GSD's netting system (by FICC's predecessor, the Government Securities Clearing Corporation), outstanding fails have been processed separately from new trading activity. Demand by members for the netting of fails was initially low due to the fact that many members could not properly account for netted fails in their proprietary systems. In addition, demand for netting of fails remained low until the summer of 2003 when the market experienced significant fails in the Treasury 10-year note due May 2013.

In recent years, FICC has been integrally involved in assisting the industry in addressing significant fail situations. On several occasions, FICC intervened by supporting special netting of fails with members' current settlement activity. While this procedure helped alleviate the number of open fails and associated settlement issues and risks, it was only an intermediate step in resolving the need for the more regular fail processing proposed herein. Moreover, the industry's continued experience with fails has caused a heightened demand on the part of members for the GSD to institute such a process.

Pursuant to the proposed rule change, the GSD would implement a methodology whereby outstanding member fail obligations will be netted with current settlement activity. This process will provide reduced risk exposure to members because it will facilitate settlement by allowing members to close open fails on their books on a daily basis, as well as reduce the number of outstanding clearance obligations at FICC.

FICC does not anticipate an undue burden on members as a result of this proposal. The GSD has issued an Important Notice [3] to all members seeking feedback on the proposed change, and to date, the substance of any feedback received has been positive.

FICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [4] and the rules and regulations thereunder applicable to FICC because it allows FICC to reduce the risks posed by large numbers of open fail positions. As such, the proposed rule facilitates the prompt and accurate clearance and settlement of securities transactions and assures the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact or 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 relating to the proposed rule change have not yet been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–FICC–2005–11 in the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–FICC–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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of FICC and on FICC's Web site, *www.ficc.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–FICC–2005–11 and should be submitted on or before July 15, 2005.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3285 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

[2] The Commission has modified the text of the summaries prepared by FICC.

[3] Important Notice GOV028.05 (March 10, 2005).

[4] 15 U.S.C. 78q–1.

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51874; File No. SR–NASD–2005–063]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change To Amend NASD Rule 7010(k) Relating to TRACE Transaction Data

June 17, 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 May 12, 2005, the National Association of Securities Dealers, Inc. ('NASD'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. 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

NASD is proposing to: (i) Amend NASD Rule 7010(k)(3)(A)(i) to offer an optional enterprise-based flat fee for the internal display of real-time transaction data relating to its Transaction Reporting and Compliance Engine (''TRACE'') on an unlimited number of interrogation or display devices; and (ii) amend NASD Rule 7010(k)(1)(A) to lower the monthly fee for the first user ID purchased to obtain Level II Full Service Web Browser Access. The text of the proposed rule change is available on NASD's Web site (*http://www.nasd.com*), at NASD's principal office, 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, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD proposes to amend NASD Rule 7010(k) to add an enterprise fee structure and lower another fee related to the receipt of real-time TRACE transaction data paid by users of such data (''Subscribers''). NASD proposes to amend NASD Rule 7010(k)(3)(A)(i), the Bond Trade Dissemination Service (''BTDS'') Professional Real-Time Data Display Fee, to enable an enterprise such as a broker-dealer to display real-time TRACE transaction data within the enterprise on an unlimited number of internal display devices for a fee of $7,500 per month. NASD also proposes to amend NASD Rule 7010(k)(1)(A), Web Browser Access, to lower the fee for Level II Full Service Web Browser Access, so that the charge for the first user ID obtained for such access would be $50 per month rather than the current $80 per month.

Subscribers typically receive real-time TRACE transaction data in one of two ways—either through a market data vendor that redistributes such data through its services/desktops or through NASD's Level II Full Service Web Browser Access, which provides the Subscriber both reporting functionality and access to real-time TRACE transaction data.

Although NASD has achieved positive results delivering real-time TRACE transaction data to the professional trading community, NASD also is striving to make real-time TRACE transaction data more widely available to individual investors so that they may use it in making investment decisions. In an effort to achieve this goal, recently NASD eliminated the BTDS Non-Professional Real-Time Data Display Fee for ''Non-Professionals'' as defined in NASD Rule 7010(k)(3)(C)(ii) to encourage Subscribers, especially retail brokers, to redistribute real-time TRACE transaction data to their retail customers via their Web-based services.[3] NASD believes it would enhance investor protection to further expand the availability of real-time TRACE transaction data and foster an environment where such data is an integral part of the discussions between investors and the persons serving them.

NASD is proposing two amendments to the TRACE fee structure that NASD believes may significantly increase the use of real-time TRACE transaction data among registered representatives, investment advisors, and other persons serving retail investors as well as address member cost concerns that are discussed further below. NASD believes that broadening the distribution of real-time TRACE transaction data would facilitate its use by persons who provide brokerage and/or advisory services to retail investors, and would provide such professionals with an additional tool to better serve and inform retail investors. In addition, access to real-time TRACE transaction data should enhance the ability of Subscribers that are NASD members to comply with various regulatory obligations. Finally, broadening the distribution of real-time TRACE transaction data is likely to have an incremental beneficial effect on corporate bond market transparency and pricing by generally raising the level of awareness and overall knowledge of specific bond issues as well as the bond market generally.

Proposed ''Enterprise'' Fee

Currently, NASD charges a Subscriber $60 per month, per terminal (the BTDS Professional Real-Time Data Display Fee) to display real-time TRACE transaction data. Members have indicated that this $60 per month, per terminal charge is cost prohibitive for organizations with large numbers of potential internal users of the data. Subscribers serving large numbers of retail investors have indicated that they likely would distribute real-time TRACE transaction data much more widely within their organizations if the costs were reduced.

To address these concerns, NASD is proposing to amend NASD Rule 7010(k)(3)(A)(i) to provide Subscribers the option of paying a flat, enterprise fee of $7,500 per month instead of $60 per terminal (*i.e.*, per screen or interrogation or display device). The proposed rule change would benefit Subscribers that have a large staff of potential internal data users who desire access to real-time TRACE transaction data. Instead of paying multiple $60 BTDS Professional Real-Time Data Display Fees, a Subscriber would have the option to pay a flat fee of $7,500 per month to display real-time TRACE transaction data on an unlimited number of internal terminals/workstations.

The proposed $7,500 monthly enterprise fee option would lower the fees paid by Subscribers who currently pay to display real-time TRACE transaction data on more than 125 terminals. In addition, the proposed $7,500 fee option may encourage certain

[3] *See* Securities Exchange Act Release No. 50977 (January 6, 2005), 70 FR 2202 (January 12, 2005)(Notice of Filing and Immediate Effectiveness of File No. SR–NASD–2004–189).

Subscribers that currently pay to display real-time TRACE transaction data on fewer than 125 terminals to pay the proposed $7,500 flat fee and broaden distribution of real-time TRACE transaction data within their organizations.

The proposed amendment to NASD Rule 7010(k)(3)(A)(i) would apply only to a Subscriber's internal display of real-time TRACE transaction data and would be independent of access method or data vendor. The proposed $7,500 enterprise fee option would include unlimited terminal display use for individual access for all of a Subscriber's employees and the employees of certain of its corporate affiliates.[4]

Level II Full Service Web Browser Access Fee

To ensure a fair and balanced approach to the real-time TRACE transaction data fee structure and encourage use of such data among Subscribers of varying sizes, NASD also is proposing to amend NASD Rule 7010(k)(1)(A) to reduce fees paid by Subscribers who receive real-time TRACE transaction data through Level II Full Service Web Browser Access. Such smaller Subscribers are unlikely to benefit directly from NASD's enterprise pricing proposal.

Currently, the implicit cost for the portion of Level II Full Service Web Browser Access for real-time TRACE transaction data is $60 per month (per user ID).[5] NASD proposes to reduce the cost of the first user ID per Subscriber to receive Level II Full Service Web Browser Access from $80 per month to $50 per month. The proposed rule change would reduce a Subscriber's marginal cost for the data portion of Level II Full Service Web Browser Access for the first user ID by 50% to $30 per month. The proposed rule change would reduce the costs of acquiring real-time TRACE transaction data for current Level II Full Service Web Browser Access Subscribers and may encourage some smaller professional market participants not currently obtaining real-time TRACE transaction data through any service to obtain it through the Level II Full Service Web Browser Access.

Finally, NASD no longer refers to itself using its full corporate name, ''the Association,'' or ''the NASD.'' Instead, NASD uses the name ''NASD'' unless otherwise appropriate for corporate or regulatory reasons. Accordingly, the proposed rule change replaces, as a technical change, several references to ''the Association'' in Rule 7010 with the name ''NASD.''

NASD would announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval, if the Commission approves the proposed rule change. The effective date would be no later than 45 days following publication of the *Notice to Members* announcing Commission approval.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(5) of the Act,[7] which requires, among other things, that NASD rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that NASD operates or controls. NASD believes that reducing the cost to display real-time TRACE transaction data would empower Subscribers to widen distribution of such data, allow Subscribers and their employees to better serve retail investors, and facilitate retail investor awareness of the importance of pricing in the corporate bond market as well as enhance the ability of certain Subscribers who are NASD members to comply with various regulatory obligations. In addition, NASD believes that introducing the $7,500 enterprise fee as an option and reducing the cost of Level II Full Service Web Browser Access would result in an equitable allocation of fees for real-time TRACE transaction data among Subscribers.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change would result in 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 were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which NASD consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2005–063 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place,100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASD–2005–063. 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

[4] A Subscriber wishing to take advantage of this option would enter into an agreement directly with NASD, which in turn would notify the data vendors with which the Subscriber does business to provide blanket permission for use of real-time TRACE transaction data to any user within that organization.

[5] Level II Full Service Web Browser Access today costs $80 per month. However, Level II Full Service Web Browser Access also grants users Level I Web Trade Report Only Browser Access (for trade reporting), which otherwise would cost an additional $20 per month per user ID. Therefore, today the marginal cost of Level II Full Service Web Browser Access is $60 per month, per user ID.

[6] 15 U.S.C. 78o–3(b)(6).

[7] 15 U.S.C. 78o–3(b)(5).

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, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. 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 publicly available. All submissions should refer to File Number SR–NASD–2005–063 and should be submitted on or before July 15, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3275 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51871; File No. SR–NSCC–2005–03]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the Collecting of Fees for Services Provided by Other Entities

June 17, 2005.

I. Introduction

On April 26, 2005, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2005–03 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on May 13, 2005.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

NSCC is a subsidiary of the Depository Trust and Clearing Corporation (''DTCC''). Members of NSCC and their affiliates may from time to time utilize the services of DTCC subsidiaries that are not registered as clearing agencies with the Commission. Such subsidiaries include Global Asset Solutions LLC and DTCC Deriv/Serv LLC. In addition, members of NSCC and their affiliates may utilize the services of other third parties. NSCC has determined that it would be more efficient and less costly if the fees that members agree to pay for such services were collected by NSCC rather than through independent billing mechanisms that would otherwise have to be established by each subsidiary of DTCC and third party that is not a registered clearing agency.

NSCC's rules currently allow for fee collection arrangements with respect to collection of fees from members. The rule change further clarifies this practice and makes clear that NSCC may similarly collect fees and charges for services provided to affiliates of its members. NSCC will enter into appropriate agreements with such subsidiaries and others regarding the collection of fees.

III. Discussion

Section 17A(a)(1)(B) of the Act provides that inefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors.[3] Although the services provided by unregulated DTCC subsidiaries and by other third parties are not core clearance and settlement services, they are related to the clearance and settlement operations of NSCC and of its members. By streamlining the fee collection process for these services so that NSCC's members will pay these fees to NSCC as a part of their normal monthly NSCC bills, the proposed rule change should help to improve efficiency in the operations of NSCC members and thereby should remove unnecessary cost for NSCC members and for the persons (*i.e.,* the DTCC subsidiaries and the other entities providing services to NSCC members) facilitating transactions by and acting on behalf of investors. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–2005–03) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3282 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51872; File No. SR–NYSE–2005–42]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to a Specialist Marketing and Investor Education Fee for Investment Company Units

June 17, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on June 13, 2005, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the Exchange as establishing or changing a due, fee, or other charge, pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2)[4] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to charge a fee to specialists allocated listed Investment Company Units (''ICUs'') in circumstances where the Exchange undertakes to provide funds to a third party for marketing and investor education in connection with the listing of those ICUs. Below is the text of the

[8] 17 CFR 200.30–3(a)(12).

[1] U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 51674, (May 9, 2005), 70 FR 25636.

[3] 15 U.S.C. 78q–1(a)(A)(B).

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

proposed rule change. Proposed new language is in *italics*.

* * * * *

2005 Price List

* * * * *

Facility and Equipment Fees

* * * * *

*Specialist Marketing and Investor Education Fee—payment by the specialist unit allocated an issue of Investment Company Units of any amount payable by the Exchange to a third party for marketing and investor education expenses in connection with trading on the Exchange—billed quarterly.** Five-sixths (83.33%) of the amount payable by the Exchange.*

Notes:

* * * * *

***The amount paid by a specialist unit will be apportioned each calendar quarter among the specialist units allocated ICUs subject to an Exchange payment to a third party. Such amount will be apportioned to a specialist unit based on the specialist unit's share of the ''Notional NYSE ADV'' for the ICUs subject to the payment. Notional NYSE ADV is defined as the average daily share volume on the NYSE for the quarter for an ICU multiplied by the average consolidated closing price for the quarter for such ICU.*

The following hypothetical demonstrates how the apportionment will operate. Assume three ICUs with a Notional NYSE ADV for the preceding calendar quarter of 50,000, 100,000 and 150,000, respectively. The three ICUs are allocated to Specialist Units A, B and C, respectively. Specialist Units A, B and C would be billed 16.67%, 33.33% and 50% of the amount apportioned to the specialist units for the quarter (i.e., in the aggregate, five-sixths of the amount payable by the Exchange). Each calendar quarter, the Exchange will notify each specialist unit of the amount payable for the preceding quarter.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange anticipates that it may undertake in the future to provide funds to third parties for marketing and investor education with respect to certain listings of ICUs, also known as Exchange Traded Funds. In such circumstances, the Exchange believes it is appropriate for the specialists allocated those listed ICUs to participate in the provision of such funds to the relevant third party. The Exchange therefore proposes to implement a Specialist Marketing and Investor Education Fee to be imposed in connection with payments made to third parties in connection with the listing of any ICUs subject to such third party payments. This fee would be separate from the current Specialist License Fee.[5] The Exchange believes that the fee would be imposed in a fair and equitable manner on all specialists trading the securities subject to a third party fee or payment.

The amount paid by the specialists would be calculated and apportioned following each calendar quarter among the specialist units allocated ICUs that are subject to an Exchange payment to third parties. This amount would represent five-sixths (83.33%) of the annual amount payable by the Exchange, as apportioned for the quarter. Such amount would be apportioned to specialist units for each ICU that is subject to the fee, calculated based on the ''Notional NYSE ADV'' for each relevant ICU. Notional NYSE ADV would be defined as the average daily share volume on the NYSE for the calendar quarter for the particular ICU multiplied by the average consolidated closing price for the quarter for such ICU.

The following hypothetical demonstrates how the apportionment would operate. Assume three ICUs with a Notional NYSE ADV for the preceding calendar quarter of 50,000, 100,000, and 150,000, respectively. Also assume that the three ICUs are allocated to Specialist Units A, B, and C, respectively. Specialist Units A, B, and C would be billed 16.67%, 33.33% and 50% of the amount apportioned to the specialist units for the quarter (*i.e.*, in the aggregate, five-sixths of the amount payable by the Exchange). Each calendar quarter, the Exchange would notify each specialist unit of the amount payable, if any, under the Specialist Marketing and Investor Education Fee for the preceding quarter.

The Exchange believes that the Notional NYSE ADV is an appropriate mechanism for allocating the fee among the specialists as it takes into account both trading volume and share price. Therefore, a relatively high-priced ICU with a relatively low share volume might be subject to a fee comparable to a relatively low-priced ICU with relatively high share volume. According to the Exchange, the proposed manner of apportioning the fee among specialist units attempts to equalize the fee among ICUs with different trading characteristics, instead of apportioning the fee based on a single characteristic (*e.g.*, NYSE share volume).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(4) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[8] and Rule 19b–4(f)(2)[9] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. 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,

[5] *See* Securities Exchange Act Release No. 50109 (July 28, 2004), 69 FR 47192 (August 4, 2004) (File No. SR–NYSE–2004–35)

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b-4(f)(2).

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–NYSE–2005–42 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NYSE–2005–42. 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, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2005–42 and should be submitted on or before July 15, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3284 Filed 6–23–05; 8:45 am]

BILLING CODE 8010–01–P

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5118]

Culturally Significant Objects Imported for Exhibition Determinations: ''Lords of Creation: the Origins of Sacred Maya Kingship''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Lords of Creation: the Origins of Sacred Maya Kingship,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Los Angeles County Museum of Art, Los Angeles, CA, from on or about September 10, 2005, to on or about January 2, 2006; Dallas Museum of Art, Dallas, TX, from on or about February 12, 2006, to on or about May 7, 2006; Metropolitan Museum of Art, New York, NY, from on or about June 11, 2006, to on or about September 10, 2006, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: (202) 453–8049). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: June 17, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 05–12572 Filed 6–23–05; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 5119]

Notice of Public Meeting FY 2006 Refugee Admissions Program

There will be a meeting on the President's FY 2006 Refugee Admissions Program on Wednesday, July 13, 2005 from 2 p.m. to 4 p.m. The meeting will be held at the Refugee Processing Center, 1401 Wilson Boulevard, Suite 700, Arlington, Virginia. The meeting's purpose is to hear the views of attendees on the appropriate size and scope of the FY 2006 Refugee Admissions Program.

Seating is limited. Persons wishing to attend this meeting must Notify the Bureau of Population, Refugees, and Migration at (202) 663–1056 by 5 p.m. (e.d.t.), Wednesday, July 6, 2005 to arrange for admission. Persons wishing to present oral comments or submit written comments for consideration, must provide them in writing by 5 p.m. (e.d.t.), Wednesday, July 6, 2006.

All comments should be faxed to (202) 663–1364.

Information about the Refugee Admissions Program may be found at *http://www.state.gov/g/prm/*.

Whitney Reitz,

Overseas Program Section Chief, Bureau of Population, Refugees, and Migration, Department of State.

[FR Doc. 05–12573 Filed 6–23–05; 8:45 am]

BILLING CODE 4710–33–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–264]

WTO Dispute Settlement Proceeding Regarding Final Dumping Determination on Softwood Lumber from Canada

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on June 1, 2005, at the request of Canada, the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) established a

dispute settlement panel under the Marrakesh Agreement Establishing the WTO. The panel is to examine whether the United States has implemented the recommendations and rulings of the DSB in a dispute involving a U.S. Department of Commerce (Commerce) determination that certain softwood lumber products from Canada are being sold in the United States at less than fair value (LTFV). On August 31, 2004, the DSB adopted the findings of the panel and the WTO Appellate Body in that dispute. Those findings rejected all of Canada's claims, except the claim that Commerce's methodology for aggregating dumping levels determined by comparing weighted average export price to weighted average normal value for groups of comparable transactions was inconsistent with Article 2.4.2 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (Antidumping Agreement). In response to the DSB's recommendations and rulings, Commerce revised its methodology. Instead of determining dumping levels on a weighted average-to-weighted average basis, Commerce determined dumping levels on a transaction-to-transaction basis. On April 27, 2005, Commerce issued a Notice of Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Softwood Lumber Products From Canada. That Notice, published in the **Federal Register** on May 2, 2005 (70 FR 22636), implements the new determination. Canada subsequently requested the establishment of a dispute settlement panel, alleging that the United States had failed to implement the DSB's recommendations and rulings. The panel was established on June 1, 2005. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 22, 2005, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0064@ustr.gov,* Attn: ''DS264 Dispute'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the email address above.

FOR FURTHER INFORMATION CONTACT: Theodore R. Posner, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–3150.

SUPPLEMENTARY INFORMATION: Pursuant to the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), the panel, which will hold its meetings in Geneva, Switzerland, is expected to issue a report on its findings and recommendations in September 2005.

Prior WTO Proceedings

On August 31, 2004, the WTO DSB adopted the reports of a dispute settlement panel and the Appellate Body in a dispute brought by Canada challenging the initiation, scope, and methodology of Commerce's investigation of LTFV sales in the United States of certain softwood lumber products from Canada. The panel rejected all of Canada's claims, except its claim concerning Commerce's use of the so-called ''zeroing'' methodology in aggregating dumping levels determined by making weighted average-to-weighted average comparisons between groups of home market sales and comparable groups of sales for export to the United States. The panel's findings were upheld by the Appellate Body in all respects. The panel and Appellate Body reports are publicly available in the USTR reading room and on the WTO Web site *http://www.wto.org.*

Article 21.5 Proceeding

Pursuant to the rules of the DSU, the United States and Canada agreed that the United States would have until May 2, 2005, to implement the recommendations and rulings of the DSB. To implement these recommendations and rulings, Commerce undertook a revision of the calculation of dumping margins in the *Softwood Lumber from Canada* investigation. That process concluded with a new determination, which Commerce issued to the United States Trade Representative on April 19, 2005. In the new determination, Commerce calculated levels of dumping on a transaction-to-transaction basis (as opposed to a weighted average-to-weighted average basis), and then aggregated the results of these comparisons to determine dumping margins for particular producers and exporters. Following consultations with Commerce and with congressional committees, the Trade Representative directed Commerce to implement the new determination on April 27, 2005. Commerce did so through a Notice of Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Softwood Lumber Products From Canada, effective April 27, 2005 and published in the **Federal Register** on May 2, 2005 (70 FR 22636). On May 19, 2005, Canada alleged that the United States had not properly implemented the recommendations and rulings and requested the establishment of a dispute settlement panel under Article 21.5 of the DSU to review this implementation. The panel was established on June 1, 2005.

In its request under Article 21.5, Canada alleges that Commerce failed to implement the recommendations and rulings of the DSB by using ''zeroing'' in aggregating levels of dumping determined on a transaction-to-transaction basis.

The specific measures identified by Canada as inconsistent with U.S. WTO obligations under the AD Agreement and SCM Agreement are: (1) Notice of Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Softwood Lumber Products From Canada, 70 FR 22636 (May 2, 2005); and (2) Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Softwood Lumber Products from Canada, 67 FR 36068 (May 22, 2002).

The People's Republic of China, the European Communities, India, Japan, and New Zealand have indicated their interest to participate in the dispute as third parties.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395–3640, or transmit a copy electronically to *FR0064@ustr.gov*, Attn: ''DS264 Dispute'' in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

Comments must be in English. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by

that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''Submitted in Confidence'' at the top and bottom of each page of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No.WT/DS–264, Lumber Antidumping Dispute) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 05–12483 Filed 6–23–05; 8:45 am]

BILLING CODE 3190–W5–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–277]

WTO Dispute Settlement Proceeding Regarding Investigation of the International Trade Commission in Softwood Lumber From Canada

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that, at the request of Canada, the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) has established a dispute settlement panel under the Marrakesh Agreement Establishing the WTO. The panel is to examine whether the United States has implemented the recommendations and rulings of the DSB in a dispute involving a U.S. International Trade Commission (ITC) injury investigation of certain softwood lumber products from Canada. On April 26, 2004, the DSB adopted the findings of the panel in that dispute, which found that ''in light of the totality of the factors considered and the reasoning in the USITC's determination, [it could not] conclude that the finding of a likely imminent substantial increase in imports is one which could have been reached by an objective and unbiased investigating authority.'' In response to the DSB's recommendations and rulings, the ITC issued a new determination in November 2004, which found that ''an industry in the United States is threatened with material injury by reason of imports of softwood lumber from Canada found to be subsidized and sold in the United States at less than fair value ('LTFV').'' In December 2004, the U.S. antidumping and countervailing duty orders on softwood lumber from Canada were amended to reflect the new determination. Canada subsequently requested the establishment of a dispute settlement panel, alleging that the United States had failed to implement the DSB's recommendations and rulings. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before June 27, 2005, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0062@ustr.gov*, Attn: ''Lumber Injury Dispute (DS277)'' in the subject line, or (ii) by fax, to Sandy McKinzy at 202–395–3640, with a confirmation copy sent electronically to the e-mail address above.

FOR FURTHER INFORMATION CONTACT: Theodore R. Posner, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–3150.

SUPPLEMENTARY INFORMATION: Pursuant to the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), the panel, which will hold its meetings in Geneva, Switzerland, is expected to issue a report on its findings and recommendations in September 2005.

Prior WTO Proceedings

On April 26, 2004, the WTO DSB adopted the report of a dispute settlement panel in a dispute brought by Canada challenging the ITC's final threat of material injury determination in its investigation of softwood lumber imports from Canada. The panel rejected certain of Canada's claims but ultimately found that ''in light of the totality of the factors considered and the reasoning in the USITC's determination, [it could not] conclude that the finding of a likely imminent substantial increase in imports is one which could have been reached by an objective and unbiased investigating authority.'' The dispute settlement panel report is publicly available in the USTR reading room and on the WTO Web site *http://www.wto.org*.

Article 21.5 Proceeding

Pursuant to the rules of the DSU, the United States and Canada agreed that the United States would have until January 26, 2005, to implement the recommendations and rulings of the DSB. To implement these recommendations and rulings, the ITC undertook a four-month process that involved reopening its administrative record in the *Softwood Lumber from Canada* investigation to gather additional information, holding a public hearing, providing interested parties three opportunities to submit written comments, and engaging in additional analysis. That process concluded with a new determination in November 2004, which found that ''an industry in the United States is threatened with material injury by reason of imports of softwood lumber from Canada found to be subsidized and sold in the United States at less than fair value ('LTFV').'' In December 2004, the U.S. antidumping and countervailing duty orders on softwood lumber from Canada

were amended to reflect the new determination. On February 14, 2005, Canada alleged that the United States had not properly implemented the recommendations and rulings and requested the establishment of a dispute settlement panel under Article 21.5 of the DSU to review this implementation. The panel was established on February 25, 2005.

In its request under Article 21.5, Canada alleges that the ITC failed to implement the recommendations and rulings of the DSB by (1) failing to make a determination of threat of material injury based on facts; (2) failing to demonstrate a causal relationship between allegedly dumped and subsidized imports of softwood lumber from Canada and threatened injury to the domestic industry; and (3) failing to examine in an unbiased and objective manner any and all known factors other than the allegedly dumped and subsidized imports that were injuring or threatening to injure the domestic industry.

The specific measures identified by Canada as inconsistent with U.S. WTO obligations under the AD Agreement and SCM Agreement are: (1) Section 129 Consistency Determination, Softwood Lumber from Canada, (24 Nov. 2004), Inv. Nos. 701–TA–414 and 731–TA–928; and (2) Notice of Amendment to Antidumping and Countervailing Duty Orders on Certain Softwood Lumber Products From Canada (20 Dec. 2004), 69 FR 75917 (Dep't. Commerce, December 20, 2004).

The European Communities and the People's Republic of China have indicated their interest to participate in the dispute as third parties.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395–3640, or transmit a copy electronically to *FR0062@ustr.gov*, Attn: ''Lumber Injury Dispute (DS277)'' in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

Comments must be in English. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''Business Confidential'' at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''Submitted in Confidence'' at the top and bottom of each page of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS–277, Lumber Injury Dispute) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 05–12484 Filed 6–23–05; 8:45 am]

BILLING CODE 3190–W5–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

First Meeting: RTCA Special Committee 206/Aeronautical Information Services (AIS) Data Link

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of first meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the initial meeting of RTCA Special Committee 206/Aeronautical Information Services (AIS) Data Link. The FAA is holding this meeting to provide interested individuals an opportunity to participate.

TIME AND DATE: The meeting will be held July 18–20, 2005, from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 206/Aeronautical Information Services (AIS) Data Link meeting. RTCA is establishing Special Committee 206/Aeronautical Information Services (AIS) Data Link at the request of the Federal Aviation Administration. SC–206 is tasked to develop new Minimum Aviation System Performance Standards (MASPS) for Flight Information Services—''Tactical Use'' and complete necessary revisions to existing RTCA documents DO–267A, Minimum Aviation System Performance Standards (MASPS) for Flight Information Services–Broadcast (FIS/B) Data Lind and DO–252, Minimum Interoperability Standards (MIS) for Automated Meteorological Transmission (AUTOMET). The agenda will include:

July 18:

- Opening Plenary Session (Welcome, Chairman Remarks and Introductions)
- Review and Approve Meeting Agenda
- Terms of Reference (TOR) Overview
- RTCA/EUROCAE Processes and Procedures
- Identification of Working Groups, Chairs, Secretaries
- Presentation: A number of National and International organizations including Air Traffic Control

Facilities will present their vision and need for future weather and aeronautical data products to be delivered to the cockpits. General aviation, corporate and air carriers both Nationally and Internationally are included.

July 19:

- Continuation of Above Agenda Items

July 20: Work Program Discussion

- SC–206 TOR (Amendments and Proposals to TOR)
- Administrative Procedures
  - Document Control
  - Selection of Sub-Chairs and Secretaries
  - Web site
  - E-mail List and E-mail ''Exploder''
  - Other Administrative
- Closing Plenary Session
  - Other Business
  - Establish Plans, Dates, Place and Agenda for Next Meeting

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Dated: Issued in Washington, DC, on June 16, 2005.

Natalie Ogletree,

FAA General Engineer, RTCA Advisory Committee.

[FR Doc. 05–12531 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

First Meeting: RTCA Special Committee 207/Airport Security Access Control Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of First Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a the initial meeting of RTCA Special Committee 207, Airport Security Access Control Systems. The FAA is holding this meeting to provide interested individuals an opportunity to participate.

TIME AND DATE: The meeting will be held July 18, 2005 starting at 1 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc.—Colson Board Room, 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 207/Airport Security Access Control Systems meeting. RTCA is establishing Special Committee 207/Airport Security Access Control Systems at the request of the Airport Consultants' Council. SC–207 is tasked to revise RTCA DO–230A, Standards for Airport Security Access Control Systems issued in April 2003. A revision is required due to the rapid advancement of biometric applications and capabilities and other security procedures. The revised document is scheduled for completion by September 2006. The agency will include:

July 18:

- Opening Plenary Session (Welcome, Introductions, and Administrative Remarks)
- Agenda Overview
- RTCA Functional Overview
- Previous Committee History
- Current Committee Scope, Terms of Reference Overview.
- Presentation, Discussion, Recommendations
- Organization of Work, Assign Tasks and Workgroups
- Presentation, Discussion, Recommendations
- Assignment of Responsibilities
- Closing Plenary Session (Other Business, Establish Agenda for Next Meeting, Date and Place of Next Meeting).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 16, 2005.

Natalie Ogletree,

FAA General Engineer, RTCA Advisory Committee.

[FR Doc. 05–12532 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application 05–03–I–00–GRR to Impose a Passenger Facility Charge (PFC) at Gerald R. Ford International Airport, Grand Rapids, MI.

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 a PFC at Gerald R. Ford International Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 185).

DATES: Comments must be received on or before July 25, 2005.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, MI 48174.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James A. Koslosky of the Kent County Department of Aeronautics at the following address: 5500 44th Street SE., Grand Rapids, MI 49512.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Kent County Department of Aeronautics under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jason Watt, Program Manager, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174, (734) 229–2906. 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 to impose a PFC at Gerald R. Ford International Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 10, 2005, the FAA determined that the application to impose a PFC submitted by the Kent County Department of Aeronautics 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 August 26, 2005.

The following is a brief overview of the application.

Proposed charge effective date: July 1, 2019.

Proposed charge expiration date: May 1, 2021.

Level of the proposed PFC: $4.50.

Total estimated PFC revenue: $13,100,000.

Brief description of proposed projects: Terminal B Concourse Expansion, Terminal A Concourse Expansion, and Baggage Claim Expansion.

Classes or classes of air carries, which the public agency has requested, not be required to collect PFCs: Nonscheduled/on-demand 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.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Kent County Department of Aeronautics.

Issued in Des Plaines, Illinois on June 20, 2005.

Elliott Black,

Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 05–12557 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2005–21667]

Agency Information Collection Activity Under OMB review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 35001 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments was published on March 30, 2005.

DATES: Comments must be submitted before July 25, 2005. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: 49 U.S.C. Section 5335(a) and (b) National Transit Database (*OMB Number: 2132–0008*)

Abstract: 49 U.S.C. Section 5335(a) and (b) require the Secretary of Transportation to maintain a reporting system by uniform categories to accumulate mass transportation financial and operating information and a uniform system of accounts and records. Twenty years ago, the National Transit Database (NTD) was created by Congress to be the repository of transit data for the nation. For FTA, the NTD is an agency mission critical Information Technology (IT) system. Congress created the NTD to provide validated data to determine the allocations for FTA's major formula grant programs. Each year transit authorities that receive FTA funding submit performance data, via the Internet, to the NTD. For the formula funding, they submit data on vehicle miles, fixed-guideway miles, ridership, and operating costs. These performance data are used in statutory formulae to apportion over $4 billion in federal funds back to those agencies across the nation.

In addition, Congress provides much of the investment in the capital infrastructure of transit. The NTD reports to Congress on the level of that investment and the condition and performance of the capital assets funded by Congress. It reports each bus and railcar, the average age of the vehicle fleets, as well as the costs, condition and performance of bus and rail systems. All transit safety and security data is reported to the NTD. Since the 9/11 tragedy, the Department of Homeland Defense receives security incident data from the NTD. The National Transportation Safety Board (NTSB), the Department of Transportation (DOT), and the Government Accounting Office (GAO) use NTD safety data. The Department of Justice and DOT use NTD data for compliance with bus and paratransit provisions of the Americans with Disabilities Act of 1990. The Department of Labor uses NTD employment, hours and wage data. In addition, NTD fuel and engine data is used by the Environmental Protection Agency and the Department of Energy. The Federal Highway Administration incorporates transit financial and highway fixed-guideway (HOV) data in their annual reports. In fact, FTA could not fulfill its annual reporting requirements to Congress under the Government Performance and Results Act (GPRA) without NTD data. In addition, federal, state, and local governments, transit agencies/boards, labor unions, manufacturers, researchers, consultants and universities use the NTD for making transit related decisions. State governments also use the NTD in allocating funds under 49 U.S.C.

Section 5307 and use NTD data to prepare annual state transit summaries. The NTD requires that transit costs be reported by mode, such as commuter rail, ferryboat, bus, subway, or light rail. Thus, the NTD is the only accurate national source of data on operating costs by mode. For example, without the NTD, it would be difficult to compare the average operating costs of bus versus light rail. NTD information is essential for understanding cost, ridership and other national performance trends, including transit's share of urban travel. It would be difficult to determine the future structure of FTA programs, to set policy, and to make funding and other decisions relating to the efficiency and effectiveness of the nation's transit operations without the NTD. For many years, OMB has approved the annual information collection under the NTD, as required by statute. Prior to 2002, the NTD received annual summary reports for safety, security and ridership data. In 2002, FTA added the monthly reporting of safety and security data and ridership data to the NTD at the direction of Congress.

New NTD. In the 2000 DOT Appropriations Act, Congress directed FTA to develop a new NTD. In January 2002, a completely new NTD was launched on the Internet. It was completed on time and within budget. The new NTD includes an updated and streamlined version of the annual NTD that OMB has reviewed in the past, but it adds some monthly reporting that OMB has not reviewed. Congress, the DOT and the NTSB wanted monthly reporting of safety and security data. Also, to meet annual GPRA reporting requirements, Congress wanted transit ridership to be reported monthly. Congress provided FTA with the funds to design and program the new NTD. During the two-year development period for this system, Congress required that a panel of experts under the Transportation Research Board (TRB) of the National Academy of Sciences review all NTD data elements. The FTA conducted outreach sessions on revisions to the NTD, prepared reports to Congress, and worked with the TRB panel to reduce unnecessary reporting and reporting burden. As a result, some forms and many data series were eliminated from the annual report.

The new Internet-based system replaced the older diskette system and greatly reduced reporting burden. The new Internet system has pre-submission validation, like Turbo-Tax. Many errors

were caught prior to submission. The Internet system eliminated the time consuming mailing back and forth of submission errors to reporters, and re-mailing submission corrections back to FTA. The new annual NTD yielded significant timesavings and reduced reporting burden. In recent surveys, over 75 percent of reporters like the new annual system and find it to be a great improvement and timesavings.

Much of the reduction in burden hours for the annual NTD reports were offset by the increase in time for filing monthly reports in the new NTD. Safety, security and ridership data has always been part of the purview of the NTD. Congress, the NTSB and DOT wanted FTA to generate more detailed, monthly safety data to develop causal factors. The Federal Railroad Administration, the National Highway Traffic Safety Administration and the Federal Aviation Administration report safety and security data monthly. Congress, DOT and the NTSB wanted FTA to harmonize with her sister agencies and provide monthly reports. Monthly reporting has increased reporting time. The net effect of monthly safety, security and ridership data reporting is to offset much of timesavings that the new NTD was able to produce for the annual reports. Total NTD reporting time has dropped only a little.

Estimated Total Annual Burden: 231,954 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued: June 20, 2005.

Ann M. Linnertz,

Deputy Associate Administrator for Administration.

[FR Doc. 05–12530 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005 21641]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel BLUE MOON.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21641 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before July 25, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 21641. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *BLUE MOON is:*

Intended Use: ''part time charter, less than 6 passengers.''

Geographic Region: Long Island Sound, Cape Cod, New York, Connecticut, Massachusetts, Rhode Island, and USVI.

Dated: June 17, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–12545 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005 21645]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel COLD STEEL.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21645 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels.

If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the

commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 25, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 21645. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *COLD STEEL is:*

Intended Use: ''sportfishing charter-fish not for sale.''

Geographic Region: Lake Ontario, NY.

Dated: June 17, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–12550 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005 21640]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel DAEDALUS.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21640 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before July 25, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 21640. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel

DAEDALUS is:

Intended Use: ''Entertainment of employees and customers of The Boeing Company and other nonpaying guests in groups of 12 or less. The guests will be on board for parties or meals and short trips, usually for one afternoon or evening. The owner will not solicit or accept paying customers or charter business.

Guests will not typically disembark on shore excursions, or for swimming, fishing, or the use of ancillary water devices such as boats, jet skis, kayaks, or the like. No fishing activity will occur. If permitted the owner will occasionally donate the use of the yacht to civic, arts, or charity groups to use to auction off a day or evening on the yacht in order to support the groups. The Boeing Company would receive no revenue from these auctions or trips.''

Geographic Region: Washington State.

Dated: June 17, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–12544 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2995 21646]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *EQUITY.*

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21646 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 25, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 21646. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *EQUITY* is:

Intended Use: ''Vacation charters, usually of one week duration. Not more than 6 guests and two in crew.''

Geographic Region: Northeast U.S.—Massachusetts, Rhode Island, Connecticut, New York/New Jersey waters, Chesapeake Bay area—Delaware, Maryland, Virginia.

Dated: June 17, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–12551 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005 21648]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel EXPLORER.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21648 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before July 25, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 21648. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Sharon Cassidy, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5506.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *EXPLORER* is:

Intended Use: ''We would like to charter our vessel with a crew of a captain known to us for cruising in Washington and Canada. Expected number of guests is between 2 and 5.''

Geographic Region: Washington State.

Dated: June 17, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–12553 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–21643]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel NSS PATTAM.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21643 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 25, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005–21643. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel NSS PATTAM is:

Intended Use: ''Passenger charters.''

Geographic Region: New England, NY State, New Jersey, Florida.

Dated: June 17, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–12548 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005 21644]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *PROMISE.*

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21644 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 25, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 21644. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *PROMISE is:*

Intended Use: ''To carry passengers for hire. Soliciting day sails, sunset cruises, dinner cruises, (one) 1 to (seven) 7 day voyages and (one) 1 to (five) 5 week voyages.''

Geographic Region: Inland, near coastal and ocean. Inclusive of Washington State, Oregon, California, Texas, Louisiana and Florida.

Dated: June 17, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–12549 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–21642]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel SEA FEVER.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21642 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 25, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005–21642. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SEA FEVER is:

Intended Use: ''Previously and currently vessel has been used to lobster fish for the past four years. Intend to use vessel for six pack charters.''

Geographic Region: New England.

Dated: June 17, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–12546 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005 21647]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel VALHALLA.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–21647 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 25, 2005.

ADDRESSES: Comments should refer to docket number MARAD 2005 21467. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *VALHALLA is:*

Intended Use: ''12 Passenger Charter.''

Geographic Region: Hawaii USA.

Dated: June 17, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–12552 Filed 6–23–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34708]

Genesee & Wyoming Inc., RP Acquisition Company One and RP Acquisition Company Two—Control Exemption—Rail Partners, L.P., AN Railway, *et al.*, Atlantic & Western Railway, *et al.*, and KWT Railway, Inc.

Genesee & Wyoming Inc. (GWI), a noncarrier holding company, and RP Acquisition Company One (RP 1) and RP Acquisition Company Two (RP 2), newly created noncarrier holding companies which are wholly owned by GWI (collectively, applicants), have filed a notice of exemption to permit: (1) GWI and RP 1 to acquire control of Rail Partners, L.P., and eight Class III rail carriers formed as limited partnerships;[1] and (2) GWI and RP 2 to acquire control of Rail Partners, L.P., KWT Railway, Inc., a Class III rail carrier corporation, and five Class III rail carriers organized as limited liability companies.[2]

The transaction was scheduled to be consummated on or after June 1, 2005, the effective date of the exemption (7 days after the notice was filed).

GWI directly or indirectly controls Buffalo & Pittsburgh Railroad, Inc. (BPRR), [3] a Class II rail carrier operating in New York and Pennsylvania, and the following 23 Class III rail carriers: Arkansas, Louisiana & Mississippi Railroad Company, operating in Arkansas and Louisiana; Chattahoochee Industrial Railroad, operating in Georgia; Commonwealth Railway, Inc., operating in Virginia; Corpus Christi Terminal Railroad, Inc., operating in Texas; Dansville and Mount Morris Railroad Company, operating in New York; First Coast Railroad, Inc., operating in Florida and Georgia; Fordyce & Princeton Railroad Company, operating in Arkansas; Genesee & Wyoming Railroad Company, Inc., operating in New York; Golden Isles Terminal Railroad, Inc., operating in Georgia; Illinois & Midland Railroad, Inc., operating in Illinois; Louisiana & Delta Railroad, Inc., operating in Louisiana; Portland & Western Railroad, Inc., operating in Oregon; Rochester & Southern Railroad, Inc., operating in New York; Salt Lake City Southern Railroad Company, operating in Utah; Savannah Port Terminal Railroad, Inc., operating in Georgia; South Buffalo Railway Company, operating in New York; St. Lawrence & Atlantic Railroad Company, operating in Vermont, New Hampshire, and Maine; St. Lawrence & Atlantic Railroad (Quebec), Inc., operating in Vermont; Talleyrand Terminal Railroad, Inc., operating in Florida; Tazewell & Peoria Railroad, Inc., operating in Illinois; Utah Railway Company, operating in Colorado and Utah; Willamette & Pacific Railroad, Inc., operating in Oregon; and York Railway Company (York),[4] operating in Pennsylvania (collectively, Affiliates).

Rail Partners, L.P., a noncarrier limited partnership, currently holds all non-managing membership interests or all limited partnership interests (as applicable) in each of the AN Railway, *et al.* group and the Atlantic & Western Railway, *et al.* group. Under the proposed transaction, RP 1 will acquire the entire general partnership interest of Rail Partners, L.P., and the entire general partnership interest of each rail

[1] The limited partnership Class III rail carriers are: Atlantic & Western Railway, Limited Partnership; East Tennessee Railway, L.P.; Galveston Railroad, L.P.; Georgia Central Railway, L.P.; Little Rock & Western Railway, L.P.; Tomahawk Railway, Limited Partnership; Valdosta Railway, L.P.; and Wilmington Terminal Railroad, Limited Partnership (collectively, Atlantic & Western Railway, *et al.* group).

[2] The limited liability companies are: AN Railway, L.L.C.; The Bay Line Railroad, L.L.C.; M&B Railroad, L.L.C.; Riceboro Southern Railway, LLC; and Western Kentucky Railway, L.L.C. (collectively, AN Railway, *et al.* group).

[3] GWI also has control over Allegheny & Eastern, L.L.C. and Pittsburgh & Shawmut Railroad, L.L.C., two non-operating Class III rail carriers that separately hold certain rail assets over which BPRR operates.

[4] GWI also has control over Maryland and Pennsylvania, L.L.C., and Yorkrail, L.L.C., two non-operating Class III rail carriers that separately hold the rail assets over which York operates.

carrier identified in the Atlantic & Western Railway, *et al.* group. RP 2 will acquire 100% ownership of KWT Railway, Inc., the entire limited partnership interest of Rail Partners, L.P., and the entire managing member interest of each rail carrier identified in the AN Railway, *et al.* group.

GWI states: (1) That neither the KWT Railway, Inc. carriers in the AN Railway, *et al.* group nor the carriers in the Atlantic & Western, *et al.* group (collectively, Acquired Railroads) will connect with any of the Affiliates; (2) that the control transaction is not part of a series of anticipated transactions that would connect any of the Acquired Railroads with the Affiliates; and (3) that no Class I railroad is involved in the control transaction. Therefore, the control transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves at least one Class II and one or more Class III rail carriers, the exemption is subject to the labor protection requirements of 49 U.S.C. 11326(b).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34708, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Rose-Michele Nardi, Weiner Brodsky Sidman Kider PC, 1300 Nineteenth Street, NW., Fifth Floor, Washington, DC 20036–1609.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 20, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–12491 Filed 6–23–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34709]

Soo Line Railroad Company—Trackage Rights Exemption—Norfolk Southern Railway Company

Pursuant to a trackage rights agreement dated May 25, 2005, between Soo Line Railroad Company (Soo Line) and Norfolk Southern Railway Company (NSR),[1] NSR has agreed to grant Soo Line overhead trackage rights over the following segments: (1) Between Delray Interlocking in Detroit, MI, at milepost 4.4 ± of the Detroit District, and the point of connection of the new 1,982 foot long Butler Connecting Track at milepost D113.65 ± of NSR's Huntingdon District Line; (2) between the point of connection of the Butler Connecting Track at milepost D113.65 ± of NSR's Huntingdon District Line and the point of connection of the Butler Connecting Track with NSR's Chicago Line at milepost CD358.56 ±; and (3) between the point of connection of the Butler Connecting Track with NSR's Chicago Line at milepost CD358.56 ±, and one of the following two points in Chicago, IL: (a) CP–502 at milepost 502.8 ± and (b) CP 509 at milepost 509.7 ±, a total distance of 253.9 miles (in the case of CP–502) and 260.8 miles (in the case of CP–509).

The three segments are non-separable portions of a single unified route over which Soo Line will operate under the trackage rights. Whether Soo Line trains will operate over the route via CP–502 or via CP–509 will be determined, on a train-by-train basis, pursuant to the procedures and protocols set forth in the trackage rights agreement.

Soo Line states that the trackage rights will be effective on a date mutually agreed to in writing between Soo Line and NSR, which shall not occur until the latest of (1) the date upon which construction of the Butler Connecting Track is completed; (2) the effective date of any required Board authorization or exemption of the trackage rights (including compliance with any condition(s) imposed by the Board); and (3) the expiration of any required labor notices.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34709, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Terence M. Hynes, Sidley Austin Brown & Wood LLP, 1501 K Street, NW., Washington, DC 20005.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 21, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–12569 Filed 6–23–05; 8:45 am]

BILLING CODE 4915–01–P

[1] A redacted version of the trackage rights agreement between NSR and Soo Line was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. A protective order was served on June 21, 2005.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–441 (Sub–No. 4X)]

San Pedro Railroad Operating Company, LLC—Abandonment Exemption—in Cochise County, AZ

On June 6, 2005, San Pedro Railroad Operating Company, LLC (SPROC)[1] filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon approximately 76.2 miles of railroad in Cochise County, AZ, as follows: (1) The Bisbee Branch, between milepost 1085.0 at Bisbee Junction and milepost 1090.6 at Bisbee, a distance of 5.6 miles; and (2) the Douglas Branch (a) between milepost 1097.3 near Paul Spur and milepost 1106.5 near Douglas, a distance of 9.2 miles, (b) between milepost 1055.8 near Charleston and milepost 1097.3 near Paul Spur, a distance of 41.5 miles, and (c) between milepost 1040.15 near Curtiss and milepost 1055.8 near Charleston, a distance of 19.9 miles. The lines traverse U.S. Postal Service ZIP Codes

[1] SPROC is a wholly owned subsidiary of Arizona Rail Group.

85602, 85603, 85607, and 85615 and include no stations.

The lines do not contain federally granted rights-of-way. Any documentation in SPROC's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by September 23, 2005.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,200 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than July 14, 2005. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–441 (Sub-No. 4X), and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001, and (2) John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036. Replies to SPROC's petition are due on or before July 14, 2005.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1539. (Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.)

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 16, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–12383 Filed 6–23–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 17, 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 July 25, 2005 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1110.

Form Number: IRS Form 940-EZ.

Type of Review: Extension.

Title: Employer's Annual Federal Unemployment (FUTA) Tax Return.

Description: Form 4563 is a simplified form that most employers with uncomplicated tax situations (*e.g.*, only paying unemployment contributions to one state and paying them on time) can use to pay their FUTA tax. Most small businesses and household employers use the form.

Respondents: Business and other for-profit, Individuals or households, Farms.

Estimated Number of Respondents/Recordkeepers: 4,089,000.

Estimated Burden Hours Respondent/Recordkeeper:

Recordkeeping—7 hrs., 8 min.

Learning about the law or the form—1 hr., 5 min.

Preparing and sending the form to the IRS—1 hr., 5 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 36,162,483 hours.

Clearance Officer: Glenn P. Kirkland (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 05–12533 Filed 6–23–05; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Friday,
June 24, 2005

Part II

Millennium Challenge Corporation

Notice of Entering Into a Compact With the Government of Honduras; Notice

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 05–08]

Notice of Entering Into a Compact With the Government of Honduras

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with Section 610(b)(2) of the Millennium Challenge Act of 2003 (Pub. L. 108–199, Division D), the Millennium Challenge Corporation is publishing a detailed summary and text of the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation, and the Government of the Republic of Honduras. Representatives of the United States Government and the Republic of Honduras executed the Compact documents on June 13, 2005.

Dated: June 17, 2005.

Maura E. Griffin,

Acting General Counsel, Millennium Challenge Corporation.

BILLING CODE 9210–01–P

Millennium Challenge Corporation

Reducing Poverty Through Growth

Summary of the Millennium Challenge Compact with the Republic of Honduras

I. Introduction

Following the devastation of Hurricane Mitch in 1998 and the subsequent reconstruction effort, Honduras now enjoys a window of opportunity to capitalize on the democratic reforms begun in the 1980s, the economic liberalization of the 1990s, and increasing regional integration, trade liberalization and the promise of The Dominican Republic – Central America – United States Free Trade Agreement ("***DR-CAFTA***"). Honduras has begun to seize this opportunity and use its strategic location to generate economic growth, particularly in light manufacturing, non-traditional agriculture and tourism. However, as laid out in the country's Poverty Reduction Strategy, Honduras needs to ensure that growth extends to the rural population by enhancing agricultural development and linking its large rural population to markets.

After considering feedback from the consultative process and the efforts of other donors, the GOH and MCC mutually agreed that the MCC Program will focus on alleviating two key impediments to economic growth: low agricultural productivity and high transportation costs. To address these two impediments, the Program will work to achieve the following two ("***Objectives***"):

- Increase the productivity and business skills of farmers who operate small- and medium-size farms and their employees ("***Agricultural Objective***"), and

- Reduce transportation costs between targeted production centers and national, regional and global markets ("***Transportation Objective***").

There are strong synergies between the two Objectives. Reducing the cost of transporting inputs to the farm and crops to market will increase the impact of improvements in farmer productivity and business skills. The investment of $215 million and achievement of these two Objectives will increase annual income by an estimated $69 million by the end of the Compact. To accomplish these Objectives, the Program will undertake a **Rural Development Project** and a **Transportation Project**, as outlined below.

[Tel] (202) 521-3600 | (202) 521-3700 [Fax]
875 Fifteenth Street, NW
Washington, DC 20005
www.mcc.gov

II. Program Activities, Costs and Performance

Program Costs ($U.S. millions)		
Rural Development Project		**72.2**
1. Farmer Training and Development	27.4	
2. Farmer Access to Credit	13.8	
3. Farm to Market Roads	21.5	
4. Agricultural Public Goods Grant Facility	8.0	
5. Rural Development Project Management	1.5	
Transportation Project		**125.7**
1. Highway CA-5	96.4	
2. Secondary Roads	21.3	
3. Vehicle Weight Control	4.7	
4. Transportation Project Management	3.3	
Program Management and Oversight		**17.1**
1. Program Management Unit (PMU)	9.3	
2. Auditing	2.8	
3. Monitoring and Evaluation (in addition to PMU)	5.0	
TOTAL		**215**

A. *Rural Development Project ($72.2 million over 5 years)*

Honduras enjoys a comparative advantage in horticulture given its rich growing conditions, year-long growing season, and close proximity to the U.S. market. Despite this advantage, Honduran farmers predominantly grow basic grains because horticultural crops require more sophisticated techniques and infrastructure for both their production and marketing. In addition, lack of access to credit makes it more difficult for farmers to meet the higher working capital requirements of horticultural crops, and poor transportation infrastructure increases the costs of getting crops to market and inputs to the farm gate.

Activities under this Project include:

1. Farmer Training and Development: Technical assistance in the production and marketing of high value horticultural crops;
2. Farmer Access to Credit: Technical assistance to financial institutions to strengthen credit risk assessment skills, loans to such institutions to improve the availability of funds for rural financial institutions, and expansion of the national lien registry system to improve the environment for asset-based lending;
3. Farm to Market Roads: Construction and improvement of feeder roads that connect farms to markets; and
4. Agricultural Public Goods Grant Facility: Support for the adaptation of global technological advances to local Honduran conditions and investments that improve the agricultural productivity of large groups of farmers (e.g., irrigation infrastructure, post-harvest facilities, watershed management, etc.).

Benefits: The Project will improve the business skills, productivity, market access and risk management practices of producers who operate small- and medium-size farms. This will result in higher incomes for the targeted farmers, their employees, and their communities and strengthen the capacity of those enterprises servicing horticultural production and trade.

B. *Transportation Project ($125.7 million over 5 years)*

High transportation costs are a significant impediment to economic growth, particularly for agriculture and light manufacturing. Of particular importance for commercial activity is the Atlantic Corridor highway, which includes the Highway CA-5 linking the Atlantic port of Puerto Cortes to the major production and consumption centers in Honduras, El Salvador and Nicaragua. This road carries most of the country's import and export traffic and accounts for 23 percent of highway traffic volume. After more than 30 years of service, the road needs improvements as service levels have declined drastically on some stretches and road safety is poor. In addition, the lack of a system for controlling vehicle weights has contributed to the deterioration of roadways, increasing the cost of maintenance and reducing safety.

Activities under this Project include:

1. Highway CA-5: Improvement of two stretches of the Highway CA-5;
2. Secondary Roads: Upgrade of key secondary routes to improve the access of rural communities to markets; and
3. Weight Control System: Construction of an effective weight control system, and issuance of contracts to operate it effectively.

Benefits: This Project will reduce transportation costs and allow the economic development that has primarily occurred within the urban area of the Department of Cortes to expand to other parts of the country. This will help Honduras, Nicaragua and El Salvador fully realize the benefits of DR-CAFTA. The weight-control project will help to preserve the improved condition of the roads.

C. *Measuring Outcome and Impact ($5 million)*

The purpose of the Monitoring and Evaluation (M&E) Plan is to provide information to MCA-Honduras (discussed in Section D below), MCC, and other interested parties on the pace of implementation, progress toward meeting the Objectives of each Project, and the impact on the Program Goal of increasing the incomes of beneficiaries.

Monitoring Plan: Indicators measuring the pace at which goods and services are delivered under a Project will be monitored to inform whether the implementation of Projects is progressing according to schedule. Other indicators will measure intermediate results to determine whether these delivered goods and services are having the intended effects. Finally, Program beneficiaries' income will be measured to inform the MCC of the final impact of the Program as well as inform the design of future Compacts and other donor programs. To measure the impact of the Program, the M&E Plan will require baseline data for each Indicator to provide a

comparison with data measured during and after the Program. Indicators will be disaggregated by gender, income level and age, to the extent practicable.

Measures of Success: The principal indicators are (i) at the overall Goal level, an increase in annual income of beneficiaries of $69 million by the end of the Compact; (ii) for the Agriculture Project, an increase in number of farmers and number of hectares involved in harvesting new high value horticulture crops of 8,000 and 14,000, respectively; (iii) and for the Transportation Project, an increase in road use of 13 percent on main roads and 31 percent on secondary roads, with a decrease in freight costs on main roads of 9 percent.

Evaluation Plan: Evaluations will seek to understand and quantify the impact of the Program, including the channels through which the Projects make an impact. Data analysis will be carried out by MCA-Honduras, MCC and contracted entities unrelated to MCC or MCA-Honduras. The MCA-Honduras Program Management Unit ("***PMU***"), and in particular the Monitoring and Evaluation Coordinator therein, with approval from MCC, will be responsible for ensuring that all necessary data for evaluating impact is collected.

D. *Program Management ($9.3 million)*

MCA-Honduras, a legal entity comprised of a Board of Directors ("**Board**")and the PMU, will be established to implement the Compact and is the entity ultimately responsible for Program success. The duties of MCA-Honduras will include program management, financial management and reporting, and coordination of monitoring and evaluation. The Board will be composed of five voting members, three of whom will be government ministers and two of whom will be selected from among the four observers to the Board who represent Honduran non-government organizations. The Board will have nine non-voting observers, eight of whom will Honduran observers (i.e., four representatives from government ministries and four from non-government organizations)[1] and one observer from MCC. The PMU will be composed of full-time professional staff that will provide daily management of the entire MCC Program. In addition to having observer status on the MCA-Honduras Board, MCC will retain approval rights at a number of key decision points during implementation, including key steps in procurements, budgets for Project Activities, major re-disbursements and key personnel decisions.

The principles, rules, and procedures set out in the Honduran Organic Budget Law and the Honduran Budget Execution Law will govern the management of MCC funds, subject to certain exceptions to be documented in the Fiscal Accountability Plan to be developed by MCA-Honduras and agreed to by the MCC. Project managers and/or the PMU, as appropriate, will approve requests for payments from implementing entities; however, neither will have direct access to Program funds. As a check and balance on the PMU, the Ministry of Finance will serve as the fiscal agent and will be the sole signatory to the MCA-Honduras bank account into which MCC funds will be disbursed. This Ministry is in the process of developing a new integrated financial management system, which is scheduled to be fully operational on January 1, 2006. In the interim period, the Ministry of Finance has developed special procedures to handle MCA funds, and it plans to establish a dedicated group to handle MCC transactions.

[1] There will be four non-government organizations represented on the Board, two as voting members and two as observers. The four non-government organizations will rotate between observer and voting status.

FONADERS, a public sector entity within the Ministry of Agriculture, will serve as the Project Manager for the Rural Development Project. The Transportation Project Manager will be contracted out under a competitive international tender. Most major Program procurements will be administered by the relevant Project Manager. The PMU will also procure small to medium value goods and services. At key points in procurement, MCC and MCA-Honduras will have the right to offer a "no objection" to ensure proper procurement processes are followed. Procurements will be conducted in accordance with World Bank procurement standards, except as MCC and the GOH otherwise agree.

III. Assessment

A. *Economic Analysis*

The economic rate of return (ERR) for the Rural Development Project is estimated to be 21 percent, calculated as a weighted average of each component. The return to the Farmer Training and Development activity was estimated to be 36 percent based on actual crop profitability and projected project costs. The activities to improve access to credit were assumed to only benefit the farmers in the Farmer Training and Development activity, which underestimates the benefits from this activity. As specific activities for the public goods grants and rural roads will be determined over the course of the Project, their benefits were assumed to be the minimum required by their respective selection mechanisms, 15 percent for public goods grants and 12 percent for rural roads. The minimum required rate of return was based on the past performance of similar projects. If the selection criteria are adhered to for the roads and public goods, the observed return will likely exceed our ex-ante estimates.

The economic benefits from the Transportation Project derive both from the direct benefits of reduced transportation costs and from the stimulus to new investment from lower transport costs. The ERR for the Transportation Project is estimated to be 25 percent. This return is the weighted average of the returns for the three activities: Highway CA-5 (21 percent), Secondary Roads (40 percent), and Weight Control (25 percent).[2] The stimulation of new businesses and investments due to lower transport costs are more difficult to measure, but are likely to be an important part of the economic benefits. Sectors whose ratio of transport costs to production price is relatively high, such as the light manufacturing sector and agriculture, are likely to receive new investments as a result of improved infrastructure. If the improvements in the Highway CA-5 were to increase light manufacturing growth from 5 to 7 percent for the period 2007-2015, the return would increase by 7 percentage points to 28 percent. Improved transportation can have additional benefits through increased school enrollment and improved health outcomes. These indirect benefits have not been factored into the economic returns, so the ERR mentioned above is likely an underestimate of the gains from the Project.

[2] Based on the direct benefits accrued from reduced travel time, reduced vehicle operating costs, and reduced road maintenance.

B. *Consultative Process*

In 2001, the Government developed a Poverty Reduction Strategy Paper (the "***PRS Paper***") with the participation of a broad range of Honduran society to guide the allocation of public resources to reduce poverty in Honduras. The consultative process of the PRS Paper included attendance by 3500 representatives of civil society organizations in 13 cities. Then, following consultations with national interest groups, the Government developed a Poverty Reduction Strategy - Implementation Plan for 2004 – 2006 (the "***PRS Plan***") to prioritize the development goals of Honduras under the PRS Paper and to organize national resources and donor support to achieve such goals for the 2004 – 2006 period. The PRS Plan summarized findings from four workshops that the Government conducted in the main geographical regions of the country. The workshops included more than 650 participants and allowed the Government to receive feedback on the PRS Plan. In June 2004, the Government publicly presented the PRS Plan to the donor community in the Consultative Group meetings held in Tegucigalpa.

In developing the MCC Proposal, the Government used the priorities established in that PRS Plan and then posted the Proposal on its PRS web site (www.sierp.hn) to solicit feedback from the public at large. In addition, a summary of the Proposal appeared in a major local newspaper with the web address of the full Proposal. After submitting the Proposal to MCC, the Government held five high level meetings with the business community, civil society, non-governmental organizations, and donors, during which participants offered their insights on obstacles to economic growth and poverty reduction in Honduras.

This input along with other factors contributed to several material changes on the Program including: the inclusion of civil society as voting members of the Board of MCA-Honduras, the elimination of the tourism and urban development components, and the expansion of the geographic scope of the Rural Development Project. The GOH also has held meetings with civil society, donors, and the private sector to explain how the comments it has received have caused the final MCC Program to differ from the original proposal. There is broad agreement among the Hondurans and donors that raising agricultural productivity and reducing transportation costs are priorities for addressing poverty reduction through economic growth.

In conducting due diligence on the GOH's consultative process for the PRS and for the MCC Proposal, representatives from MCC met with a wide selection of civil society, including international NGOs, domestic national associations of civil society groups, and domestic NGOs. Most of these groups saw the PRS process as a more transparent and participatory mechanism for setting policy priorities and coordination cooperation with donors than had previously existed.

The GOH plans to continue consultations at the project level, both in the transportation and agriculture sectors, throughout implementation. In addition, civil society representatives will participate on the MCA-Honduras Board as voting members and observers to ensure civil society oversight and input throughout the process.

MILLENNIUM CHALLENGE COMPACT

BY AND BETWEEN

THE UNITED STATES OF AMERICA,
ACTING THROUGH THE
MILLENNIUM CHALLENGE CORPORATION,

AND

THE GOVERNMENT OF THE REPUBLIC OF HONDURAS

Millennium Challenge Compact

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MILLENNIUM CHALLENGE COMPACT

This MILLENNIUM CHALLENGE COMPACT (the "***Compact***") is made by and between the United States of America, acting through the Millennium Challenge Corporation, a United States Government corporation ("***MCC***"), and the Government of the Republic of Honduras (the "***Government***") (referred to herein individually as a "***Party***" and collectively, the "***Parties***"). A compendium of capitalized terms defined herein is included in Exhibit A attached hereto.

RECITALS

WHEREAS, MCC, acting through its Board of Directors, has selected the Republic of Honduras as eligible to present to MCC a proposal for the use of 2004 and 2005 Millennium Challenge Account ("***MCA***") assistance to help facilitate poverty reduction through economic growth in Honduras;

WHEREAS, the Government has carried out a consultative process with the country's private sector and civil society to outline the country's priorities for the use of MCA assistance and developed a proposal, which was submitted to MCC on August 20, 2004 (the "***Proposal***");

WHEREAS, the Proposal focused on, among other things, increasing the productivity and competitiveness of small- and medium-size farms and reducing transportation costs;

WHEREAS, MCC has evaluated the Proposal and related documents to determine whether the Proposal is consistent with core MCA principles and includes proposed activities and projects that will advance the progress of Honduras towards achieving economic growth and poverty reduction; and

WHEREAS, based on MCC's evaluation of the Proposal and related documents and subsequent discussions and negotiations between the Parties, the Government and MCC determined to enter into this Compact to implement a program using MCC Funding to advance Honduras's progress towards economic growth and poverty reduction (the "***Program***");

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements set forth herein, the Parties hereby agree as follows:

ARTICLE I.

PURPOSE AND TERM

Section 1.1 Objectives. The Parties have identified the following objectives (each, an "***Objective***" and together, the "***Objectives***") of this Compact, each of which is (i) key to advancing the goal of economic growth and poverty reduction in Honduras (the "***Compact Goal***"), and (ii) described in more detail in the Annexes attached hereto:

(a) Increase the productivity and business skills of farmers who operate small- and medium-size farms and their employees (the "***Agricultural Objective***"); and

(b) Reduce transportation costs between targeted production centers and national, regional and global markets (the "***Transportation Objective***").

The Government expects to achieve, and shall use its best efforts to ensure the achievement of, these Objectives during the Compact Term.

Section 1.2 Projects. The Annexes attached hereto describe the specific projects and the policy reforms and other activities related thereto (each, a "***Project***") that the Government will carry out, or cause to be carried out, in furtherance of this Compact to achieve the Objectives and the Compact Goal.

Section 1.3 Entry into Force; Compact Term. This Compact shall enter into force on the date of the last letter in an exchange of letters between the Principal Representatives of each Party confirming that all conditions set forth in Section 4.1 have been satisfied by the Government and MCC (such date, the "***Entry into Force***"). This Compact shall remain in force for five (5) years from the Entry into Force, unless earlier terminated in accordance with Section 5.4 (the "***Compact Term***").

ARTICLE II.
FUNDING AND RESOURCES

Section 2.1 MCC Funding.

(a) MCC's Contribution. MCC hereby grants to the Government, subject to the terms and conditions of this Compact, an amount not to exceed Two Hundred and Fifteen Million United States Dollars (USD$215,000,000) ("***MCC Funding***") during the Compact Term to enable the Government to implement the Program and achieve the Objectives.

(i) The allocation of the MCC Funding within the Program and among and within the Projects shall be as generally described in Annex II or as otherwise agreed upon by the Parties from time to time.

(ii) If at any time MCC determines that a condition precedent to an MCC Disbursement has not been satisfied, MCC may, upon written notice to the Government, reduce the total amount of MCC Funding by an amount equal to the amount estimated in the applicable Spending Plan for the Program or Project activity for which such condition precedent has not been met. Upon the expiration or termination of this Compact, (A) any amounts of MCC Funding not disbursed by MCC to the Government shall be automatically released from any obligation in connection with this Compact and (B) any amounts of MCC Funding disbursed by MCC to the Government as provided in Section 2.1(b)(i), but not re-disbursed as provided in Section 2.1(b)(ii) or otherwise incurred as permitted pursuant to Section 5.4(e) prior to the expiration of the Compact, shall be returned to MCC in accordance with Section 2.5(a)(ii).

(b) Disbursements.

(i) Disbursements of MCC Funding. MCC shall from time to time make disbursements of MCC Funding (each such disbursement, an "***MCC Disbursement***") to a Permitted Account or through such other mechanism as agreed by the Parties in accordance with

the procedures and requirements set forth in Annex I, the Disbursement Agreement or as otherwise provided in any other relevant Supplemental Agreement.

(ii) Re-Disbursements of MCC Funding. The release of MCC Funding from a Permitted Account (each such release, a "***Re-Disbursement***") shall be made in accordance with the procedures and requirements set forth in Annex I, the Disbursement Agreement or as otherwise provided in any other relevant Supplemental Agreement.

(c) Interest. Unless the Parties agree otherwise in writing, any interest or other earnings on MCC Funding that accrue or are earned (collectively, "***Accrued Interest***") shall be held in a Permitted Account and accrue or be earned in accordance with the requirements for the treatment of Accrued Interest as specified in Annex I or any relevant Supplemental Agreement. On a quarterly basis and upon the termination or expiration of this Compact, the Government shall return, or ensure the return of, all Accrued Interest to any United States Government account designated by MCC.

(d) Conversion; Exchange Rate. The Government shall ensure that all MCC Funding in a Permitted Account into which MCC Disbursements are made is held in the currency of the United States of America ("***United States Dollars***") prior to Re-Disbursement; *provided*, that a certain portion of MCC Funding may be transferred to a Local Account and may be held in such Local Account in the currency of the Republic of Honduras prior to Re-Disbursement in accordance with the requirements of Annex I. To the extent that any amount of MCC Funding held in United States Dollars must be converted into the currency of the Republic of Honduras for any purpose, including for any Re-Disbursement or any transfer of MCC Funding into a Local Account, the Government shall ensure that such amount is converted consistent with Annex I and the requirements of the Disbursement Agreement or any other Supplemental Agreement between the Parties. The Government shall ensure that any MCC Funding that is converted into the currency of the Republic of Honduras is converted at the rate and in the manner set forth in Annex I.

(e) Guidance. From time to time, MCC may provide guidance to the Government through Implementation Letters on the frequency, form and content of requests for MCC Disbursements and Re-Disbursements or any other matter relating to MCC Funding. The Government shall apply such guidance in implementing this Compact.

Section 2.2 Government Resources.

(a) The Government shall provide, or cause to be provided, such Government funds and other resources, and shall take, or cause to be taken, such actions, including obtaining all necessary approvals and consents, as are specified in this Compact or in any Supplemental Agreement to which the Government is a party or as are otherwise necessary and appropriate to effectively carry out the Government Responsibilities or other responsibilities or obligations of the Government under or in furtherance of this Compact during the Compact Term and through the completion of any post-Compact Term activities, audits or other responsibilities.

(b) If at any time during the Compact Term, the Government materially reduces the allocation in its national budget, or any other Honduran government authority at a departmental, municipal, regional or other jurisdictional level materially reduces the allocation of its respective

budget, of the normal and expected resources that the Government or such other governmental authority, as applicable, would have otherwise received or budgeted, from external or domestic sources, for the activities contemplated herein, the Government shall notify MCC in writing within fifteen (15) days of such reduction, such notification to contain information regarding the amount of the reduction, the affected activities, and an explanation for the reduction. In the event that MCC independently determines upon review of the executed national annual budget that such a material reallocation or reduction of resources has occurred, MCC shall notify the Government and, following such notification, the Government shall provide a written explanation for such reallocation or reduction and MCC may reduce the total amount of MCC Funding or any MCC Disbursement by an amount equal to the amount estimated in the applicable Spending Plan for the activity for which funds were reduced or reallocated.

(c) The Government shall use its best efforts to ensure that all MCC Funding is fully reflected and accounted for in the annual budget of the Republic of Honduras on a multi-year basis.

Section 2.3 Limitations on the Use or Treatment of MCC Funding.

(a) Abortions and Involuntary Sterilizations. The Government shall ensure that MCC Funding shall not be used to undertake, fund or otherwise support any activity that is subject to prohibitions on use of funds contained in (i) paragraphs (1) through (3) of section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)(1)-(3)), a United States statute, which prohibitions shall apply to the same extent and in the same manner as such prohibitions apply to funds made available to carry out Part I of such Act; or (ii) any provision of law comparable to the eleventh and fourteenth provisos under the heading "Child Survival and Health Programs Fund" of division E of Public Law 108-7 (117 Stat. 162), a United States statute.

(b) United States Job Loss or Displacement of Production. The Government shall ensure that MCC Funding shall not be used to undertake, fund or otherwise support any activity that is likely to cause a substantial loss of United States jobs or a substantial displacement of United States production, including:

(i) Providing financial incentives to relocate a substantial number of United States jobs or cause a substantial displacement of production outside the United States;

(ii) Supporting investment promotion missions or other travel to the United States with the intention of inducing United States firms to relocate a substantial number of United States jobs or a substantial amount of production outside the United States;

(iii) Conducting feasibility studies, research services, studies, travel to or from the United States, or providing insurance or technical and management assistance, with the intention of inducing United States firms to relocate a substantial number of United States jobs or cause a substantial displacement of production outside the United States;

(iv) Advertising in the United States to encourage United States firms to relocate a substantial number of United States jobs or cause a substantial displacement of production outside the United States;

(v) Training workers for firms that intend to relocate a substantial number of United States jobs or cause a substantial displacement of production outside the United States;

(vi) Supporting a United States office of an organization that offers incentives for United States firms to relocate a substantial number of United States jobs or cause a substantial displacement of production outside the United States; or

(vii) Providing general budget support for an organization that engages in any activity prohibited above.

(c) Military Assistance and Training. The Government shall ensure that MCC Funding shall not be used to undertake, fund or otherwise support the purchase or use of goods or services for military purposes, including military training, or to provide any assistance to the military, police, militia, national guard or other quasi-military organization or unit.

(d) Prohibition of Assistance Relating to Environmental, Health or Safety Hazards. The Government shall ensure that MCC Funding shall not be used to undertake, fund or otherwise support any activity that is likely to cause a significant environmental, health, or safety hazard. Unless MCC and the Government agree otherwise in writing, the Government shall ensure that activities undertaken or funded in whole or in part, directly or indirectly, by MCC Funding comply with environmental guidelines delivered by MCC to the Government or posted by MCC on its website or otherwise publicly made available, as such guidelines may be amended from time to time (the "***Environmental Guidelines***"), including any definition of "likely to cause a significant environmental, health, or safety hazard" as may be set forth in such Environmental Guidelines.

(e) Taxation.

(i) Taxes. As required by applicable United States law and in furtherance of the General Agreement for Economic Cooperation between the Government of the United States of America and the Government of Honduras, dated May 27, 1961, as amended from time to time (the "***Bilateral Agreement***"), the Government shall ensure that the Program, any Program Assets, MCC Funding and Accrued Interest, shall be free from any taxes imposed under laws currently or hereafter in effect in the Republic of Honduras during the Compact Term. This exemption shall (A) be implemented in an administratively efficient manner consistent with the principles that MCC Funding will be used only to fund the Program and to achieve the Objectives and to avoid, where possible, double taxation of Providers, irrespective of their nationality and place of residence and (B) apply to any use of any Program Asset, MCC Funding and Accrued Interest, including any Exempt Uses, and to any work performed under or activities undertaken in furtherance of this Compact by any person or entity (including contractors and grantees) funded by MCC Funding, and shall apply to all taxes, tariffs, duties, and other levies (each, a "***Tax***" and collectively, "***Taxes***"), including:

(1) to the extent attributable to MCC Funding, income taxes and other taxes on profit or businesses imposed on organizations or entities, other than nationals of the Republic of Honduras, receiving MCC Funding, including taxes on the acquisition, ownership, rental, disposition or other use of real or personal property, taxes on investment or deposit requirements and currency controls in Honduras, or any other tax, duty, charge or fee of

whatever nature, except fees for specific services rendered; for purposes of this Section 2.3(e), the term "national" refers to organizations established under the laws of Honduras, other than MCA-Honduras or any other entity established solely for purposes of managing or overseeing the implementation of the Program or any wholly-owned subsidiaries, divisions, or Affiliates of entities not registered or established under the laws of Honduras;

(2) customs duties, tariffs, import and export taxes, or other levies on the importation, use and re-exportation of goods, services or the personal belongings and effects, including personally-owned automobiles, for Program use or the personal use of individuals who are neither citizens nor permanent residents of the Republic of Honduras and who are present in Honduras for purposes of carrying out the Program or their family members, including all charges based on the value of such imported goods;

(3) taxes on the income or personal property of all individuals who are neither citizens nor permanent residents of the Republic of Honduras, including income and social security taxes of all types and all taxes on the personal property owned by such individuals, to the extent such income or property are attributable to MCC Funding; and

(4) taxes or duties levied on the purchase of goods or services funded by MCC Funding, including sales taxes, tourism taxes, value-added taxes (VAT), or other similar charges.

(ii) This Section 2.3(e) shall apply, but is not limited to (A) any transaction, service, activity, contract, grant or other implementing agreement funded in whole or in part by MCC Funding; (B) any supplies, equipment, materials, property or other goods (referred to herein collectively as "goods") or funds introduced into, acquired in, used or disposed of in, or imported into or exported from, the Republic of Honduras by MCC, or by any person or entity (including contractors and grantees) or employees of any thereof, as part of, or in conjunction with, MCC Funding or the Program; and (C) any contractor, grantee, or other organization, and any employee thereof, carrying out activities funded in whole or in part by MCC Funding (the uses set forth in clauses (A) through (C) are collectively referred to herein as "***Exempt Uses***").

(iii) If a Tax has been levied and paid contrary to the requirements of this Section 2.3(e), whether inadvertently, due to the impracticality of implementation of this provision with respect to certain types or amounts of taxes or otherwise, the Government shall refund the amount of such tax to a Permitted Account designated by MCA-Honduras, subject to MCC approval, in the currency of the Republic of Honduras, within thirty (30) days (or such other period as may be agreed in writing by the Parties) after the Government is notified of such levy and tax payment; *provided, however*, the Government shall apply national funds to satisfy its obligations under this paragraph and no MCC Funding, Accrued Interest or any assets, goods, or property (real, tangible, or intangible) purchased or financed in whole or in part by MCC Funding ("***Program Assets***") may be applied by the Government in satisfaction of its obligations under this paragraph.

(iv) The Parties shall memorialize in a mutually acceptable Supplemental Agreement or other suitable document the mechanisms for implementing this Section 2.3(e), including (A) a formula for determining refunds for Taxes paid, the amount of which is not susceptible to precise determination, (B) a mechanism for ensuring the tax-free importation, use,

and re-exportation of goods, services or the personal belongings of individuals (including all Providers) described in paragraph (i)(2) of this Section 2.3(e), and (C) any other appropriate Government action to facilitate the administration of this Section 2.3(e).

(f) Alteration. The Government shall ensure that no MCC Funding, Accrued Interest, or Program Assets shall be subject to any impoundment, rescission, sequestration or any provision of law now or hereafter in effect in the Republic of Honduras that would have the effect of requiring or allowing any impoundment, rescission or sequestration of any MCC Funding, Accrued Interest, or Program Asset.

(g) Liens or Encumbrances. The Government shall ensure that no MCC Funding, Accrued Interest, or Program Assets shall be subject to any lien, attachment, enforcement of judgment, pledge, or encumbrance of any kind (each, a "***Lien***"), except with the prior approval of MCC in accordance with Section 3(c) of Annex I, and in the event of any Lien not so approved, the Government shall seek the release of such Lien and shall pay any amounts owed to obtain such release; *provided, however,* the Government shall apply national funds to satisfy its obligations under this Section 2.3(g) and no MCC Funding, Accrued Interest, or Program Assets may be applied by the Government in satisfaction of its obligations under this Section 2.3(g).

(h) Other Limitations. The Government shall ensure that the use or treatment of MCC Funding shall be subject to such other limitations (i) as required by the applicable law of the United States of America now or hereafter in effect during the Compact Term, (ii) as advisable under or required by applicable United States Government policies now or hereafter in effect during the Compact Term, or (iii) to which the Parties may otherwise agree in writing.

(i) Utilization of Goods, Services and Works. The Government shall ensure that any Program Assets, services, facilities or works funded in whole or in part, directly or indirectly, by MCC Funding, unless otherwise agreed by the Parties in writing, shall be used solely in furtherance of this Compact.

(j) Notification of Applicable Laws and Policies. MCC shall notify the Government of any applicable United States law or policy affecting the use or treatment of MCC Funding, whether or not specifically identified in this Section 2.3, and shall provide to the Government a copy of the text of any such applicable law and a written explanation of any such applicable policy.

Section 2.4 Incorporation; Notice; Clarification.

(a) The Government shall include, or ensure the inclusion of, all of the requirements set forth in Section 2.3 in all Supplemental Agreements to which MCC is not a party and shall use its best efforts to ensure that no such Supplemental Agreement is implemented in violation of the prohibitions set forth in Section 2.3.

(b) The Government shall ensure notification of all of the requirements set forth in Section 2.3 to any Provider and all relevant officers, directors, employees, agents, representatives, Affiliates, contractors, grantees, subcontractors and sub-grantees of the Government or any Provider. The term "***Provider***" shall mean (i) MCA-Honduras and any other Government Affiliate involved in any activities in furtherance of this Compact or (ii) any third

party who receives at least USD $50,000 in the aggregate of MCC Funding (other than employees of MCA-Honduras) during the Compact Term or such other amount as the Parties may agree in writing, whether directly from MCC, indirectly through Re-Disbursements, or otherwise.

(c) In the event the Government or any Provider requires clarification from MCC as to whether an activity contemplated to be undertaken in furtherance of this Compact violates or may violate any provision of Section 2.3, the Government shall notify, or ensure that such Provider notifies, MCC in writing and provide in such notification a detailed description of the activity in question. In such event, the Government shall not proceed, and shall use its best efforts to ensure that no relevant Provider proceeds, with such activity, and the Government shall ensure that no Re-Disbursements shall be made for such activity, until MCC advises the Government or such Provider in writing that the activity is permissible.

Section 2.5 Refunds; Violation.

(a) Notwithstanding the availability to MCC, or exercise by MCC, of any other remedies, including under international law, this Compact, or any Supplemental Agreement:

(i) If any amount of MCC Funding, Accrued Interest, or any Program Asset, is used for any purpose prohibited under this Article II or otherwise in violation of any of the terms and conditions of this Compact, any guidance in any Implementation Letter, or any Supplemental Agreement between the Parties, MCC may require the Government to repay promptly to MCC to an account designated by MCC or to others as MCC may direct, the amount of such misused MCC Funding, Accrued Interest, or the cash equivalent of the value of any misused Program Asset, in United States Dollars, plus any interest that accrued or would have accrued thereon, within fifteen (15) days after the Government is notified, whether by MCC or otherwise, of such prohibited use; *provided, however*, the Government shall apply national funds to satisfy its obligations under this Section 2.5(a)(i) and no MCC Funding, Accrued Interest, or Program Assets may be applied by the Government in satisfaction of its obligations under this Section 2.5(a)(i); and

(ii) If all or any portion of this Compact is terminated or suspended and upon the expiration of the Compact, the Government shall, subject to the requirements of Sections 5.4(e) and 5.4(f), refund, or ensure the refund, to MCC to such account(s) as designated by MCC the amount of any MCC Funding, plus any Accrued Interest, promptly, but in no event later than thirty (30) days after the Government receives MCC's request for such refund; *provided*, if this Compact is terminated or suspended in part, MCC may request a refund for only the amount of funds, plus any Accrued Interest, then allocated to the terminated or suspended portion; *provided, further*, that any refund of MCC Funding or Accrued Interest shall be to such account(s) as designated by MCC.

(b) Notwithstanding any other provision in this Compact or any other agreement to the contrary, MCC's right under this Section 2.5 for a refund shall continue during the Compact Term and for a period of (i) five (5) years thereafter or (ii) one (1) year after MCC receives actual knowledge of such violation, whichever is later.

(c) If MCC determines that any activity or failure to act violates, or may violate, any Section in this Article II, MCC may refuse any further MCC Disbursements for or conditioned upon such activity, and may take any action to prevent any Re-Disbursement related to such activity.

ARTICLE III.

IMPLEMENTATION

Section 3.1 Implementation Framework. This Compact shall be implemented by the Parties in accordance with this Article III and as further specified in the Annexes and in relevant Supplemental Agreements.

Section 3.2 Government Responsibilities.

(a) The Government shall have principal responsibility for oversight and management of the implementation of the Program (i) in accordance with the terms and conditions specified in this Compact and relevant Supplemental Agreements, (ii) in accordance with all applicable laws then in effect of Honduras, and (iii) in a timely and cost-effective manner and in conformity with sound technical, financial and management practices (collectively, the "***Government Responsibilities***"). Unless otherwise expressly provided, any reference to the Government Responsibilities or any other responsibilities or obligations of the Government herein shall be deemed to apply to any Government Affiliate and any of their respective employees, contractors, agents or representatives.

(b) The Government shall ensure that no person or entity shall participate in the selection, award, administration, or oversight of a contract, grant or other benefit or transaction funded in whole or in part, directly or indirectly, by MCC Funding, in which (i) the entity, the person, members of the person's immediate family or household or his or her business partners, or organizations controlled by or substantially involving such person or entity, has or have a financial interest or (ii) the person is negotiating or has any arrangement concerning prospective employment, unless such person or entity has first disclosed in writing to the Government the conflict of interest and, following such disclosure, the Parties agree in writing to proceed notwithstanding such conflict. The Government shall ensure that no person or entity involved in the selection, award, administration, oversight or implementation of any contract, grant or other benefit or transaction funded in whole or in part, directly or indirectly, by MCC Funding shall solicit or accept from, offer to a third party, or seek or be promised, directly or indirectly, for itself or for another person or entity, any gift, gratuity, favor or benefit, other than items of *de minimis* value and otherwise consistent with such guidance as MCC may provide from time to time.

(c) The Government shall designate MCA-Honduras to implement the Government Responsibilities and any other responsibilities or obligations of the Government and to exercise any rights of the Government under this Compact or any Supplemental Agreement between the Parties (referred to herein collectively as "***Designated Rights and Responsibilities***"), in accordance with the terms and conditions set forth in this Compact or such Supplemental Agreement. Notwithstanding any provision herein or any other agreement to the contrary, such designation shall not relieve the Government of such Designated Rights and Responsibilities, for

which the Government shall retain ultimate responsibility. The Government shall cause MCA-Honduras to perform such Designated Rights and Responsibilities in the same manner and to the full extent to which the Government is obligated to perform such Designated Rights and Responsibilities and shall ensure that MCA-Honduras does not assign, delegate, or contract (or otherwise transfer) any of such Designated Rights and Responsibilities to any person or entity without the prior written consent of MCC.

(d) The Government shall, upon a request from MCC, execute, or ensure the execution of, an assignment to MCC of any cause of action which may accrue to the benefit of the Government, MCA-Honduras or any other Government Affiliate in connection with or arising out of any activities funded in whole or in part, directly or indirectly, by MCC Funding.

(e) The Government shall ensure that (i) no decision of MCA-Honduras is modified, supplemented, unduly influenced or rescinded by any other governmental authority, except by a non-appealable judicial decision, and (ii) the authority of MCA-Honduras shall not be expanded, restricted or otherwise modified, except in accordance with this Compact, applicable law, the Governance Regulations or a Supplemental Agreement between the Parties.

(f) The Government shall ensure that all persons and individuals that enter into agreements to provide goods, services or works under the Program or in furtherance of this Compact shall do so in accordance with the Procurement Guidelines and shall obtain all necessary immigration, business and other permits, licenses, consents or approvals to enable them and their personnel to fully perform under such agreements.

Section 3.3 Government Deliveries. The Government shall proceed, and cause others to proceed, in a timely manner to deliver to MCC all reports, notices, documents or other deliveries by the Government under or as required to be delivered by the Government under this Compact or any Supplemental Agreement between the Parties, in form and substance as set forth in this Compact or in any such Supplemental Agreement.

Section 3.4 Government Assurances. The Government hereby provides the following assurances to MCC that as of the date this Compact is signed:

(a) The information contained in the Proposal and any agreement, report, statement, communication, document or otherwise delivered or otherwise communicated to MCC by or on behalf of the Government on or after the date of the submission of the Proposal (i) are true, accurate and complete in all material respects and (ii) do not omit any fact known to the Government that if disclosed would (A) alter in any material respect the information delivered, (B) likely have a material adverse effect on the Government's ability to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of this Compact, or (C) have likely adversely affected MCC's determination to enter into this Compact or any Supplemental Agreement between the Parties.

(b) Unless otherwise disclosed in writing to MCC, the MCC Funding made available hereunder is in addition to the normal and expected resources that the Government usually receives or budgets for the activities contemplated herein from external or domestic sources.

(c) This Compact does not conflict and will not conflict with any international agreement or obligation to which the Government is a party or by which it is bound.

(d) No payments have been (i) received by any official of the Government or any other government body in connection with the procurement of goods or services to be undertaken or funded in whole or in part, directly or indirectly, by MCC Funding, except fees, taxes, or similar payments legally established in Honduras or (ii) made to any third party, in connection with or in furtherance of this Compact, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. 78a *et seq.*).

Section 3.5 Implementation Letters; Supplemental Agreements.

(a) MCC may, from time to time, issue one or more letters to furnish additional information or guidance to assist the Government in the implementation of this Compact (each, an "***Implementation Letter***"). The Government shall apply such guidance in implementing this Compact.

(b) The details of any funding, implementing and other arrangements in furtherance of this Compact may be memorialized in one or more agreements between (A) the Government (or any Government Affiliate) and MCC, (B) MCC and/or the Government (or any Government Affiliate) and any third party, including any of the Providers or (C) any third parties where neither MCC nor the Government is a party, before, on or after the Entry into Force (each, a "***Supplemental Agreement***"). The Government shall deliver, or cause to be delivered, to MCC within five (5) days of its execution a copy of any Supplemental Agreement to which MCC is not a party.

Section 3.6 Procurement; Awards of Assistance.

(a) The Government shall ensure that the procurement of all goods, services and works by the Government, MCA-Honduras or any other Provider in furtherance of this Compact shall (i) conform to the terms and conditions reflected in a Supplemental Agreement between the Parties (the "***Procurement Agreement***"), and (ii) be governed by the standards and procedures of the World Bank, as codified in "Guidelines: Procurement under IBRD Loans and IDA Credits, May 2004 (ISBN 0-8213-5829-4" (covering works and goods) and "Guidelines: Selection and Employment of Consultants by World Bank Borrowers, May 2004" (covering consultants and technical assistance), subject to the exceptions and other modifications specified in additional procurement guidelines set forth in the Procurement Agreement, as amended by MCC from time to time by publication (such World Bank standards and such published MCC guidelines are collectively, the "***Procurement Guidelines***"). The Procurement Guidelines shall include the following requirements:

(i) Open, fair and competitive procedures are used in a transparent manner to solicit, award and administer contracts, grants, and other agreements and to procure goods, services and works;

(ii) Solicitations for goods, services, and works shall be based upon a clear and accurate description of the goods, services or works to be acquired;

(iii) Contracts shall be awarded only to qualified and capable contractors that have the capability and willingness to perform the contracts in accordance with the terms and conditions of the applicable contracts and on a cost effective and timely basis; and

(iv) No more than a commercially reasonable price, as determined, for example, by a comparison of price quotations and market prices, shall be paid to procure goods, services, and works.

(b) The Government shall maintain, and shall use its best efforts to ensure that all Providers maintain, records regarding the receipt and use of goods and services acquired in furtherance of this Compact, the nature and extent of solicitations of prospective suppliers of goods and services acquired in furtherance of this Compact, and the basis of award of contracts, grants and other agreements in furtherance of this Compact.

(c) The Government shall use its best efforts to ensure that information, including solicitations, regarding procurement, grant and other agreement actions funded in whole or in part, directly or indirectly, by MCC Funding shall be made publicly available in the manner outlined in the Procurement Guidelines or in any other manner agreed upon by the Parties in writing.

(d) No goods, services or works may be funded in whole or in part, directly or indirectly, by MCC Funding which are procured pursuant to orders or contracts firmly placed or entered into prior to the Entry into Force, except as the Parties may otherwise agree in writing.

(e) In furtherance of the Procurement Guidelines, the Government shall ensure that MCA-Honduras adopts a procurement operations manual, subject to MCC approval, no later than the time specified in the Disbursement Agreement. The procurement operations manual shall be consistent with the Procurement Guidelines and may draw from relevant sections of active World Bank loan agreement operations manuals currently governing other programs in Honduras and/or the "Bank Funded Procurement Manual," as published by the World Bank's Procurement Policy and Services Group, Operations Policy and Country Services division.

(f) The Government shall ensure that MCA-Honduras follows, and uses its best efforts to ensure that all Providers follow, the Procurement Guidelines in procuring goods, services and works and in awarding and administering contracts, grants and other agreements in furtherance of this Compact and shall furnish MCC evidence of the adoption of the Procurement Guidelines by MCA-Honduras no later than the time specified in the Disbursement Agreement.

(g) The Government shall include, or ensure the inclusion of, the requirements of this Section 3.6 into all Supplemental Agreements between the Government, MCA-Honduras or any other Government Affiliate or any of their respective directors, officers, employees, Affiliates, contractors, representatives or agents, on the one hand, and a Provider, on the other hand.

Section 3.7 Policy Performance; Policy Reforms. In addition to the specific policy and legal reform commitments identified in Annex I and the Schedules thereto, the Government shall seek to maintain and improve its level of performance under the policy criteria identified in Section 607 of the Millennium Challenge Act of 2003, as amended (the "*Act*"), and the MCA selection

criteria and methodology published by MCC pursuant to Section 607 of the Act from time to time (***"MCA Eligibility Criteria"***).

Section 3.8 Records and Information; Access; Audits; Reviews.

(a) Reports and Information. The Government shall furnish to MCC, and shall use its best efforts to ensure that all Providers and any other third party receiving MCC Funding, as appropriate, furnish to the Government, any records and other information required to be maintained under this Section 3.8 and such other information, documents and reports as may be necessary or appropriate for the Government to effectively carry out its obligations under this Compact, including under Section 3.12.

(b) Government Books and Records. The Government shall maintain, and shall use its best efforts to ensure that all Providers maintain, accounting books, records, documents and other evidence relating to this Compact adequate to show, without limitation, the use of all MCC Funding, including all costs incurred by the Government and the Providers in furtherance of this Compact, the receipt and use of goods and services acquired in furtherance of this Compact by the Government and the Providers, agreed-upon cost sharing requirements, the nature and extent of solicitations of prospective suppliers of goods and services acquired by the Government and the Providers in furtherance of this Compact, the basis of award of Government and other contracts and orders in furtherance of this Compact, the overall progress of the implementation of the Program, and any documents required by this Compact or any Supplemental Agreement between the Parties or reasonably requested by MCC upon reasonable notice (***"Compact Records"***). The Government shall maintain, and shall use its best efforts to ensure that all Covered Providers maintain, Compact Records in accordance with generally accepted accounting principles prevailing in the United States, or at the Government's option and with the prior written approval by MCC, other accounting principles, such as those (1) prescribed by the International Accounting Standards Committee (an affiliate of the International Federation of Accountants) or (2) then prevailing in Honduras. Compact Records shall be maintained for at least five (5) years after the end of the Compact Term or for such longer period, if any, required to resolve any litigation, claims or audit findings or any statutory requirements.

(c) Access. The Government shall permit, or cause to be permitted, authorized representatives of MCC, the Inspector General, the United States Government Accountability Office, any auditor responsible for an audit contemplated herein or otherwise conducted in furtherance of this Compact, and any agents or representatives engaged by MCC or MCA-Honduras to conduct any assessment, review or evaluation of the Program, at all reasonable times the opportunity to audit, review, evaluate or inspect activities funded, in whole or in part, directly or indirectly, by MCC Funding or undertaken in connection with the Program, the utilization of goods and services purchased or funded in whole or in part, directly or indirectly, by MCC Funding, and Compact Records, including of the Government or any Provider, relating to activities funded or undertaken in furtherance of, or otherwise relating to, this Compact, and shall use its best efforts to ensure access by MCC, the Inspector General, the United States Government Accountability Office or relevant auditor, reviewer or evaluator or their respective representatives or agents to all relevant directors, officers, employees, Affiliates, contractors, representatives and agents of the Government or any Provider.

(d) Audits.

(i) Government Audits. In addition to its audit responsibilities set forth in Annex I, the Government shall, on at least an annual basis and as the Parties may otherwise agree in writing, conduct, or cause to be conducted, financial audits of all MCC Disbursements and Re-Disbursements during the year since the Entry into Force or since the prior anniversary of the Entry into Force in accordance with the following terms, except as the Parties may otherwise agree in writing. As requested by MCC in writing, the Government shall use, or cause to be used, an auditor named on the approved list of auditors in accordance with the "*Guidelines for Financial Audits Contracted by Foreign Recipients*" issued by the Inspector General of the United States Agency for International Development (the "***Inspector General***"), and as approved by MCC, to conduct such annual audits. Such audits shall be performed in accordance with such Guidelines and be subject to quality assurance oversight by the Inspector General in accordance with such Guidelines. An audit shall be completed and delivered to MCC no later than 90 days after the first period to be audited and no later than 90 days after each anniversary of the Entry into Force, or such other period as the Parties may otherwise agree in writing.

(ii) Audits of U.S. Entities. The Government shall ensure that Supplemental Agreements between the Government or any Provider, on the one hand, and a United States nonprofit organization, on the other hand, state that the United States organization is subject to the applicable audit requirements contained in OMB Circular A-133, notwithstanding any other provision of this Compact to the contrary. The Government shall ensure that Supplemental Agreements between the Government or any Provider, on the one hand, and a United States for-profit Covered Provider, on the other hand, state that the United States organization is subject to audit by the cognizant United States Government agency, unless the Government and MCC agree otherwise in writing.

(iii) Audit Plan. The Government shall submit, or cause to be submitted, to MCC no later than 20 days prior to its adoption, a plan for the audit of the expenditures of any Covered Providers, which audit plan the Government shall adopt, or cause to be adopted, in form and substance as approved by MCC, no later than sixty (60) days prior to the end of the first period to be audited.

(iv) Covered Provider. A "***Covered Provider***" is (A) any non-United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) USD $300,000 or more of MCC Funding in any MCA-Honduras fiscal year or any other non-U.S. person or entity that receives, directly or indirectly, USD $300,000 or more of MCC Funding from any Provider in such fiscal year or (B) any United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) USD $500,000 or more of MCC Funding in any MCA-Honduras fiscal year or any other United States person or entity that receives, directly or indirectly, USD $500,000 or more of MCC Funding from any Provider in such fiscal year.

(v) Corrective Actions. The Government shall use its best efforts to ensure that Covered Providers take, where necessary, appropriate and timely corrective actions in response to audits, consider whether a Covered Provider's audit necessitates adjustment of its own records, and require each such Covered Provider to permit independent auditors to have access to its records and financial statements as necessary.

(vi) Audit Reports. The Government shall furnish, or use its best efforts to cause to be furnished, to MCC an audit report in a form satisfactory to MCC for each audit required by this Section 3.8, other than audits arranged for by MCC, no later than 90 days after the end of the period under audit, or such other time as may be agreed by the Parties from time to time.

(vii) Other Providers. For Providers who receive MCC Funding under this Compact pursuant to direct contracts or agreements with MCC, MCC shall include appropriate audit requirements in such contracts or agreements and shall, on behalf of the Government, unless otherwise agreed by the Parties, conduct the follow-up activities with regard to the audit reports furnished pursuant to such requirements.

(viii) Audit by MCC. MCC retains the right to perform, or cause to be performed, the audits required under this Section 3.8 by utilizing MCC Funding or other resources available to MCC for this purpose, and to audit, conduct a financial review, or otherwise ensure accountability of any Provider or any other third party receiving MCC Funding, regardless of the requirements of this Section 3.8.

(e) Application to Providers. The Government shall include, or ensure the inclusion of, at a minimum, the requirements of:

(i) Paragraphs (a), (b), (c), (d)(iii), (d)(vi), (d)(viii) and (e) of this Section 3.8 into all Supplemental Agreements between the Government, any Government Affiliate, MCA-Honduras or any of their respective directors, officers, employees, Affiliates, contractors, representatives or agents (each, a "***Government Party***"), on the one hand, and a Covered Provider that is not a non-profit organization domiciled in the United States, on the other hand;

(ii) Paragraphs (a), (b), (c), and (d)(viii) of this Section 3.8 into all Supplemental Agreements between a Government Party and a Provider that does not meet the definition of a Covered Provider; and

(iii) Paragraphs (a), (b), and (c) of this Section 3.8 into all Supplemental Agreements between a Government Party and a Covered Provider that is a non-profit organization domiciled in the United States.

(f) Reviews or Evaluations. The Government shall conduct, or cause to be conducted, such performance reviews, data quality reviews, environmental audits, or program evaluations during the Compact Term in accordance with the M&E Plan or as otherwise agreed in writing by the Parties.

(g) Cost of Audits, Reviews or Evaluations. MCC Funding may be used to finance the costs of any Audits, reviews or evaluations required under this Compact, including as reflected on Exhibit A to Annex II, and in no event shall the Government be responsible for the costs of any such Audits, reviews or evaluations from financial sources other than MCC Funding.

Section 3.9 Insurance; Performance Guarantees; Indemnification Claims.

(a) Insurance; Performance Guarantees. The Government shall, to MCC's satisfaction, insure or cause to be insured all Program Assets, and obtain or cause to be obtained such other appropriate protections against risks or liabilities associated with the operations of the Program, by requiring Providers to obtain adequate insurance and post adequate performance bonds or other guarantees. MCA-Honduras shall be named as the insured party on any such insurance and the beneficiary of any other such guarantee, including performance bonds. The Government shall ensure that any proceeds from claims paid under such insurance or any other form of guarantee shall be used to replace or repair any loss of Program Assets or to pursue the procurement of the covered goods or services, and otherwise shall be deposited in a Permitted Account as designated by MCA-Honduras, subject to MCC approval.

(b) Indemnification Claims. To the extent MCA-Honduras is held liable under any indemnification or other similar provision of any agreement between MCA-Honduras, on the one hand, and any other Provider or other third party, on the other hand, the Government shall pay in full on behalf of MCA-Honduras any such obligation; *provided, however*, the Government shall apply national funds to satisfy its obligations under this Section 3.9 and no MCC Funding, Accrued Interest or Program Assets may be applied by the Government in satisfaction of its obligations under this Section 3.9. If the Government believes in good faith that such liability is not caused primarily by the negligence or misconduct of MCA-Honduras or another Government Party, the Government shall so notify MCC in writing within fifteen (15) business days after such belief is formed, which notice shall contain sufficient information for MCC to independently assess the accuracy of the Government's position. If, within fifteen (15) business days after receiving such notice, MCC determines, in its sole discretion, that such liability is not caused primarily by the negligence or misconduct of MCA-Honduras or another Government Party, MCC will authorize MCA-Honduras, in writing, to use MCC Funding to fund such liability or refund to the Government the payment of the same.

Section 3.10 Domestic Requirements. The Government shall proceed in a timely manner to seek any required ratification of this Compact or similar domestic requirement, which process the Government shall initiate promptly after the conclusion of this Compact. Notwithstanding anything to the contrary in this Compact, this Section 3.10 shall provisionally apply prior to the Entry into Force.

Section 3.11 No Conflict. The Government shall undertake not to enter into any agreement in conflict with this Compact or any Supplemental Agreement during the Compact Term.

Section 3.12 Reports. The Government shall provide to MCC within thirty (30) days of any written request by MCC, or as otherwise agreed in writing by the Parties, the following information:

(a) The name of each entity to which MCC Funding has been provided;

(b) The amount of MCC Funding provided to such entity;

(c) A description of the Program and each Project funded in furtherance of this Compact, including:

(i) A statement of whether the Program or any Project was solicited or unsolicited; and

(ii) A detailed description of the objectives and measures for results of the Program or Project;

(d) The progress made by Honduras toward achieving the Compact Goal and Objectives;

(e) A description of the extent to which MCC Funding has been effective in helping Honduras to achieve the Compact Goal and Objectives;

(f) A description of the coordination of MCC Funding with other United States foreign assistance and other related trade policies;

(g) A description of the coordination of MCC Funding with assistance provided by other donor countries;

(h) Any report, document or filing that the Government, MCA-Honduras, or any other Government Affiliate submits to any government body in connection with this Compact;

(i) Any report or document required to be delivered to MCC under the Environmental Guidelines, any audit plan, or any component of the Implementation Plan; and

(j) Any other report, document or information requested by MCC or required by this Compact or any Supplemental Agreement between the Parties.

ARTICLE IV.

CONDITIONS PRECEDENT; DELIVERIES

Section 4.1 Conditions Prior to the Entry into Force and Deliveries. As conditions precedent to the Entry into Force, the Parties shall satisfy the following:

(a) The Government (or mutually acceptable Government Affiliate) and MCC shall execute a Disbursement Agreement, which agreement shall be in full force and effect as of the Entry into Force;

(b) The Government (or mutually acceptable Government Affiliate) and MCC shall execute one or more term sheets that set forth the material and principal terms and conditions of each of the Supplemental Agreements identified in Exhibit B attached hereto (the "***Supplemental Agreement Term Sheets***");

(c) The Government (or mutually acceptable Government Affiliate) and MCC shall execute a Procurement Agreement, which agreement shall be in full force and effect as of the Entry into Force;

(d) The Government shall deliver a letter signed and dated by the Principal Representative of the Government certifying:

(i) That the Government has completed all of its domestic requirements for this Compact to be fully enforceable under Honduran law;

(ii) As to the incumbency and specimen signature of the Principal Representative and each Additional Representative executing any document delivered pursuant to this Section 4.1 on behalf of the Government; and

(iii) That attached thereto are true, accurate and complete copies of any decree, legislation, regulation or other governmental document relating to its domestic requirements for this Compact to enter into force, which MCC may post on its website or otherwise make publicly available.

(e) MCC shall deliver a letter signed and dated by the Principal Representative of MCC certifying that MCC has completed its domestic requirements for this Compact to enter into force.

Section 4.2 Conditions Precedent to MCC Disbursements or Re-Disbursements. Prior to, and as condition precedent to, any MCC Disbursement or Re-Disbursement, the Government shall satisfy, or ensure the satisfaction of, any applicable conditions precedent in the Disbursement Agreement.

ARTICLE V.

FINAL CLAUSES

Section 5.1 Communications. Unless otherwise expressly stated in this Compact or otherwise agreed in writing by the Parties, any notice, certificate, request, report, document or other communication required, permitted, or submitted by either Party to the other under this Compact shall be: (a) in writing; (b) in English; and (c) deemed duly given: (i) upon personal delivery to the Party to be notified; (ii) when sent by confirmed facsimile or electronic mail, if sent during normal business hours of the recipient Party, if not, then on the next business day; or (iii) two (2) business day after deposit with an internationally recognized overnight courier, specifying next day delivery, with written verification of receipt to the Party to be notified at the address indicated below, or at such other address as such Party may designate:

To MCC:

Millennium Challenge Corporation
Attention: Vice President for Country Relations
(with a copy to the Vice President and General Counsel)
875 15th Street, N.W.
Washington, D.C. 20005
United States of America
Facsimile: (202) 521-3700
Email: VPCountryRelations@mcc.gov (Vice President for Country Relations);
VPGeneralCounsel@mcc.gov (Vice President and General Counsel)

To the Government:

Minister of the Presidency
Casa Presidencial
Tegucigalpa, F.M.
Honduras, C.A.

Notwithstanding the foregoing, any audit report delivered pursuant to Section 3.8, if delivered by facsimile or electronic mail, shall be followed by an original in overnight express mail. This Section 5.1 shall not apply to the exchange of letters contemplated in Section 1.3 or any amendments under Section 5.3.

Section 5.2 Representatives. Unless otherwise agreed in writing by the Parties, for all purposes relevant to this Compact, the Government shall be represented by the individual holding the position of, or acting as, the Minister of the Presidency of the Republic of Honduras, and MCC shall be represented by the individual holding the position of, or acting as, Vice President for Country Relations (each, a "***Principal Representative***"), each of whom, by written notice, may designate one or more additional representatives (each, an "***Additional Representative***") for all purposes other than signing amendments to this Compact. The names of the Principal Representative and any Additional Representative of each of the Parties shall be provided, with specimen signatures, to the other Party, and the Parties may accept as duly authorized any instrument signed by such representatives relating to the implementation of this Compact, until receipt of written notice of revocation of their authority. A Party may change its Principal Representative to a new representative of equivalent or higher rank upon written notice to the other Party, which notice shall include the specimen signature of the new Principal Representative.

Section 5.3 Amendments. The Parties may amend this Compact only by a written agreement signed by the Principal Representatives of the Parties.

Section 5.4 Termination; Suspension.

(a) Subject to Section 2.5 and paragraphs (e) through (h) of this Section 5.4, either Party may terminate this Compact in its entirety by giving the other Party thirty (30) days' written notice.

(b) Notwithstanding any other provision of this Compact, including Section 2.1, or any Supplemental Agreement between the Parties, MCC may suspend or terminate MCC Funding, in whole or in part, and any obligation or sub-obligation related thereto, upon giving the Government written notice, if MCC determines that:

(i) Any use or proposed use of MCC Funding or Program Assets or continued implementation of the Compact would be in violation of applicable law or U.S. Government policy, whether now or hereafter in effect;

(ii) The Government, any Provider, or any other third party receiving MCC Funding or using Program Assets is engaged in activities that are contrary to the national security interests of the United States;

(iii) The Government has committed an act or an event has occurred that would render the Republic of Honduras ineligible to receive United States economic assistance under Part I of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*), by reason of the application of any provision of the Foreign Assistance Act of 1961 or any other provision of law;

(iv) The Government has engaged in a pattern of actions or omissions inconsistent with the MCA Eligibility Criteria, or there has occurred a significant decline in the performance of the Republic of Honduras on one or more of the eligibility indicators contained therein;

(v) The Government or any Provider, in MCC's sole opinion, has materially breached one or more of its assurances or any other covenants, obligations or responsibilities under this Compact or any Supplemental Agreement;

(vi) An audit, review, report or any other document or other evidence reveals that actual expenditures for the Program or any Project or Project Activity were greater than the projected expenditure for such activities identified in the applicable Spending Plan or are projected to be greater than projected expenditures for such activities;

(vii) If the Government (A) materially reduces the allocation in its national budget or any other Government budget of the normal and expected resources that the Government would have otherwise received or budgeted, from external or domestic sources, for the activities contemplated herein, (B) fails to contribute or provide the amount, level, type and quality of resources required to effectively carry out the Government Responsibilities or any other responsibilities or obligations of the Government under or in furtherance of this Compact, or (C) fails to pay any of its obligations as required under this Compact or any Supplemental Agreement, including such obligations which are required to be paid solely out of national funds;

(viii) If the Government, any Provider, or any other third party receiving MCC Funding or using Program Assets, or any of their respective directors, officers, employees, Affiliates, contractors, representatives or agents, is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking;

(ix) Any MCC Funding or Program Assets are applied, directly or indirectly, to the provision of resources and support to, individuals and organizations associated with terrorism, sex trafficking or prostitution;

(x) An event or condition of any character has occurred that, in MCC's sole opinion: (A) materially and adversely affects, or is likely to materially and adversely affect, the ability of the Government or any other party to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of this Compact or any Supplemental Agreement or to perform its obligations under or in furtherance of this Compact or any Supplemental Agreement or to exercise its rights thereunder; (B) makes it improbable that the Objectives will be achieved during the Compact Term; (C) materially and adversely affects the Program Assets or any Permitted Account; or (D) constitutes misconduct injurious to MCC, or the commission of an act constituting fraud or a felony, by the Government, MCA-Honduras, any other Government

Affiliate or Provider, or any officer, director, employee, agent, representative, contractor, grantee, subcontractor or sub-grantee thereof;

(xi) The Government, MCA-Honduras or any Provider has taken any action or omission or engaged in any activity in violation of, or inconsistent with, the requirements of this Compact or any Supplemental Agreement to which the Government, MCA-Honduras or any Provider is a party; or

(xii) There has occurred, in MCC's sole opinion, a failure to meet a condition precedent or series of conditions precedent or any other requirements or conditions to MCC Disbursement as set out in and in accordance with any Supplemental Agreement between the Parties.

(c) MCC may reinstate any suspended or terminated MCC Funding under this Compact or any Supplemental Agreement if MCC determines, in its sole discretion, that the Government or other relevant party has demonstrated a commitment to correcting each condition for which MCC Funding was suspended or terminated.

(d) The authority to suspend or terminate this Compact or any MCC Funding under this Section 5.4 includes the authority to suspend or terminate any obligations or sub-obligations relating to MCC Funding under any Supplemental Agreement without any liability to MCC whatsoever.

(e) All MCC Funding shall terminate upon expiration or termination of the Compact Term; *provided, however*, reasonable expenditures for goods, services and works that are properly incurred under or in furtherance of this Compact before expiration or termination of the Compact Term may be paid from MCC Funding, provided that the request for such payment is properly submitted within sixty (60) days after such expiration or termination.

(f) Except for payments which the Parties are committed to make under noncancelable commitments entered into with third parties before such suspension or termination, the suspension or termination of this Compact or any Supplemental Agreement, in whole or in part, shall suspend, for the period of the suspension, or terminate, or ensure the suspension or termination of, as applicable, any obligation or sub-obligation of the Parties to provide financial or other resources under this Compact or any Supplemental Agreement, or to the suspended or terminated portion of this Compact or such Supplemental Agreement, as applicable. In the event of such suspension or termination, the Government shall use its best efforts to suspend or terminate, or ensure the suspension or termination of, as applicable, all such noncancelable commitments related to the suspended or terminated MCC Funding. Any portion of this Compact or any such Supplemental Agreement that is not suspended or terminated shall remain in full force and effect.

(g) Upon the full or partial suspension or termination of this Compact or any MCC Funding, MCC may, at its expense, direct that title to Program Assets be transferred to MCC if such Program Assets are in a deliverable state; *provided,* for any Program Asset(s) partially purchased or funded, directly or indirectly, by MCC Funding, the Government shall reimburse to a U.S. Government account designated by MCC the cash equivalent of the portion of the value of such Program Asset(s).

(h) Prior to the expiration of this Compact or upon the termination of this Compact, the Parties shall consult in good faith with a view to reaching an agreement in writing on (i) the post-Compact Term treatment of MCA-Honduras, (ii) the process for ensuring the refunds of MCC Disbursements that have not yet been released from a Permitted Account through a valid Re-Disbursement or otherwise committed in accordance with Section 5.4(e) or (iii) any other matter related to the winding up of the Program and this Compact.

Section 5.5 Privileges and Immunities; Bilateral Agreement.

(a) MCC is an agency of the Government of the United States of America and its personnel assigned to the Republic of Honduras will be notified pursuant to the Vienna Convention on Diplomatic Relations as members of the mission of the Embassy of the United States of America. The Government shall ensure that any personnel of MCC so notified, including individuals detailed to or contracted by MCC, and the members of the families of such personnel, while such personnel are performing duties in the Republic of Honduras, shall enjoy the privileges and immunities that are enjoyed by a member of the United States Foreign Service, or the family of a member of the United States Foreign Service so notified, as appropriate, of comparable rank and salary of such personnel, if such personnel or the members of the families of such personnel are not a national of, or permanently resident in, the Republic of Honduras.

(b) All MCC Funding shall be considered United States assistance furnished under the Bilateral Agreement, as amended from time to time.

Section 5.6 Attachments. Any annex, schedule, exhibit, table, appendix or other attachment expressly attached hereto (collectively, the "***Attachments***") is incorporated herein by reference and shall constitute an integral part of this Compact.

Section 5.7 Inconsistencies.

(a) Conflicts or inconsistencies between any parts of this Compact shall be resolved by applying the following descending order of precedence:

(i) Articles I through V

(ii) Any Attachments

(b) In the event of any conflict or inconsistency between this Compact and any Supplemental Agreement between the Parties, the terms of this Compact shall prevail. In the event of any conflict or inconsistency between any Supplemental Agreement between the Parties and any other Supplemental Agreement, the terms of the Supplemental Agreement between the Parties shall prevail. In the event of any conflict or inconsistency between Supplemental Agreements between any parties, the terms of a more recently executed Supplemental Agreement between such parties shall take precedence over a previously executed Supplemental Agreement between such parties. In the event of any inconsistency between a Supplemental Agreement between the Parties and any component of the Implementation Plan, the terms of the relevant Supplemental Agreement shall prevail.

Section 5.8 Indemnification. The Government shall indemnify and hold MCC and any MCC officer, director, employee, Affiliate, contractor, agent or representative (each of MCC and any

such persons, an "***MCC Indemnified Party***") harmless from and against, and shall compensate, reimburse and pay such MCC Indemnified Party for, any liability or other damages which (i) are directly or indirectly suffered or incurred by such MCC Indemnified Party or to which any MCC Indemnified Party may otherwise become subject, regardless of whether or not such damages relate to any third-party claim, and (ii) arise from or as a result of the negligence or willful misconduct of the Government, MCA-Honduras or any other Government Affiliate, directly or indirectly, connected with, any activities (including acts or omissions) undertaken in furtherance of this Compact; *provided, however,* the Government shall apply national funds to satisfy its obligations under this Section 5.8 and no MCC Funding, Accrued Interest, or Program Asset may be applied by the Government in satisfaction of its obligations under this Section 5.8.

Section 5.9 Headings. The Section and Subsection headings used in this Compact are included for convenience only and are not to be considered in construing or interpreting this Compact.

Section 5.10 Interpretation; Definitions.

(a) Any reference to the term "including" in this Compact shall be deemed to mean "including without limitation" except as expressly provided otherwise.

(b) Any reference to activities undertaken "in furtherance of this Compact" or similar language shall include activities undertaken by the Government, any Provider or any other third party receiving MCC Funding involved in carrying out the purposes of this Compact or any Supplemental Agreement, including their officers, directors, employees, Affiliates, contractors, grantees, sub-contractors, sub-grantees, agents and representatives, whether pursuant to the terms of this Compact, any Supplemental Agreement or otherwise.

(c) References to "day" or "days" shall be calendar days unless provided otherwise.

(d) The term "***U.S. Government***" shall mean any branch, agency, bureau, government corporation, government chartered entity or other body of the Federal government of the United States.

(e) The term "***Affiliate***" of a party is a person or entity that controls, is controlled by, or is under the same control as the party in question, whether by ownership or by voting, financial or other power or means of influence.

(f) The term "***Government Affiliate***" is an Affiliate, ministry, bureau, department, agency, government corporation or any other entity chartered or established by the Government.

References to any Affiliate or Government Affiliate herein shall include any of their respective directors, officers, employees, affiliates, contractors, grantees, sub-contractors, sub-grantees, representatives, and agents.

(g) Any references to "Supplemental Agreement between the Parties" shall mean any agreement between MCC on the one hand, and the Government or any Government Affiliate on the other hand.

Section 5.11 Signatures. Other than a signature to this Compact or an amendment to this Compact pursuant to Section 5.3, a signature delivered by facsimile or electronic mail in accordance with Section 5.1 shall be deemed an original signature, and the Parties hereby waive any objection to such signature or to the validity of the underlying document, certificate, notice, instrument or agreement on the basis of the signature's legal effect, validity or enforceability solely because it is in facsimile or electronic form. Such signature shall be accepted by the receiving Party as an original signature and shall be binding on the Party delivering such signature.

Section 5.12 Designation. MCC may designate any Affiliate, agent, or representative to implement, in whole or in part, its obligations, and exercise any of its rights, under this Compact or any Supplemental Agreement between the Parties.

Section 5.13 Survival. Any Government Responsibilities, covenants or obligations or other responsibilities to be performed by the Government after the Compact Term shall survive the termination or expiration of this Compact and expire in accordance with their respective terms. Notwithstanding the termination or expiration of this Compact, the following provisions shall remain in force: Sections 2.2, 2.3, 2.5, 3.2, 3.3, 3.4, 3.5, 3.8, 3.9 (for one year), 3.12, 5.1, 5.2, 5.4(d), 5.4(e) (for sixty days), 5.4(f), 5.4(g), 5.4(h), 5.5, 5.6, 5.7, 5.8, 5.9, 5.10, 5.11, 5.12, this Section 5.13, 5.14, and 5.15.

Section 5.14 Consultation. Either Party may, at any time, request consultations relating to the interpretation or implementation of this Compact or any Supplemental Agreement between the Parties. Such consultations shall begin at the earliest possible date. The request for consultations shall designate a representative for the requesting Party with the authority to enter consultations and the other Party shall endeavor to designate a representative of equal or comparable rank. If such representatives are unable to resolve the matter within 20 days from the commencement of the consultations then each Party shall forward the consultation to the Principal Representative or such other representative of comparable or higher rank. The consultations shall last no longer than 45 days from date of commencement. If the matter is not resolved within such time period, either Party may terminate this Compact pursuant to Section 5.4(a). The Parties shall enter any such consultations guided by the principle of achieving the Compact Goal in a timely and cost-effective manner.

Section 5.15 MCC Status. MCC is a United States government corporation acting on behalf of the United States Government in the implementation of this Compact. As such, MCC has no liability under this Compact, is immune from any action or proceeding arising under or relating to this Compact and the Government hereby waives and releases all claims related to any such liability. In matters arising under or relating to this Compact, MCC is not subject to the jurisdiction of the courts or other body of Honduras.

Section 5.16 Language. This Compact is prepared in English and in the event of any ambiguity or conflict between this official English version and any other version translated into any language for the convenience of the Parties, this official English version shall prevail.

Section 5.17 Publicity; Information and Marking. The Parties shall give appropriate publicity to this Compact as a program to which the United States, through MCC, has contributed, including by posting this Compact, and any amendments thereto, on the MCC website and the

MCA-Honduras Website, identifying Program activity sites, and marking Program Assets; *provided*, any announcement, press release or statement regarding MCC or the fact that MCC is funding the Program or any other publicity materials referencing MCC, including the publicity described in this Section 5.17, shall be subject to prior approval by MCC and shall be consistent with any instructions provided by MCC from time to time in relevant Implementation Letters. Upon the termination or expiration of this Compact, MCC may request the removal of, and the Government shall, upon such request, remove, or cause the removal of, any such markings and any references to MCC in any publicity materials or on the MCA-Honduras Website.

[SIGNATURE PAGE BEGINS ON THE NEXT PAGE.]

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective governments, have signed this Compact this 13th day of June, 2005 and this Compact shall enter into force in accordance with Section 1.3.

Done at Washington, D.C. in the English language.

FOR MILLENNIUM CHALLENGE CORPORATION, ON BEHALF OF THE UNITED STATES OF AMERICA

/ s /

Name: Paul V. Applegarth
Title: Chief Executive Officer

FOR THE GOVERNMENT OF THE REPUBLIC OF HONDURAS

/ s /

Name: Luis Cosenza Jiménez
Title: Minister of the Presidency

SIGNATURE PAGE TO MILLENNIUM CHALLENGE COMPACT BY AND BETWEEN THE UNITED STATES OF AMERICA, ACTING THROUGH THE MILLENNIUM CHALLENGE CORPORATION, AND THE GOVERNMENT OF THE REPUBLIC OF HONDURAS

EXHIBIT A

COMPENDIUM OF DEFINED TERMS

The following compendium of capitalized terms that are used herein is provided for the convenience of the reader. To the extent that there is a conflict or inconsistency between the definitions in this Exhibit A and the definitions elsewhere in the text of this Compact, the definition elsewhere in this Compact shall prevail over the definition in this Exhibit A.

Accrued Interest *is any interest or other earnings on MCC Funding that accrues or is earned.*

Act *means the Millennium Challenge Act of 2003.*

Activity Indicator *means an Indicator that measures the delivery of key goods and services in order to monitor the pace of Project Activity execution.*

Additional Representative *is a representative as may be designated, by written notice, by the Principal Representative of the Government or by MCC for all purposes other than signing amendments to this Compact.*

Affiliate *means a person or entity that controls, is controlled by, or is under the same control as the party in question, whether by ownership or by voting, financial or other power or means of influence.*

Agribusiness Assistance *means the market-oriented technical assistance that the Agribusiness Service Providers will provide to farmers.*

Agribusiness Service Providers *are those service providers that MCC will fund to provide farmer training and development under the Rural Development Project.*

Agricultural Objective *is an Objective of this Compact to increase the productivity and business skills of Honduran farmers who operate small- and medium-size farms and their employees.*

Atlantic Corridor *is one of the main corridors of the International Network of Mesoamerican Highways that runs along the coast of the Atlantic Ocean.*

Attachments *are any annex, schedule, exhibit, table, appendix or other attachment expressly attached to this Compact.*

Auditor *is the person or entity that MCA-Honduras shall engage to carry out the Government's audit responsibilities as provided in Sections 3.8(d-f) of this Compact.*

Auditor/Reviewer Agreement *is a Material Agreement that MCA-Honduras will enter into with each Auditor or Reviewer, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Auditor or Reviewer with respect to the audit, review or evaluation.*

Bank(s) *means any bank holding an account referenced in Section 4(d) of Annex I.*

Bank Agreement *is a Material Agreement that MCA-Honduras will enter into with each Bank, satisfactory to MCC, that sets forth the signatory authority, access rights, anti-money laundering and anti-terrorist financing provisions, and other terms related to the Permitted Account.*

Baseline *means the value of an Indicator prior to it being affected by the Program.*

Beneficiaries *are the Hondurans who participate in the Program or are covered by the Program.*

Benefit Stream *means the increase in income accrued to a group of Beneficiaries as a result of one or more Project Activities over a period of time.*

Bilateral Agreement *means the General Agreement for Economic Cooperation between the Government of the United States of America and the Government of Honduras, dated May 27, 1961, as amended from time to time.*

Board *means the independent Board of Directors of MCA-Honduras, which shall oversee MCA-Honduras's responsibilities and obligations under this Compact.*

CABEI *means the Central American Bank for Economic Integration.*

CAFTA *means the Central American Free Trade Agreement.*

Chairman *is the individual who will act as the Chairman of the Board.*

CIDA *means the Canadian International Development Agency.*

Civil Board Members *are the two Civil Observers who are chosen from time to time to serve as voting members on the Board.*

Civil Observer *means those representatives appointed by Honduran civil society organizations to serve as Observers to the Board.*

Compact *means the agreement made by and between the United States of America, acting through the Millennium Challenge Corporation, and the Government of the Republic of Honduras.*

Compact Goal *means the achievement of the Objectives to advance economic growth and poverty reduction in Honduras.*

Compact Records *are accounting books, records, documents and other evidence that the Government shall maintain, and shall use its best efforts to ensure that all Providers maintain, relating to this Compact adequate to show, to the satisfaction of MCC, without limitation, the use of all MCC Funding.*

Compact Reports *are any documents or reports delivered to MCC in satisfaction of the Government's reporting requirements under this Compact or any Supplemental Agreement between the Parties and certified by the Chairman and/or General Director of MCA-Honduras or other designated officer, as provided in applicable law and the Governance Regulations.*

Compact Term *means this Compact shall remain in force for five (5) years from the Entry into Force, unless earlier terminated.*

Covered Provider *means (i) any non-United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) USD $300,000 or more of MCC Funding in any MCA-Honduras fiscal year or any other non-United States person or entity that receives, directly or indirectly, USD $300,000 or more of MCC Funding from any Provider in such fiscal year or (ii) any United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) USD $500,000 or more of MCC Funding in any MCA-Honduras fiscal year or any other United States party that receives, directly or indirectly, USD $500,000 or more of MCC Funding from any Provider in such fiscal year.*

Designated Rights and Responsibilities *means the Government shall designate MCA-Honduras to implement the Government's Responsibilities and any other responsibilities or obligations of the Government and to exercise any rights of the Government under this Compact or any Supplemental Agreement between the Parties in accordance with the terms and conditions set forth in this Compact or such Supplemental Agreement.*

Disbursement Agreement *is a Supplemental Agreement that the Parties shall enter into prior to any MCC Disbursement or Re-Disbursement that (i) further specifies the terms and conditions of such MCC Disbursements and Re-Disbursements, (ii) is in a form and substance mutually satisfactory to the Parties, and (iii) is signed by the Principal Representative of each Party (or in the case of the Government, the principal representative of the applicable Government Affiliate).*

Entry into Force *means this Compact shall enter into force on the date of the last letter in an exchange of letters between the Principal Representatives of each Party confirming that all conditions set forth in Section 4.1 have been satisfied by the Government and MCC.*

Environmental Guidelines *are the environmental guidelines delivered by MCC to the Government or posted by MCC on its website or otherwise made available, as amended from time to time.*

ESI Director *means the Environment and Social Impact Director within the PMU, who will ensure that environmental and social mitigation measures (including resettlement and gender issues) are followed for all Project Activities in accordance with the provisions set forth in this Compact and other documents.*

Evaluation Component *is the portion of the M&E Plan that specifies a process and timeline for the assessment of planned, ongoing, or completed Project Activities to determine their efficiency, effectiveness, impact and sustainability.*

Exempt Uses *means the application of Section 2.3(e) to exempt from any tax (i) any transaction, service, activity, contract, grant or other implementing agreement funded in whole or in part by MCC Funding; (ii) any supplies, equipment, materials, property or other goods (referred to herein collectively as "goods") or funds introduced into, acquired in, used or disposed of in, or imported into or exported from, the Republic of Honduras by MCC, or by any person or entity (including contractors and grantees) as part of, or in conjunction with, MCC Funding or the Program; (iii) any contractor, grantee, or other organization carrying out activities funded in whole or in part by MCC Funding; (iv) any employee of such organizations; and (v) any individual contractor or grantee carrying out activities funded in whole or in part by MCC Funding.*

FHIS *means the Minister of the Honduran Social Investment Fund, which is one of the Government ministries that will appoint a representative to serve as a non-voting Observer on the Board.*

Final Evaluation *means the evaluation that will be conducted at the completion of the Program by an independent evaluator engaged by MCA-Honduras, with the prior approval of MCC.*

Financial Plan *means collectively, the Multi-Year Financial Plan and each Spending Plan, each amendment, supplement or other change thereto.*

Financial Plan Annex *means Annex II of this Compact, which summarizes the Multi-Year Financial Plan for the Program.*

Fiscal Accountability Plan *is the plan that identifies the principles and mechanisms to ensure appropriate fiscal accountability for the use of MCC Funding provided under this Compact.*

Fiscal Agent *is the person or entity that MCA-Honduras shall engage, who shall be responsible for, among other things, the matters set forth in Annex I, Section 3(g).*

Fiscal Agent Agreement *is a Material Agreement that MCA-Honduras enters into with each Fiscal Agent, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Fiscal Agent and other appropriate terms and conditions.*

General Director *means the individual who will act as General Director of MCA-Honduras.*

Goal Indicator *is an Indicator that measures the impact of the Program on the incomes of Beneficiaries.*

Governance Regulations *means the governance regulations promulgated in furtherance of the Compact and applicable law, which shall be in a form and substance satisfactory to MCC and which specify how MCA-Honduras shall be organized and what its roles and responsibilities are.*

Government *means the Government of the Republic of Honduras that is a Party to this Compact with MCC.*

Government Affiliate *is an Affiliate, ministry, bureau, department, agency, government corporation or any other entity chartered or established by the Government.*

Government Board Members *are the three Government voting members on the Board: (i) the Secretary of State of the Office of the Presidency of Honduras, (ii) the Secretary of State of the Office of Finances of Honduras, and (iii) the Secretary of State of the Office of Industry and Commerce.*

Government Observer(s) *are individuals who shall serve as non-voting observers to the Board, who are appointed by the following Government ministries: (i) SAG;(ii) SOPRAVI; (iii) FHIS and (iv) SERNA .*

Government Party *means (i) the Government, (ii) any Government Affiliate, or (iii) MCA-Honduras or any of their respective directors, officers, employees, Affiliates, contractors, representatives or agents.*

Government Responsibilities *means the Government shall have principal responsibility for oversight and management of the implementation of the Program (i) in accordance with the terms and conditions specified in this Compact and relevant Supplemental Agreements, (ii) in accordance with all applicable laws then in effect in Honduras, and (iii) in a timely and cost-effective manner and in conformity with sound technical, financial and management practices.*

Grant Committee *is a committee that shall provide oversight of the Agriculture Public Goods Grant Facility funded by MCC.*

Highway CA-5 *is the Honduran portion of the Atlantic Corridor, which carries most of Honduras' import and export traffic from Puerto Cortes to the major production and consumption centers in and around the cities of San Pedro Sula, Comayagua and Tegucigalpa.*

IDB *means the Inter-American Development Bank.*

IFAD *means the International Fund for Agricultural Development.*

Implementation Letter *is a letter issued by MCC from time to time to furnish additional information or guidance to assist the Government in the implementation of this Compact.*

Implementation Plan *means the implementation framework and the plan for ensuring adequate governance, oversight, management, monitoring, evaluation and accountability for the use of MCC Funding and for the implementation of the Program and each Project, which are described in the Compact, relevant Supplemental Agreements and other documents and which consist of: (i) a Financial Plan, (ii) Fiscal Accountability Plan, (iii) Procurement Plan, (iv) Program and Project Work Plans, and (v) the M&E Plan.*

Implementing Entity *means the government agencies or nongovernmental agencies or other public- or private-sector entities or persons that MCA-Honduras may provide MCC funding to, directly or indirectly, through an Outside Project Manager, to implement and carry out Projects or any other activities to be carried out in furtherance of this Compact.*

Implementing Entity Agreement *is a Material Agreement that MCA-Honduras (or the appropriate Outside Project Manager) enters into with each Implementing Entity, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of such Implementing Entity and other appropriate terms and conditions.*

Indicators *are the objective data that the M&E Plan will use to measure the results of the Program and which are divided into four types: (i) Goal Indicator, (ii) Objective Indicator, (iii) Outcome Indicator, and (iv) Activity Indicator.*

Inspector General *shall mean the Inspector General of the United States Agency for International Development.*

Lien *means any lien, attachment, enforcement of judgment, pledge, or encumbrance of any kind.*

Local Account *means an interest-bearing local currency of Honduras bank account.*

M&E Annex *means Annex III of this Compact, which generally describes the components of the M&E Plan for the Program.*

M&E Plan *means the Monitoring and Evaluation Plan to measure and evaluate progress toward achievement of the Objectives of this Compact, a general description of which is set forth in Annex III.*

Material Agreement *is any agreement (i) between the Government and MCA-Honduras, (ii) between the Government, MCA-Honduras or other Government Affiliate, on the one hand, and any Provider or Affiliate of a Provider, on the other hand, which require such MCC approval under applicable law, the Governance Regulations, Procurement Agreement, Procurement Guidelines or any Supplemental Agreement, or (iii) in which the Government, MCA-Honduras or other Government Affiliate appoints, hires or engages any of the persons or entities listed in Annex I Section 3(c)(i)(3) in furtherance of this Compact and any amendments and supplements thereto.*

Material Re-Disbursement *means any Re-Disbursement that requires MCC approval under applicable law, the Governance Regulations, Procurement Agreement, Procurement Guidelines or any Supplemental Agreement.*

Material Terms of Reference *means the terms of reference for the procurement of goods or services that require MCC approval under applicable law, the Governance Regulations, the Procurement Guidelines or any Supplemental Agreement.*

MCA *means the Millennium Challenge Account, which is the account that provides MCC Funding to implement this Compact.*

MCA Eligibility Criteria *means the MCA selection criteria and methodology published by MCC pursuant to Section 607 of the Act from time to time.*

MCA-Honduras *is the legal entity established by the Government in a form mutually agreeable to the Parties, which shall be responsible for the oversight and management of the implementation of this Compact on behalf of the Government.*

MCA-Honduras Website *is the website that MCA-Honduras shall develop and maintain in a timely, accurate and appropriately comprehensive manner, to include postings of information and documents in English and Spanish relating to the Program and Projects.*

MCC *means the Millennium Challenge Corporation, which is the United States government corporation that is a Party to this Compact with the Government.*

MCC Disbursement *means the release of MCC Funding to a Permitted Account or through such other mechanism agreed by the Parties.*

MCC Disbursement Request *is the applicable request that the Government and MCA-Honduras will jointly submit for an MCC Disbursement as may be specified in the Disbursement Agreement.*

MCC Funding *means the amount of funding that MCC shall grant to the Government (USD $215,000,000) during this Compact Term to enable the Government to implement the Program and achieve the Objectives.*

MCC Indemnified Party *means MCC and any MCC officer, director, employee, Affiliate, contractor, agent or representative, who the Government shall indemnify and hold harmless from and against and shall compensate, reimburse and pay for any liability or other damages which are stated in Section 5.8.*

MCC Representative *is an individual appointed by MCC who will serve as a non-voting observer to the Board.*

Monitoring Component *is the portion of the M&E Plan that specifies how the implementation of the Program and progress toward the achievement of the Objectives and Compact Goal will be monitored.*

Multi-Year Financial Plan *is a plan for the Program and for each Project that includes: (i) the multi-year summary of anticipated estimated MCC Funding and the Government's contribution of funds and resources,(ii) an estimated draw-down rate for the first year of this Compact based on the achievement of performance milestones and the satisfaction or waiver of conditions precedent, and (iii) a Spending Plan for the upcoming year of the Program.*

North Segment *is a 50 kilometer segment of Highway CA-5 between Taulabe and Comayagua.*

Objective(s) *are the objectives of this Compact that have been identified by the Parties, each of which is key to reducing poverty through economic growth in Honduras, i.e., the Agricultural Objective and the Transportation Objective.*

Objective Indicator *is an Indicator that measures the final results of the Projects in order to monitor their success in meeting the Objectives.*

Observers *are the non-voting observers to the Board.*

Officers *are the persons holding Project Director positions in the Program Management Unit.*

Outcome Indicator *is an Indicator that measures the intermediate results of goods and services delivered under a Project in order to provide an early measure of the likely impact of the Projects on the Objectives.*

Outside Project Managers *are the qualified entities that may be engaged by the PMU, or as instructed by the Board to be engaged, as necessary, for the proper and efficient day-to-day management of a Project.*

Pacific Corridor *is one of the main corridors of the International Network of Mesoamerican Highways that runs along the Pacific Ocean.*

Party *means (i) the United States, acting through MCC or (ii) the Government.*

Permitted Account(s) *are those accounts that the Government shall establish, or cause to be established, as may be agreed by the Parties in writing from time to time to receive MCC Disbursements.*

Pledge *means any (i) MCC Funding, (ii) any Program Assets, or (iii) any guarantee directly or indirectly of any indebtedness.*

PMU *means the Program Management Unit.*

PPP *means Plan Puebla-Panama, which is a plan to create a reliable Mesoamerican network of highways known as the International Network of Mesoamerican Highways.*

Principal Representative *means (i) for the Government, the individual holding the position of, or acting as, Minister of the Presidency of the Republic of Honduras, and (ii) for MCC, the individual holding the position of, or acting as, the Vice President for Country Relations.*

Procurement Agent *is the person or entity that MCA-Honduras shall engage to carry out and/or certify specified procurement activities in furtherance of this Compact on behalf of the Government, MCA-Honduras, any Outside Project Manager or Implementing Entity.*

Procurement Agent Agreement *is a Material Agreement that MCA-Honduras will enter into with the Procurement Agent, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Procurement Agent with respect to the conduct, monitoring and review of procurements and other appropriate terms and conditions.*

Procurement Agreement *is a Supplemental Agreement between the Parties wherein the Government shall ensure that the procurement of all goods, services and works by the Government, MCA-Honduras or any other Provider in furtherance of this Compact shall be consistent with the Procurement Guidelines.*

Procurement Guidelines *are (i) the procurement standards and procedures of the World Bank, as codified in the "Guidelines: Procurement under IBRD Loans and IDA Credits, May 2004 (ISBN 0-8213-5829-4" (covering works and goods) and "Guidelines: Selection and Employment of Consultants by World Bank Borrowers, May 2004"(covering consultants and technical assistance) and (ii) subject to any exceptions and other modifications specified by the procurement guidelines set forth in the Procurement Agreement, which MCC may modify by publication from time to time.*

Procurement Plan *is a plan adopted by MCA-Honduras, which shall forecast the upcoming eighteen month procurement activities and be updated every six months.*

Procurement Supervisor *is the person or entity that MCA-Honduras shall engage, if requested by MCC, to supervise specified procurement activities in furtherance of this Compact on behalf of the Government, MCA-Honduras, any Outside Project Manager or any Implementing Entity.*

Procurement Supervisor Agreement *is a Material Agreement that MCA-Honduras will enter into with the Procurement Supervisor, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Procurement Supervisor with respect to the conduct, monitoring and review of procurements and other appropriate terms and conditions.*

Program *is what the Parties will implement under this Compact using MCC Funding to advance Honduras's progress towards economic growth and poverty reduction.*

Program Annex *means the section of this Compact (Annex I) that generally describes the Program that MCC Funding will support in Honduras during the Compact Term and the results to be achieved from the investment of MCC Funding.*

Program Assets *means (i) MCC Funding, (ii) Accrued Interest, or (iii) any asset, good, or property (real, tangible, or intangible) purchased or financed in whole or in part by MCC Funding.*

Program Farmers *are the owners, operators and employees of small- and medium-size farms covered by the Program.*

Program Management Unit *(PMU) is the management team of MCA-Honduras, which shall report to the Board and have overall management responsibility for the implementation of this Compact.*

Project(s) *are the specific projects and the policy reforms and other activities that the Government will carry out, or cause to be carried out, using MCC Funding, in furtherance of this Compact to achieve the Objectives and the Compact Goal, i.e., the Rural Development Project and the Transportation Project.*

Project Activity *means the activities that will be undertaken in furtherance of each Project using MCC Funding, which are identified in the Schedules to Annex I.*

Project Director(s) *are the Rural Development Project Director and Transportation Project Director.*

Proposal *is the document submitted to MCC by the Government on August 20, 2004 to request MCA assistance.*

Provider *means (i) MCA-Honduras and any other Government Affiliate involved in any activities in furtherance of this Compact or (ii) any third party who receives at least USD $50,000 in the aggregate of MCC Funding (other than employees of MCA-Honduras) during this Compact Term or such other amount as the Parties may agree in writing, whether directly from MCC, indirectly through Re-Disbursements, or otherwise.*

PRS *means the Honduran Poverty Reduction Strategy, which describes the macroeconomic, structural and social policies and programs needed to promote growth and reduce poverty.*

Re-Disbursement *is the release of MCC Funding from a Permitted Account.*

Reviewer *is an independent person or entity that MCA-Honduras shall engage to (i) conduct reviews of performance and compliance under this Compact pursuant to Section 3.8(f)) of this Compact, who shall (A) conduct general reviews of performance or compliance, (B) conduct environmental audits, and (C) have the capacity to conduct data quality assessments in accordance with the M&E Plan, and/or (ii) assess performance as required under the M&E Plan.*

Road Fund *is the Honduran Fondo Vial that maintains the Honduran Highway system.*

Rural Development Project *is a Project of the Program (Schedule I to Annex I) that the Parties intend to implement in furtherance of the Agricultural Objective and Transportation Objective, which is designed to increase the productivity and improve the competitiveness of Program Farmers.*

SAG *means the Secretary of State of the Office of Agriculture and Livestock, which is one of the Government ministries that will appoint a representative to serve as a non-voting Observer on the Board.*

SERNA *means the Government's Secretary of State of the Office of Natural Resources and Environment, which is one of the Government ministries that will appoint a representative to serve as a non-voting Observer on the Board.*

SOPTRAVI *means the Government's Secretary of State of the Office of Public Works, Transportation and Housing, which is one of the Government ministries that will appoint a representative to serve as a non-voting Observer on the Board.*

South Segment *is a 59 kilometer segment of Highway CA-5 between Villa de San Antonio and Tegucigalpa.*

Spending Plan *is a financial plan that MCA-Honduras shall periodically deliver to MCC during this Compact Term, which will specify the annual and quarterly spending requirements for the Program and each Project, projected both on a commitment and cash requirement basis.*

Supplemental Agreement *is an agreement between (i) the Government (or any Government Affiliate) and MCC, (ii) MCC and/or the Government (or any Government Affiliate) and any third party, including any of the Providers or (iii) any third parties where neither MCC nor the Government is a party, before, on or after the Entry into Force, which details any funding, implementing and other arrangements in furtherance of this Compact.*

Supplemental Agreement between the Parties *means any agreement between MCC on the one hand, and the Government or any Government Affiliate on the other hand.*

Supplemental Agreement Term Sheets *means the term sheets that the Government (or mutually acceptable Government Affiliate) and MCC shall execute that set forth the material and principal terms and conditions of each of the Supplemental Agreements identified in Exhibit B.*

Target(s) *mean the expected results of the Indicators that specify the expected value and the expected time by which that result will be achieved.*

Tax(es) *means all taxes, tariffs, duties and other levies in Honduras.*

Transportation Objective *is an Objective of this Compact to reduce transportation costs between targeted production centers and national, regional and global markets.*

Transportation Project *is a Project of the Program (Schedule 2 to Annex I) in furtherance of the Transportation Objective, which is designed to reduce transportation costs between Honduran production centers and national, regional and global markets.*

U.S. Government *means the United States Government and refers to any branch, agency, bureau, government corporation, government chartered entity or other body of the Federal government of the United States.*

United States Dollars *(USD) means the currency of the United States of America.*

USAID *means the U.S. Agency for International Development.*

USDA *means the U.S. Department of Agriculture.*

Work Plans *are those plans MCA-Honduras shall adopt for the overall administration of the Program and each activity and shall set forth the details of each activity to be undertaken or funded by MCC Funding as well as the allocation of roles and responsibilities for specific Project activities, or other programmatic guidelines, performance requirements, targets, or other expectations for a Project.*

EXHIBIT B

LIST OF SUPPLEMENTAL AGREEMENTS

1. Governance Regulations
2. Fiscal Agent Agreement
3. Bank Agreement
4. Procurement Supervisor Agreement

ANNEX I

PROGRAM DESCRIPTION

This Annex I to the Compact (the "***Program Annex***") generally describes the Program that MCC Funding will support in Honduras during the Compact Term and the results to be achieved from the investment of MCC Funding. Prior to any MCC Disbursement or Re-Disbursement, including for the Projects described herein, the Parties shall enter into a Supplemental Agreement that (i) further specifies the terms and conditions of such MCC Disbursements and Re-Disbursements, (ii) is in a form and substance mutually satisfactory to the Parties, and (iii) is signed by the Principal Representative of each Party (or in the case of the Government, the principal representative of the applicable Government Affiliate (the "***Disbursement Agreement***").

Except as specifically provided herein, the Parties may amend this Program Annex only by written agreement signed by the Principal Representative of each Party. Each capitalized term in this Program Annex shall have the same meaning given such term elsewhere in this Compact. Unless otherwise expressly stated, each Section reference herein is to the relevant Section of the main body of the Compact.

1. Background; Consultative Process.

Following the devastation of Hurricane Mitch in 1998 and the subsequent reconstruction effort, Honduras now enjoys a window of opportunity to capitalize on the democratic reforms begun in the 1980s, the economic liberalization of the 1990s, and increasing regional integration, trade liberalization and the promise of The Dominican Republic-Central America-United States Free Trade Agreement. Honduras has begun to seize this opportunity and use its strategic location to generate economic growth, particularly in light manufacturing, non-traditional agriculture and tourism. However, Honduras needs to ensure that growth extends to the rural population, where most of its poverty is concentrated, by enhancing agricultural development and linking its large rural population to markets.

The Honduran Poverty Reduction Strategy ("***PRS***")[1] describes the macroeconomic, structural and social policies and programs needed to promote growth and reduce poverty. Among its priorities, the PRS seeks to improve agricultural productivity and access to markets. These two objectives of the PRS are essential to increasing exports, particularly in light manufacturing and non-traditional agriculture, which are the two sectors that have accounted for most of Honduras' recent economic growth and poverty reduction.

To reduce rural poverty, the PRS contemplates increasing production and improving the efficiency and competitiveness of rural producers by providing them with better access to market-support services throughout the production cycle (e.g., market research, production, post-harvest and processing technical assistance), financing (e.g., credit from traditional and non-

[1] The Honduran Poverty Reduction Strategy is articulated in the Poverty Reduction Strategy Paper developed in 2001, and a Poverty Reduction Strategy - Implementation Plan for 2004 – 2006 developed in 2004.

traditional financing sources), technology (e.g., on-farm irrigation systems), and infrastructure (e.g., building and maintaining rural roads, improving the efficiency of property registries).

The PRS also seeks to integrate the Honduran economy into channels of world trade by completing (i) the main Honduran highway artery that directly connects Puerto Cortes (Honduras' Atlantic port) to Puerto Cutuco (El Salvador's Pacific port), major production centers within Honduras, and the country's Central American trading partners, and (ii) the access roads that feed into this artery. The goal is to guarantee the access of national products to export markets under competitive conditions as a means to achieve a freer and more competitive flow of products and inputs on a national, regional and global basis.

The PRS consultative process was based on, among other things, dialogue with donors, meetings with over 3,500 representatives of civil society organizations from diverse economic groups and geographic areas in 13 cities, and workshops conducted in the main geographical regions of the country that included more than 650 participants. The Honduran Poverty Reduction Strategy Consultative Council, a representative group headed by a vice minister of the Honduran Presidency, headed this process. Implementation of the PRS involves extensive and on-going consultations with stakeholders to set priorities and monitor implementation.

In developing the MCC Proposal, the Government reviewed the PRS and other agreed upon national priorities and consulted with the donor community and civil society to determine which components of the PRS should be incorporated into the Proposal. The Government then solicited feedback on the Proposal from the public at large by posting the document on its PRS website (www.sierp.hn) and publishing a summary of the Proposal in a major local newspaper. After submitting the Proposal to MCC, the Government held five high level meetings with civil society organizations and donors to gather more feedback, including participants' insights on obstacles to economic growth and poverty reduction in Honduras. This input informed the Government in the negotiation of the Program and contributed to several material changes to the Program, including the inclusion of civil society as voting members of the Board of Directors of MCA-Honduras. The Government then held three separate meetings with civil society organizations in March 2005, to explain how such feedback had caused the final MCC Program to differ from the original proposal. The Government plans to continue consultations with civil society and donors throughout the implementation of the Program. The civil society representatives who participate on the MCA-Honduras Board also will help ensure civil society oversight and input throughout the implementation process.

The Proposal itself focuses on, among other things, raising agricultural productivity and reducing transportation costs. MCC found that these two objectives are widely accepted as deep-rooted factors affecting economic growth and poverty reduction on a national level. The main projects that the Proposal identifies to achieve these objectives enjoy broad support from civil society and donors.

Following MCC's review of the Proposal, the consultative process and negotiations, the Parties identified certain mutually acceptable components of the Proposal and other components developed through such discussions that together constitute the Program. The Parties mutually agreed that the Program will focus on alleviating two key impediments to economic growth: high

transportation costs and low agricultural productivity. The Program is fully consistent with, and directly supports, the Objectives of raising agricultural productivity and reducing transportation costs.

2. Overview.

(a) **Program Objectives**. The Program involves a series of specific and complementary interventions that the Parties expect will achieve the Agricultural Objective and the Transportation Objective and advance the progress of Honduras towards the Compact Goal, particularly in rural areas.

(b) **Projects**. The Parties have identified, for each Objective, Projects that they intend for the Government to implement, or cause to be implemented, using MCC Funding, each of which is described in the Schedules to this Program Annex. The Schedules to this Program Annex identify the activities that will be undertaken in furtherance of each Project (each, a "***Project Activity***"). Notwithstanding anything to the contrary in this Compact, the Parties may agree to amend, terminate or suspend these Projects or create a new project by written agreement signed by the Principal Representative of each Party without amending this Compact; *provided, however*, any such amendment of a Project or creation of a new project is (i) consistent with the Objectives; (ii) does not cause the amount of MCC Funding to exceed the aggregate amount specified in Section 2.1(a) of this Compact; (iii) does not cause the Government's responsibilities or contribution of resources to be less than specified in Section 2.2 of this Compact or elsewhere in this Compact; and (iv) does not extend the Compact Term.

(c) **Beneficiaries**. The intended beneficiaries of each Project are described in the respective Schedule to this Program Annex and Annex III to the extent identified as of the date hereof.

(d) **Civil Society**. Civil society shall participate in overseeing the implementation of the Program through its representation on, and as Observers to, the Board, as provided in Section 3(d) of this Program Annex. In addition, the Work Plans or Procurement Plans for each Project shall note the extent to which civil society will have a role in the implementation of a particular Project or Project Activity. Finally, members of civil society may be recipients of training or other public awareness programs that are integral to the Project Activities.

(e) **Monitoring and Evaluation**. Annex III of this Compact generally describes the plan to measure and evaluate progress toward achievement of the Compact Goal and Objectives of this Compact (the "***M&E Plan***"). As outlined in the Disbursement Agreement and other Supplemental Agreements, continued disbursement of MCC Funding under this Compact (whether as MCC Disbursements or Re-Disbursements) shall be contingent, among other things, on successful achievement of targets set forth in the M&E Plan.

3. Implementation Framework.

The implementation framework and the plan for ensuring adequate governance, oversight, management, monitoring, evaluation and fiscal accountability for the use of MCC Funding is summarized below and in the Schedules attached to this Program Annex, or as may otherwise be agreed in writing by the Parties.

(a) **General**. The elements of the implementation framework will be further described in relevant Supplemental Agreements and in a detailed plan for the implementation of the Program and each Project (the "***Implementation Plan***"), which will be memorialized in one or more documents and shall consist of a Financial Plan, Fiscal Accountability Plan, Procurement Plan, Program and Project Work Plans, and M&E Plan. MCA-Honduras shall adopt each component of the Implementation Plan in accordance with the requirements and timeframe as may be specified in this Program Annex, the Disbursement Agreement or as may otherwise be agreed by the Parties from time to time. MCA-Honduras may amend the Implementation Plan or any component thereof without amending this Compact, provided any material amendment of the Implementation Plan or any component thereof has been approved by MCC and is otherwise consistent with the requirements of this Compact and any relevant Supplemental Agreement between the Parties. By such time as may be specified in the Disbursement Agreement or as may otherwise be agreed by the Parties from time to time, MCA-Honduras shall adopt one or more work plans for the overall administration of the Program and for each Project (collectively, the "***Work Plans***"). The Work Plan(s) shall set forth the details of each activity to be undertaken or funded by MCC Funding as well as the allocation of roles and responsibilities for specific Project activities, or other programmatic guidelines, performance requirements, targets, or other expectations for a Project.

(b) **Government**.

(i) The Government shall promptly take all necessary and appropriate actions to carry out the Government Responsibilities and other obligations or responsibilities of the Government under and in furtherance of this Compact, including undertaking or pursuing such legal, legislative or regulatory actions, procedural changes and contractual arrangements as may be necessary or appropriate to achieve the Objectives, to successfully implement the Program, and to establish a legal entity, in a form mutually agreeable to the Parties ("***MCA-Honduras***"), which shall be responsible for the oversight and management of the implementation of this Compact on behalf of the Government. The Government shall promptly deliver to MCC certified copies of any documents, orders, decrees, laws or regulations evidencing such legal, legislative, regulatory, procedural, contractual or other actions.

(ii) During the Compact Term, the Government shall ensure that MCA-Honduras is duly authorized and organized and sufficiently staffed and empowered to fully carry out the Designated Rights and Responsibilities. Without limiting the generality of the preceding sentence, MCA-Honduras shall be organized, and have such roles and responsibilities, as described in Section 3(d) of this Program Annex and as provided in applicable law and in governance regulations promulgated in furtherance thereof ("***Governance Regulations***"), which shall be in a form and substance satisfactory to MCC ; *provided, however*, the Government may,

subject to MCC approval, carry out any of the roles and responsibilities designated to be carried out by MCA-Honduras and described in Section 3(d) of this Program Annex or elsewhere in this Program Annex, applicable law, the Governance Regulations, or any Supplemental Agreement prior to and during the initial period of the establishment and staffing of MCA-Honduras, but in no event longer than the earlier of (i) the formation of the Board and the engagement of each of the Officers and (ii) six months from the Entry into Force, unless otherwise agreed by the Parties in writing.

(c) **MCC**.

(i) Notwithstanding Section 3.1 of this Compact or any provision in this Program Annex to the contrary, and except as may be otherwise agreed upon by the Parties from time to time, MCC must approve in writing each of the following transactions, activities, agreements and documents prior to the execution or carrying out of such transaction, activity, agreement or document and prior to MCC Disbursements or Re-Disbursements in connection therewith:

(1) MCC Disbursements;

(2) The Financial Plan and any amendments and supplements thereto;

(3) Agreements (i) between the Government and MCA-Honduras, (ii) between the Government, MCA-Honduras or other Government Affiliate, on the one hand, and any Provider or Affiliate of a Provider, on the other hand, which require such MCC approval under applicable law, the Governance Regulations, Procurement Agreement, Procurement Guidelines or any other Supplemental Agreement, or (iii) in which the Government, MCA-Honduras or other Government Affiliate appoints, hires or engages any of the following in furtherance of this Compact:

(A) Auditor and Reviewer;

(B) Fiscal Agent;

(C) Bank;

(D) Procurement Agent and Procurement Supervisor;

(E) Outside Project Manager;

(F) Implementing Entity; and

(G) Director, Observer, Officer and/or other key employee or contractor of MCA-Honduras, including any compensation for such person.

(Any agreement described in clause (i) through (iii) of this Section 3(c)(i)(3) and any amendments and supplements thereto, each, a "***Material Agreement***");

(4) Any modification, termination or suspension of a Material Agreement, or any action that would have the effect of such a modification, termination or suspension of a Material Agreement;

(5) Any agreement that is (i) not at arm's length or (ii) with a party related to the Government, including MCA-Honduras, or any of their respective Affiliates;

(6) Any Re-Disbursement (each, a "***Material Re-Disbursement***") that requires such MCC approval under applicable law, the Governance Regulations, Procurement Agreement, Procurement Guidelines or any Supplemental Agreement;

(7) Any terms of reference for the procurement of goods, services or works that require such MCC approval under applicable law, the Governance Regulations, Procurement Agreement, Procurement Guidelines or any Supplemental Agreement (each, a "***Material Terms of Reference***");

(8) The Implementation Plan, including each component plan thereto, and any material amendments and supplements to the Implementation Plan or any component thereto;

(9) Any pledge of any MCC Funding or any Program Assets or any guarantee directly or indirectly of any indebtedness (each, a "***Pledge***");

(10) Any decree, legislation, regulation, contractual arrangement or other document establishing or governing MCA-Honduras, including the Governance Regulations, and any disposition (in whole or in part), liquidation, dissolution, winding up, reorganization or other change of (A) MCA-Honduras, including any revocation or modification of, or supplement to, any decree, legislation, contractual arrangement or other document establishing MCA-Honduras, or (B) any subsidiary or Affiliate of MCA-Honduras;

(11) Any change in character or location of any Permitted Account;

(12) Formation or acquisition of any subsidiary (direct or indirect) or other Affiliate of MCA-Honduras;

(13) Any (A) change of a Director, Observer, Officer or other key employee or contractor of MCA-Honduras, or in the composition of the Board, including approval of the nominee for Chairman, (B) filling of any vacant seat of the Chairman, a Director or an Observer or vacant position of an Officer or other key employee or contractor of MCA-Honduras, or (C) change of the Director of the *Fondo Nacional de Desarrollo Rural Sostenible* (FONADERS);

(14) The management information system to be developed and maintained by the PMU of MCA-Honduras, and any material modifications to such system;

(15) Any decision to amend, supplement, replace, terminate or otherwise change any of the foregoing; and

(16) Any other activity, agreement, document or transaction requiring the approval of MCC in this Compact, applicable law, the Governance Regulations, Procurement Agreement, Procurement Guidelines, Disbursement Agreement, or any other Supplemental Agreement between the Parties.

The Chairman of the Board (the "***Chairman***") and/or the General Director of MCA-Honduras (the "***General Director***") or other designated officer, as provided in applicable law and the Governance Regulations, shall certify any documents or reports delivered to MCC in satisfaction of the Government's reporting requirements under this Compact or any Supplemental Agreement between the Parties (the "***Compact Reports***").

(ii) MCC shall have the authority to exercise its approval rights set forth in this Section 3(c) in its sole discretion and independent of any participation or position taken by the MCC Representative at a meeting of the Board. MCC retains the right to revoke its approval of any matter, agreement or action if MCC concludes, in its sole discretion, that its approval was issued on the basis of incomplete, inaccurate or misleading information furnished by the Government or MCA-Honduras. Notwithstanding any provision in this Compact or any Supplemental Agreement to the contrary, the exercise by MCC of its approval rights under this Compact or any Supplemental Agreement shall not (i) diminish or otherwise affect any obligations or responsibilities of the Government under this Compact, (ii) transfer any such Government obligations or responsibilities to MCC, or (iii) otherwise subject MCC to any liability.

(d) **MCA-Honduras**.

(i) General. Unless otherwise agreed by the Parties in writing, MCA-Honduras shall be responsible for the oversight and management of the implementation of this Compact. MCA-Honduras shall be governed by the terms and conditions set forth in applicable law and in the Governance Regulations based on the following principles:

(1) The Government shall ensure that MCA-Honduras shall not assign, delegate or contract any of the Designated Rights and Responsibilities without the prior written consent of the Government and MCC. MCA-Honduras shall not establish any Affiliates or subsidiaries (direct or indirect) without the prior written consent of the Government and MCC.

(2) Unless otherwise agreed by the Parties in writing, MCA-Honduras shall consist of (a) an independent board of directors (the "***Board***") to oversee MCA-Honduras' responsibilities and obligations under the this Compact (including any Designated Rights and

Responsibilities) and (b) a management team (the "***Program Management Unit***" or "***PMU***") to have overall management responsibility for the implementation of this Compact.

(ii) Board.

(1) Formation. The Government shall ensure that the Board shall be formed, constituted, governed and operated in accordance with applicable law and the terms and conditions set forth in the Governance Regulations and relevant Supplemental Agreements.

(2) Composition. Unless otherwise agreed by the Parties in writing, the Board shall consist of (i) five voting members, one of whom shall be appointed the Chairman as provided in applicable law and the Governance Regulations and (ii) non-voting observers (the "***Observers***").

(A) The voting members shall be as follows, provided that the Government members identified in subsections (i) - (iii) below (the "***Government Board Members***") may be replaced by another government official, subject to approval by the Government and MCC:

(i) The Secretary of State of the Office of the Presidency of Honduras;

(ii) The Secretary of State of the Office of Finances of Honduras;

(iii) The Secretary of State of the Office of Industry and Commerce; and

(iv) Two Civil Observers (each, a "***Civil Board Member***").

(B) The Observers shall be:

(i) A representative (the "***MCC Representative***") appointed by MCC;

(ii) A representative (each, a "***Government Observer***") appointed by each of the following Government ministries:

a. The Secretary of State of the Office of Agriculture and Livestock ("***SAG***");

b. The Secretary of State of the Office of Public Works, Transportation and Housing ("***SOPTRAVI***");

c. The Minister of the Honduran Social Investment Fund ("***FHIS***"); and

d. The Secretary of State of the Office of Natural Resources and Environment ("***SERNA***");

(iii) A representative (each, a "***Civil Observer***") appointed by each of the following Honduran civil society organizations:

a. National Anticorruption Council (*Consejo Nacional Anticorrupcion* - CNA);

b. National Convergence Forum (*Foro Nacional de Convergencia* - FNC);

c. Poverty Reduction Strategy Consultative Council (*Consejo Consultivo de la Estrategia de la Reduccion de Pobreza* - CCERP);

d. Honduran Council for Private Enterprise (*Consejo Hondureno de la Empresa Privada* - COHEP); and

e. such other organizations to which the Parties mutually agree.

(C) Each Government Board Member position shall be filled by the individual then holding the office identified and such individuals shall serve in their capacity as the applicable Government official and not in their personal capacity.

(D) Subject to applicable law and the Governance Regulations, the Parties contemplate that the Secretary of State of the Office of the Presidency of Honduras shall initially fill the seat of Chairman.

(E) Each Observer shall have rights to attend all meetings of the Board, participate in the discussions of the Board, and receive all information and documents provided to the Board, together with any other rights of access to records, employees or facilities as would be granted to a member of the Board under applicable law and in the Governance Regulations.

(F) The Chairman, in the presence of the other Government Board Members and the MCC Representative, shall choose by lot the initial two (2) Civil Board Members from among the four (4) Civil Observers who shall serve as voting members of the Board for two non-consecutive terms of fifteen (15) months each beginning on the Entry into Force and the day following the 30-month anniversary of the Compact, respectively. The remaining two (2) Civil Observers shall serve as voting members of the Board for two non-consecutive terms of fifteen (15) months each beginning on the day following the expiration of the 15-month anniversary of the Compact and the 45-month anniversary of the Compact, respectively. This Compact, applicable law, the Governance Regulations and relevant Supplemental Agreements between the Parties shall govern the terms and conditions of the participation of the Civil Observers on the Board. For purposes of this paragraph, a "15-month" term shall equal 457 days for terms 1 and 2 and 456 days for terms 3 and 4.

(3) Role and Responsibilities.

(A) The Board shall oversee the PMU, the overall implementation of the Program and the performance of the Designated Rights and Responsibilities.

(B) Certain actions may be taken, and certain agreements and other documents may be executed and delivered, by MCA-Honduras only upon the approval and authorization of the Board as provided under applicable law and in the Governance Regulations, including each MCC Disbursement Request, selection or termination of certain Providers, any component of the Implementation Plan, certain Re-Disbursements and certain terms of reference.

(C) The Chairman shall certify the approval by the Board of all Compact Reports or any other documents or reports from time to time delivered to MCC by MCA-Honduras

(whether or not such documents or reports are required to be delivered to MCC), and that such documents or reports are true, accurate and complete.

(D) Without limiting the generality of the Designated Rights and Responsibilities, and subject to MCC's contractual rights of approval as set forth in Section 3(c) of this Program Annex or elsewhere in this Compact or any relevant Supplemental Agreement, the Board shall have the exclusive authority as between the Board and the PMU for all actions defined for the Board under applicable law and in the Governance Regulations and which are expressly designated therein as responsibilities that cannot be delegated further.

(4) Indemnification of MCC Representative. Pursuant to Section 5.5 and Section 5.8 of this Compact, the Government and MCA-Honduras shall hold harmless the MCC Representative for any liability or action arising out of the MCC Representative's role as a non-voting observer on the Board. The Government hereby waives and releases all claims related to any such liability and acknowledges that the MCC Representative has no fiduciary duty to MCA-Honduras. MCA-Honduras shall provide a written waiver and acknowledgement that no fiduciary duty to MCA-Honduras is owed by the MCC Representative. In matters arising under or relating to the Compact, the MCC Representative is not subject to the jurisdiction of the courts or other body of Honduras.

(iii) PMU. Unless otherwise agreed in writing by the Parties, the PMU shall report, through the General Director or other Officer as designated in applicable law and the Governance Regulations, directly to the Board and shall have the composition, roles and responsibilities described below and set forth more particularly in applicable law and the Governance Regulations.

(1) Appointment of General Director. The General Director of MCA-Honduras shall be nominated by the Board after an open and competitive selection process, which nomination shall be subject to MCC approval, and appointed by the President of the Republic of Honduras.

(2) Appointment of Other Officers. The other Officers of MCA-Honduras shall be appointed by the General Director after an open and competitive selection process, which appointment shall be subject to Board and MCC approval.

(3) Composition. The Government shall ensure that the PMU shall be composed of qualified experts from the public or private sectors, including such offices and staff as may be necessary to carry out effectively its responsibilities, each with such powers and responsibilities as set forth in applicable law and the Governance Regulations and from time to time in any Supplemental Agreement, including without limitation the following: (i) General Director; (ii) Administration and Finance Director; (iii) Monitoring and Evaluation Director; (iv)

Environmental and Social Impact Director, (v) Rural Development Project Director; and (vi) Transportation Project Director (the Rural Development Project Director and the Transportation Project Director are each, a "***Project Director***") (the persons holding the positions in sub-clauses (i) through (vi) shall be collectively referred to as "***Officers***"). The Parties contemplate that for purposes of the initial period of operations, and in no event longer than six months, MCA-Honduras may appoint an acting General Director, subject to the prior approval of MCC; *provided*, during such period, the Board shall ratify the actions of such acting General Director and MCA-Honduras shall select a permanent General Director through a competitive selection process and subject to MCC prior approval in accordance with this Annex I.

(4) Role and Responsibilities.

(A) The PMU shall assist the Board in overseeing the implementation of the Program and shall have principal responsibility (subject to the direction and oversight of the Board and subject to MCC's contractual rights of approval as set forth in Section 3(c) of this Program Annex or elsewhere in this Compact or any relevant Supplemental Agreement) for the overall management of the implementation of the Program.

(B) Without limitation of the foregoing general responsibilities or the generality of the Designated Rights and Responsibilities, the PMU shall develop the components of the Implementation Plan, oversee the implementation of the Projects, manage and coordinate monitoring and evaluation, maintain internal accounting records, conduct and oversee certain procurements, and perform such other responsibilities as set forth in applicable law and the Governance Regulations or delegated to the PMU by the Board from time to time.

(C) The PMU shall have the obligation and right to approve certain actions and documents or agreements, including certain Re-Disbursements, MCC Disbursement Requests, Compact Reports, certain human resources decisions, and certain procurement actions, as provided in applicable law and the Governance Regulations and the Procurement Guidelines.

(e) **Outside Project Manager**. The PMU shall have the authority to engage qualified entities to serve as outside project managers (each, an "***Outside Project Manager***") in the event that it is advisable to do so for the proper and efficient day-to-day management of a Project; *provided, however*, that the appointment or engagement of any Outside Project Manager after a competitive selection process shall be subject to approval by the Board and MCC prior to such appointment or engagement. Upon Board approval, the PMU may delegate, assign, or

contract to the Outside Project Managers such duties and responsibilities as it deems appropriate with respect to the management of the Implementing Entities and the implementation of the specific Projects; and *provided, further*, that the PMU and the relevant Project Director shall remain accountable for those duties and responsibilities and all reports delivered by the Outside Project Manager notwithstanding any such delegation, assignment or contract. The Board may, independent of any request from the PMU, determine that it is advisable to engage one or more Outside Project Managers and instruct the PMU or, where appropriate, a Procurement Agent to commence and conduct the competitive selection process for such Outside Project Manager.

(f) **Implementing Entities**. Subject to the terms and conditions of this Compact and any other Supplemental Agreement between the Parties, MCA-Honduras may provide MCC Funding, directly or indirectly through an Outside Project Manager, to one or more Government agencies or to one or more nongovernmental or other public- or private-sector entities or persons to implement and carry out the Projects or any other activities to be carried out in furtherance of this Compact (each, an "***Implementing Entity***"). The Government shall ensure that MCA-Honduras (or the appropriate Outside Project Manager) enters into an agreement with each Implementing Entity, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of such Implementing Entity and other appropriate terms and conditions, such as payment of the Implementing Entity (the "***Implementing Entity Agreement***"). An Implementing Entity shall report directly to the relevant Project Director or Outside Project Manager, as designated in the applicable Implementing Entity Agreement or as otherwise agreed by the Parties.

(g) **Fiscal Agent**. The Government shall ensure that MCA-Honduras engages one or more fiscal agents (each, a "***Fiscal Agent***"), who shall be responsible for, among other things, (i) ensuring and certifying that Re-Disbursements are properly authorized and documented in accordance with established control procedures set forth in the Disbursement Agreement, the Fiscal Agent Agreement and other relevant Supplemental Agreements, (ii) Re-Disbursement and cash management, including instructing a Bank to make Re-Disbursements from a Permitted Account (to which the Fiscal Agent has sole signature authority), following applicable certification by the Fiscal Agent, (iii) providing applicable certifications for MCC Disbursement Requests, (iv) maintaining proper accounting of all MCC Funding financial transactions and certain other accounting functions, (v) producing reports on MCC Disbursements and Re-Disbursements (including any requests therefore) in accordance with established procedures set forth in the Disbursement Agreement, the Fiscal Agent Agreement or any other relevant Supplemental Agreements, and (vi) funds control. Upon the written request of MCC, the Government shall ensure that MCA-Honduras terminates a Fiscal Agent, without any liability to MCC, and the Government shall ensure that MCA-Honduras engages a new Fiscal Agent, subject to the approval by the Board and MCC. The Government shall ensure that MCA-Honduras enters into an agreement with each Fiscal Agent, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Fiscal Agent and other appropriate terms and conditions, such as payment of the Fiscal Agent ("***Fiscal Agent Agreement***").

(h) **Auditors and Reviewers**. The Government shall ensure that MCA-Honduras carries out the Government's audit responsibilities as provided in Sections 3.8(d), (e) and (f) of this Compact, including engaging one or more auditors (each, an "**Auditor**") required by Section 3.8(d) of this Compact. As requested by MCC in writing from time to time, the Government

shall ensure that MCA-Honduras shall also engage an independent (i) reviewer to conduct reviews of performance and compliance under this Compact pursuant to Section 3.8(f) of this Compact, which reviewer shall (A) conduct general reviews of performance or compliance, (B) conduct environmental audits, and (C) have the capacity to conduct data quality assessments in accordance with the M&E Plan, as described more fully in Annex III, and/or (ii) an independent evaluator to assess performance as required under the M&E Plan (each, a "***Reviewer***"). MCA-Honduras shall select the Auditor(s) or Reviewers in accordance with the Governance Regulations or relevant Supplemental Agreement. The Government shall ensure that MCA-Honduras enters into an agreement with each Auditor or Reviewer, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Auditor or Reviewer with respect to the audit, review or evaluation, including access rights, required form and content of the applicable audit, review or evaluation and other appropriate terms and conditions such as payment of the Auditor or Reviewer (the "***Auditor / Reviewer Agreement***"). In the case of a financial audit required by Section 3.8(f) of this Compact, such Auditor / Reviewer Agreement shall be effective no later than 120 days prior to the end of the relevant fiscal year or other period to be audited; *provided, however*, if MCC requires concurrent audits of financial information or reviews of performance and compliance under this Compact, then such Auditor / Reviewer Agreement shall be effective no later than a date agreed by the Parties in writing.

(i) **Procurement Agent**. If requested by MCC, the Government shall ensure that MCA-Honduras engages one or more procurement agents (each, a "***Procurement Agent***") to carry out and/or certify specified procurement activities in furtherance of this Compact on behalf of the Government, MCA-Honduras, any Outside Project Manager or Implementing Entity. The role and responsibilities of such Procurement Agent and the criteria for selection of a Procurement Agent shall be as set forth in the applicable Implementation Letter or Supplemental Agreement. The Government shall ensure that MCA-Honduras enters into an agreement with the Procurement Agent, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Procurement Agent with respect to the conduct, monitoring and review of procurements and other appropriate terms and conditions, such as payment of the Procurement Agent (the "***Procurement Agent Agreement***"). Any Procurement Agent shall adhere to the procurement standards set forth in the Procurement Guidelines and ensure procurements are consistent with the procurement plan (the "***Procurement Plan***") adopted by MCA-Honduras, which plan shall forecast the upcoming eighteen month procurement activities and be updated every six months.

(j) **Procurement Supervisor**. If requested by MCC, the Government shall ensure that MCA-Honduras engages one or more procurement supervisors (each, a "***Procurement Supervisor***") to supervise specified procurement activities in furtherance of this Compact on behalf of the Government, MCA-Honduras, any Outside Project Manager or any Implementing Entity. The role and responsibilities of such Procurement Supervisor and the criteria for selection of a Procurement Supervisor shall be as set forth in the applicable Implementation Letter or Supplemental Agreement. The Government shall ensure that MCA-Honduras enters into an agreement with the Procurement Supervisor, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Procurement Supervisor with respect to the conduct, monitoring and review of procurements and other appropriate terms and conditions, such as payment of the Procurement Supervisor (the "***Procurement Supervisor Agreement***"). Any Procurement Supervisor shall ensure that the procurement standards set forth in the

Procurement Guidelines are adhered to and ensure procurements are consistent with the Procurement Plan.

4. Finances and Fiscal Accountability.

(a) **Financial Plan.**

(i) Multi-Year Financial Plan. The multi-year financial plan for the Program and for each Project (the "***Multi-Year Financial Plan***") is summarized in Annex II to this Compact.

(ii) Spending Plan. During the Compact Term, the Government shall ensure that MCA-Honduras delivers to MCC timely financial plans that specify, respectively, the annual and quarterly detailed spending requirements for the Program and each Project (including monitoring, evaluation and administrative costs), projected both on a commitment and cash requirement basis (each a "***Spending Plan***"). Each Spending Plan shall be delivered by such time as specified in the Disbursement Agreement or as may otherwise be agreed by the Parties. The Multi-Year Financial Plan and each Spending Plan and each amendment, supplement or other change thereto are collectively, the "***Financial Plan.***"

(iii) Expenditures. No financial commitment involving MCC Funding shall be made, no obligation of MCC Funding shall be incurred, and no Re-Disbursement shall be made or MCC Disbursement Request submitted for any activity or expenditure, unless the expense is provided for in the applicable Spending Plan and unless uncommitted funds exist in the balance of the Spending Plan for the relevant period or unless the Parties otherwise agree in writing.

(iv) Modifications to Financial Plan. Notwithstanding anything to the contrary in this Compact, MCA-Honduras may amend or supplement the Financial Plan or any component thereof without amending this Compact, provided any material amendment or supplement has been approved by MCC and is otherwise consistent with the requirements of this Compact and any relevant Supplemental Agreement between the Parties.

(b) **Disbursement and Re-Disbursement.** The Disbursement Agreement (and disbursement schedules thereto), as amended from time to time, shall specify the terms, conditions and procedures on which MCC Disbursements and Re-Disbursements shall be made. The obligation of MCC to make MCC Disbursements or approve Re-Disbursements is subject to the fulfillment, waiver or deferral of any such terms and conditions. The Government and MCA-Honduras shall jointly submit the applicable request for an MCC Disbursement (the "***MCC Disbursement Request***") as may be specified in the Disbursement Agreement. MCC will make MCC Disbursements in tranches to a Permitted Account from time to time as provided in the Disbursement Agreement or as may otherwise be agreed by the Parties, subject to Program requirements and performance by the Government, MCA-Honduras and other relevant parties in furtherance of this Compact. Re-Disbursements will be made from time to time based on requests by an authorized representative of the appropriate party designated for the size and type of Re-Disbursement in accordance with the Governance Regulations and Disbursement

Agreement; *provided, however*, unless otherwise agreed by the Parties in writing, no Re-Disbursement shall be made unless and until the written approvals specified herein or in the Governance Regulations and Disbursement Agreement for such Re-Disbursement have been obtained and delivered to the Fiscal Agent.

(c) **Fiscal Accountability Plan**. By such time as specified in the Disbursement Agreement or as otherwise agreed by the Parties, MCA-Honduras shall adopt as part of the Implementation Plan a fiscal accountability plan that identifies the principles and mechanisms to ensure appropriate fiscal accountability for the use of MCC Funding provided under this Compact, including the process to ensure that open, fair, and competitive procedures will be used in a transparent manner in the administration of grants or cooperative agreements and the procurement of goods and services for the accomplishment of the Objectives (the "***Fiscal Accountability Plan***"). The Fiscal Accountability Plan shall set forth, among other things, requirements with respect to the following matters: (i) funds control and documentation; (ii) separation of duties and internal controls; (iii) accounting standards and systems; (iv) content and timing of reports; (v) policies concerning public availability of all financial information; (vi) cash management practices; (vii) procurement and contracting practices, including timely payment to vendors; (viii) the role of independent auditors; and (ix) the roles of fiscal agents and procurement agents.

(d) **Permitted Accounts**. The Government shall establish, or cause to be established, such accounts (each, a "***Permitted Account***," and collectively "***Permitted Accounts***") as may be agreed by the Parties in writing from time to time to receive MCC Disbursements, including:

(i) Either (A) a single, completely separate non-interest bearing account at the Honduran Central Bank, or (B) a single, completely separate U.S. Dollar interest-bearing account at a commercial bank that is procured through a competitive process, whichever bank offers terms that are the most economical to MCC;

(ii) If necessary, an interest-bearing local currency of Honduras account (the "***Local Account***") at the bank selected under Section 4(d)(i) above to which the Fiscal Agent may authorize transfer from any U.S. Dollar Permitted Account for the purpose of making Re-Disbursements payable in local currency; and

(iii) Such other interest-bearing accounts to receive MCC Disbursements in such bank as the Parties mutually agree upon in writing.

No other funds shall be commingled in a Permitted Account other than MCC Funding and Accrued Interest thereon. All MCC Funding held in an interest-bearing Permitted Account shall earn interest at a rate of no less than such amount as the Parties may agree in the respective Bank Agreement or otherwise. MCC shall have the right, among other things, to view any Permitted Account statements and activity directly on-line or at such other frequency as the Parties may otherwise agree. By such time as shall be specified in the Disbursement Agreement or as otherwise agreed by the Parties, the Government shall ensure that MCA-Honduras enters into an agreement with each Bank, respectively, satisfactory to MCC, that sets forth the signatory authority, access rights, anti-money laundering and anti-terrorist financing provisions, and other

terms related to the Permitted Account, respectively (each a "***Bank Agreement***"). For purposes of this Compact, any bank holding an account referenced in Section 4(d) of this Program Annex are each a "***Bank***" and, are collectively referred to as the "***Banks***."

(e) **Currency Exchange**. The Bank shall convert MCC Funding to the currency of Honduras at a rate to which the Parties mutually agree with the Bank in the Bank Agreement.

5. Transparency; Accountability.

Transparency and accountability to MCC and to the beneficiaries are important aspects of the Program and Projects. Without limiting the generality of the foregoing, in an effort to achieve the goals of transparency and accountability, the Government shall ensure that MCA-Honduras:

(a) Establishes an e-mail suggestion box as well as a means for other written comments that interested persons may use to communicate ideas, suggestions or feedback to MCA-Honduras;

(b) Considers as a factor in its decision-making the recommendations of the Observers, particularly in MCA-Honduras's deliberations over pending key PMU decisions and key Board decisions as shall be specified in applicable law and the Governance Regulations;

(c) Develops and maintains a website (the "***MCA-Honduras Website***") in a timely, accurate and appropriately comprehensive manner, such MCA-Honduras Website to include postings of information and documents in English and Spanish; and

(d) Posts on the MCA-Honduras Website and otherwise makes publicly available from time to time the following documents or information, including by posting on the MCA-Honduras Website, with links to and from the official website of the Government (www.casapresidencial.hn) and the website of the Embassy of Honduras in the United States (http://www.hondurasemb.org), from time to time:

(i) All minutes of the meetings of the Board;

(ii) The M&E Plan, as amended from time to time, along with periodic reports on Program performance;

(iii) All relevant Environmental Impact Assessments and supporting documents;

(iv) Such financial information as may be required by this Compact or as may otherwise be agreed from time to time by the Parties;

(v) All Compact Reports;

(vi) All audit reports by an Auditor and any periodic reports or evaluations by a Reviewer;

(vii) A copy of the Disbursement Agreement, amended from time to time;

(viii) A copy of the Procurement Agreement (including Procurement Guidelines), each Procurement Plan, as amended from time to time, all procurement agreements (including policies, standard documents, procurement plans, and required procedures), bid requests, and awarded contracts; and

(ix) A copy of any legislation and other documents related to the formation, organization and governance of MCA-Honduras, including the Governance Regulations, and any amendments thereto.

SCHEDULE 1 to ANNEX I

RURAL DEVELOPMENT PROJECT

This Schedule 1 generally describes and summarizes the key elements of a rural development Project that the Parties intend to implement in furtherance of the Agricultural Objective and Transportation Objective (the "***Rural Development Project***"). Additional details regarding the implementation of the Rural Development Project will be included in the Implementation Plan and in relevant Supplemental Agreements.

1. Background.

Honduras enjoys a comparative advantage in horticulture given its rich growing conditions, year-long growing season, and close proximity to the U.S. market. Despite this advantage, Honduran farmers predominantly grow basic grains because horticultural crops require more sophisticated techniques and infrastructure for both their production and marketing. In addition, lack of access to credit makes it more difficult for farmers to meet the higher working capital requirements of horticultural crops and poor transportation infrastructure increases the costs of getting crops to market and inputs to the farm-gate. To help producers to diversify into high-value horticultural crops and to increase their productivity and competitiveness, the Honduran PRS contemplates providing them with better access to market-support services throughout the production cycle (e.g., technical assistance in market research, production, post-harvest support and processing), financing (e.g., increase credit from financing sources), technology (e.g., help producers obtain and use on-farm irrigation systems), and infrastructure (e.g., build and maintain rural roads, improve the efficiency of property registries).

2. Summary of Project Activities.

The Rural Development Project is designed to increase the productivity and improve the competitiveness of owners, operators and employees of small- and medium-size farms covered by the Program ("***Program Farmers***"). The key activities of the Rural Development Project include:

(a) **Farmer Training and Development**. The provision of technical assistance in the production and marketing of high value horticultural crops.

(b) **Farmer Access to Credit**. The provision of technical assistance to financial institutions, loans to such institutions and support in expanding the national lien registry system.

(c) **Farm to Market Roads**. The construction and improvement of feeder roads to connect farms to markets.

(d) **Agricultural Public Goods Grant Facility**. The provision of grants to fund agricultural "public goods" projects that the private sector cannot provide on its own.

The following summarizes the contemplated Rural Development Project Activities. The M&E Plan (described in Annex III) will set forth anticipated results and, where appropriate, regular benchmarks that may be used to monitor implementation progress. Performance against the benchmarks and the overall impact of the Rural Development Project will be assessed and reported at the intervals to be specified in the M&E Plan or as otherwise agreed by the Parties from time to time. The Parties expect that additional benchmarks will be identified during the implementation of the Rural Development Project. Estimated amounts of MCC Funding for each Project Activity for the Rural Development Project are identified in Annex II of this Compact. Conditions precedent to each Rural Development Project Activity and sequencing of the Rural Development Project Activities shall be set forth in the Disbursement Agreement or other relevant Supplemental Agreements.

(a) ***Activity: Farmer Training and Development***

MCC Funding will fund training provided by one or more service providers (**"Agribusiness Service Providers"**) with proven experience in providing market-oriented technical assistance (***"Agribusiness Assistance"***) that combines training in agronomy and small business skills relevant to small- and medium-sized farms. Specifically, the Agribusiness Service Providers will:

(i) Identify existing market demand for commercial crops that Program Farmers can supply;

(ii) Identify Program Farmers who are willing and able to supply such demand;

(iii) Develop business plans that enable Program Farmers to meet such demand;

(iv) Work with lenders, suppliers and customers of Program Farmers to ensure that such business plans are realistic;

(v) Develop instruments (e.g., purchase contracts) and market-based support services (e.g., farmer associations, processing arrangements) to help Program Farmers to successfully execute their business plans;

(vi) Help Program Farmers obtain credit to finance their business plans;

(vii) Provide agronomic and business assistance to Program Farmers, including training in complying with sanitary and phytosanitary standards, for a period of up to three years to help them to successfully execute their business plans;

(viii) Ensure that Program Farmers employ environmentally sustainable agricultural practices; and

(ix) Certify that no crops supported by the Rural Development Project will substantially displace U.S. production.

The *expected results* from, and the *key benchmarks* to measure progress on, these activities are set forth in Annex III.

(b) ***Activity: Farmer Access to Credit***

MCC Funding will fund the following activities to increase the supply of credit to rural borrowers, including farmers and other agribusiness borrowers:

(i) Technical assistance to help financial institutions better analyze credit risk and administer credit in rural communities;

(ii) Loans in an aggregate principal amount of up to $6 million that MCA-Honduras will make to regulated financial institutions to either lend directly to Program Farmers or on-lend to a rural financial institution that, in turn, will lend to Program Farmers. The Government shall ensure that all such loans mature no later than six months prior to the expiration of the Compact Term;

(iii) The expansion of the national property registration system to include a new registry of movable property and liens, interconnecting this new registry with the land title registry and commercial (mercantile) registry, and connecting registry system offices with each other and key clients; and

(iv) Technical assistance to develop collateral-based credit products that will improve access to credit by farmers, among others;

Loan repayments from financial institutions to MCA-Honduras may be used to fund Rural Development Project Activities in the following order, as specified in the Financial Plan or as otherwise agreed by the Parties:

(i) $1 million to fund the Agricultural Public Goods Grant Facility;

(ii) $3 million to fund the Farmer Training and Development Project Activities; and

(iii) $2 million in grant funding to augment the capital base of non-profit financial institutions that successfully manage the loans to Program Farmers described above.

The *expected results* from, and the *key benchmarks* to measure progress on, these activities are set forth in Annex III.

(c) ***Activity: Farm to Market Roads***

MCC Funding will fund the construction or improvement of approximately 1,500 kilometers of rural roads to improve the access of rural communities (including Program Farmers) to markets and to social services. Specific roads will be funded in two phases: (i) a pilot phase that will use approximately 30% of the total funds allocated to the Farm to Market Roads Project Activity; and (ii) a second phase that will use the balance of such funds to build the roads that MCA-Honduras selects.

Subject to the prior approval of MCC, MCA-Honduras will select Farm to Market Roads among the range of proposed rural roads that promise the highest economic rate of return among such roads (12% minimum rate of return), subject to the conditions that each selected road must:

(i) Conform to the Environmental Guidelines;

(ii) Conform to the World Bank policy on Involuntary Resettlement, where relevant;

(iii) Be fully designed to the satisfaction of MCA-Honduras and MCC;

(iv) Be properly documented to the satisfaction of MCA-Honduras and MCC, including having an agreement in which the applicable municipality agrees to assume the cost of permanently maintaining the road and to pay 20% of the cost of upgrading the road to a Permitted Account; and

(v) Have been approved by a rural road supervisory firm and the rural roads advisory committee, which committee will consist of representatives from the PMU, FHIS, SAG, SOPTRAVI, SERNA and the Association of Honduran Municipalities (AHMON).

The *expected results* from, and the *key benchmarks* to measure progress on, these activities are set forth in Annex III.

(d) ***Activity: Agricultural Public Goods Grant Facility***

MCC Funding will fund a small competitive grants facility that will provide funding to support projects that enhance and accelerate the development of market-based commercial agriculture, particularly the horticultural sector. The Parties expect that these grants will fund two types of projects:

(i) Pure Public Goods. Examples of "pure public goods" include development of improved crop germ plasm or animal genetics in sub-sectors with competitive potential. Support to such initiatives may be granted without any requirement for repayment, subject to demonstrating that the benefit stream will surpass the cost; and

(ii) Quasi-Public Goods. Examples of "quasi-public goods" include collective infrastructure projects that benefit groups of producers but cannot be financed by individual farmers, such as upgrades or extensions to district irrigation systems, construction of primary power supply lines, collective cold storage and packing facilities, area pest or disease control measures, and other similar investments. Cost-sharing may be appropriate for some categories of investments.

The facility will be managed by the Rural Development Project Director within the PMU, subject to oversight by a committee (the "***Grant Committee***") consisting of the Rural Development Project Director, a representative from SAG, and three representatives from civil society, whose selection and compensation must be approved by MCC.

Invitations to submit proposals for up to $1 million per grant will be publicly posted. The facility's operating rules, subject to the prior approval of the Board and MCC, shall ensure fair and transparent selection criteria and procedures and shall conform to the Environmental Guidelines and other limitations on the use of MCC Funding. The Parties expect that a total of up to $9 million in grants of MCC Funding will be made during the Compact Term, subject to receiving sufficient satisfactory proposals. Funding decisions will be taken by a majority of the members of the Grant Committee, subject to the approval of MCC.

The *expected results* from, and the *key benchmarks* to measure progress on, these activities are set forth in Annex III.

3. Beneficiaries.

The principal beneficiaries of the Rural Development Project are expected to be: (i) Program Farmers, due to improvements in the productivity and business skills of such producers; (ii) the communities of the Program Farmers, due to increased employment and reduced transportation costs to markets and social service delivery points (e.g., hospitals, schools); and (iii) the agricultural sectors, due to public goods and quasi-public goods funded by the Agricultural Public Goods Grant Facility. When MCA-Honduras identifies potential areas where the Farmer Training and Development, Agricultural Public Goods Grant Facility and Farm to Market Roads may be provided, the Government shall ensure that MCA-Honduras provides to MCC information on the population of such areas, disaggregated by gender, income level and age, where possible. After such areas have been selected: (i) the Government shall ensure that MCA-Honduras presents to the Board and MCC (a) a detailed description of the intended beneficiaries and (b) the methodology used to determine the intended beneficiaries within thirty (30) days after the selection of such areas and completion of the analysis of the intended beneficiaries therein, disaggregated, to the maximum extent practicable, by income level, gender, and age; (ii) the Parties shall agree upon the description of the intended beneficiaries; and (iii) the Parties will make publicly available a more detailed description of the intended beneficiaries of the Program, including publishing such description on the MCA-Honduras Website.

4. Coordination with USAID and Other Donors.

In developing the Rural Development Project, the Parties investigated the work of the donors described below in an effort to ensure that the Rural Development Project complements, and does not duplicate, replace or harm, such work.

The U.S. Agency for International Development ("***USAID***") has three projects that relate to or may support the Rural Development Project: (i) the *Centro Desarolla Agricultura* (CDA) project, which is run by a private company, Fintrac, to increase sales, incomes, employment of, and local investment in, the Honduran agribusiness sector by providing market-oriented technical assistance to producers and processors; (ii) the Productivity and Policy Enhancement Program project, which serves to strengthen the National Banking and Insurance Commission's supervision of financial private voluntary organizations, transition such organizations into the regulated banking environment, and help stimulate commercial banks to lend to small businesses and rural producers; and (iii) the Development Credit Authority, which signed two portfolio guarantee agreements targeted at providing guarantees of up to 50% of loans to micro, small and medium enterprises.

The U.S. Department of Agriculture ("***USDA***"), through Food for Progress donations to the Honduran Ministry of Agriculture, funded: (i) the National Agribusiness Development Centers program; (ii) the Sanitary and Phytosanitary Systems Animal and Plant Health program; and (iii) the implementation of recommendations produced from agricultural roundtable discussions. USDA also has a program with Technoserve to assist small farmers in northern Honduras, and has begun to fund a similar program in southwestern Honduras. The 2005 Food for Progress donation is expected to be used to help corn farmers transition to new crops, continue improvements to the Sanitary and Phytosanitary Systems Animal and Plant Health program, and further develop value-added chains.

The World Bank (i) funded the first phase of a land titling project (PATH) that will automate, consolidate and make property information more publicly accessible, and (ii) approved a loan to recapitalize the deposit insurance fund and reduce systemic risk in the banking sector, among other objectives.

The Inter-American Development Bank ("***IDB***") funded the Government's principal integrated rural development program (PRONADERS), which used such funds to implement (i) the RERURAL project that invested in irrigation, milk collection and refrigeration centers, coffee "green" projects, rural electrification, rural highways, and water and sanitation projects, and (ii) the MARENA project that invested in local initiatives such as basin management, irrigation systems, livestock production, reforestation, and environmental protection. The IDB also (i) finances a watershed management project, and (ii) has provided complementary support in plant and animal disease control for imports and exports and for agricultural policy work.

The International Fund for Agricultural Development ("***IFAD***") also funded PRONADERS, which used such funds to finance (i) the PROSOC project in southwestern Honduras and (ii) the PRONADEL project that focuses on local development. PRONADERS assists rural families to

finance agricultural production, livestock activities, irrigation systems, and improving rural infrastructure.

The Canadian International Development Agency ("*CIDA*") funds the ProMesas project that assists farmers in the Olancho region and finances forestry development projects in northern Honduras.

5. Sustainability.

The implementation of the Rural Development Project is designed to support the development of local capacity (yet maintain tight fiduciary risk controls) by providing Honduran professionals and institutions with experience in implementing the Program. This design is expected to add to Honduras' soft infrastructure — the human capital base that is essential for the successful design, management, and oversight of public and private projects. The Rural Development Project will use qualified staff within SAG to procure services needed to implement the Program.

While all contracts will be open to international bidding, local and regional firms are expected to be very competitive in most activities. Even in activities where in international firm may win the contract, there will be opportunities to employ Honduran individuals or firms under those contracts. For example, the Farmer Training and Development activity will be designed to allow for the participation of local firms while ensuring they work under the supervision of an internationally qualified Agribusiness Service Provider. As another example, the rural roads supervisory firm will be selected through international competitive bidding, but the construction contracts will be relatively small contracts in which national and regional firms will be very competitive.

The key issue with respect to financial sustainability of the Rural Development Project is ensuring that Program Farmers who graduate from the program are able to maintain their level of productivity under the Program and expand their business. Farmers who have successfully absorbed the intensive transformational Agribusiness Assistance will then have sufficient income to pay for less intensive periodic technical assistance to allow them to keep current with future innovations in agronomy and changes in the market structure for agricultural products. Equally important, marketing and agro-export businesses often are willing to provide technical assistance and inputs (e.g., seeds) to producers once those producers are established.

The Program promises to increase the supply of credit to stronger rural borrowers. Those farmers who have successfully learned how to access credit and have established a credit history will be in a better position to access credit in the future, thereby creating a larger demand for financial services. As bankers expand to profit from this demand, they will develop the financial products and contract the required expertise (e.g., agronomists) to service this growing market. Similarly, expanded horticultural production will create economies of scale that reduce the unit costs of inputs and post-harvesting services.

The key to ensuring environmental and social sustainability of the Program is ongoing public consultation to ensure optimal design and implementation and to ensure full country-ownership

of the Program. The Environment and Social Impact Director (***"ESI Director"***) within the PMU will ensure that environmental and social mitigation measures (including resettlement and gender issues) are followed for all Project Activities in accordance with the provisions set forth in the Compact and other documents. The ESI Director also will serve as the point of contact for comments and concerns of Project-affected parties regarding the implementation of all segments of the Compact, and lead the effort to find feasible resolutions to those problems. The ESI Director will convene periodic public meetings to provide implementation updates and to identify and address public concerns.

6. Policy and Legal Reform.

The Parties have identified the following policy, legal and regulatory reforms and actions that the Government shall pursue in support, and to reach the full benefits, of the Rural Development Project, the satisfactory implementation of which will be conditions precedent to certain MCC Disbursements as provided in the Disbursement Agreement:

(a) Pass the Access to Credit Law (*Ley para facilitar el Acceso al Credito*) to improve the process for pledging collateral and foreclosing on liens and other security interests in collateral; and

(b) Maintain a clear policy stance against the adoption of any action that limits or otherwise alters the original terms of an obligation of any borrower to repay a properly documented loan obligation without the agreement of the lender.

To improve its level of performance under the policy criteria identified in Section 607 of the Act and the MCA Eligibility Criteria, the Government will pursue the following legislative and policy reforms:

(a) Enact new anti-trust legislation that reduces constraints on commerce and competition;

(b) Enact new civil service legislation, issue the corresponding regulations, appoint the head of the new civil service supervisory authority, and satisfactorily implement the new law; and

(c) Reform the civil procedures code to make all new lawsuits more transparent and expeditious by making them oral and public.

SCHEDULE 2 to ANNEX I

TRANSPORTATION PROJECT

This Schedule 2 generally describes and summarizes the key elements of a Transportation Project in furtherance of the Transportation Objective (the "***Transportation Project***"). Additional details regarding the implementation of the Transportation Project will be included in the Implementation Plan and in relevant Supplemental Agreements.

1. Background.

High transportation costs are a significant impediment to economic growth, particularly for agriculture and light manufacturing. Consequently, the PRS proposed an ambitious plan to strengthen the Honduran primary, secondary and rural road network. This fits within the broader strategy developed in the Plan Puebla-Panama ("***PPP*** to create a reliable Mesoamerican network of highways known as the International Network of Mesoamerican Highways. This network comprises two main corridors on the Atlantic and the Pacific (the "***Atlantic Corridor***" and "***Pacific Corridor***," respectively) and a series of complementary routes. Under this initiative, member countries have pledged to work toward harmonizing transportation regulations and standards, modernizing customs procedures and border crossings, and strengthening airport security. The Atlantic and Pacific Corridors are vital to the integration of Central America and will have a significant economic impact on this region by creating an efficient connection between the production centers in Central America and major port facilities on the Atlantic and Pacific Oceans.

The 1,746 kilometer Atlantic Corridor links Mexico, Belize, Guatemala, Honduras and El Salvador. The Honduran portion of the Atlantic Corridor includes (i) portions of the CA-5 Norte Highway (the "***Highway CA-5***"), which carries most of Honduras' import and export traffic between Puerto Cortes and the major production and consumption centers in and around the cities of San Pedro Sula, Comayagua and Tegucigalpa, and (ii) a new road that will connect Comayagua directly to the Pacific Corridor and the Pacific port facility at Puerto Cutuco in El Salvador. The 294 kilometer Highway CA-5 carries most of the country's import and export traffic and accounts for 23% of highway traffic volume. After more than 30 years of service, the road needs improvements as service levels have declined drastically on some stretches and road safety is poor. Average annual traffic volume on the Highway CA-5 varies between 5,400 and 8,300 vehicles, with a high proportion (35%) of heavy vehicles.

Many productive areas in Honduras are connected to the main road arteries by unpaved secondary roads, whose uneven surfaces do not permit rapid transit. These poor roads cause high vehicle operating and maintenance costs and spoilage of delicate products, which undermines the competitiveness of the producers who must use them. These roads also are expensive to maintain, requiring periodic re-grading following the rainy season. For these reasons, the paving of high-volume secondary roads is a profitable investment which contributes decisively to the competitive potential of the areas they serve.

Since the mid 1990s, Honduras has not had a system for controlling weights and measures in place for its roads network. The lack of a system of control of weights and measures contributed

to the premature deterioration of the roadways, increasing the cost of maintenance and reducing safety. A recent study found that 23% of passenger and cargo vehicles carry excessive weight. Trucks with more than 2 axels record the most excess weight, and these also represent a large percentage (41%) of vehicles that travel through the national roads. Excess weight significantly reduces the lifespan of roads and bridges, decreases the safety of the roadways and, as a result, increases the costs of maintenance programs.

2. Summary of Project Activities.

The Transportation Project is designed to reduce transportation costs between Honduran production centers and national, regional and global markets. The key activities of the Transportation Project include:

(a) **Highway CA-5**. The improvement of a 50 kilometer segment of Highway CA-5 between Taulabe and Comayagua (the "***North Segment***") and a 59 kilometer segment of Highway CA-5 between Villa de San Antonio and Tegucigalpa (the "***South Segment***").

(b) **Secondary Roads**. The upgrade of key secondary routes to improve the access of rural communities to markets.

(c) **Weight Control System**. The construction of an effective weight control system and the issuance of contracts to operate it effectively.

The following summarizes the contemplated Transportation Project Activities. The M&E Plan (described in Annex III) will set forth anticipated results and, where appropriate, regular benchmarks that may be used to monitor implementation progress. Performance against the benchmarks and the overall impact of the Transportation Project will be assessed and reported at the intervals to be specified in the M&E Plan or as otherwise agreed by the Parties from time to time. The Parties expect that additional benchmarks will be identified during the implementation of the Transportation Project. Estimated amounts of MCC Funding for each Project Activity for the Transportation Project are identified in Annex II of this Compact. Conditions precedent to each Transportation Project Activity and sequencing of the Transportation Project Activities shall be set forth in the Disbursement Agreement or other relevant Supplemental Agreements.

(a) ***Activity: North and South Segments of Highway CA-5***

MCC Funding will support the following improvements to the North and South Segments:

(i) Construction along the North and South Segments, including building (A) a third ascending lane in highway segments of steep and sustained inclination, (B) "passing lanes" in high volume highway sections, (C) interchanges and bridges, (D) pavement construction, (E) appropriate entrance and exit lanes, and (F) parking bays for buses and other protection and security measures;

(ii) Making important geometrical changes to improve visibility and safety in curves in the North Segment and South Segment;

(iii) Utility relocations as may be necessary to accommodate the rehabilitation of the North and South Segments;

(iv) Drainage and environmental mitigation;

(v) Providing signage and other safety improvements;

(vi) Supervision over the construction activities described above; and

(vii) Compensation for individuals, residences and businesses affected by the rehabilitation of the North and South Segments consistent with the World Bank policy on Involuntary Resettlement.

The *expected results* from, and the *key benchmarks* to measure progress on, these activities are set forth in Annex III.

(b) ***Activity: Secondary Roads***

MCC Funding will fund the paving of up to 91 kilometers of key secondary routes with a "double treatment" of asphalt to improve velocity and reduce maintenance costs.

Subject to the prior approval of MCC, MCA-Honduras will select secondary roads among the range of proposed roads that promise the highest economic rate of return among such roads, subject to the conditions that each selected road must:

(i) Conform to the Environmental Guidelines;

(ii) Conform to the World Bank policy on Involuntary Resettlement, where relevant,

(iii) Be fully designed to the satisfaction of MCA-Honduras and MCC;

(iv) Be properly documented to the satisfaction of MCA-Honduras and MCC, including a description of the location of the proposed road, necessary type of works, estimation of costs, a technical and economic assessment, and land acquisition required, including information on the status of the environmental and other requisite licenses; and

(v) Be consistent with the long-term plans of SOPTRAVI.

The *expected results* from, and the *key benchmarks* to measure progress on, these activities are set forth in Annex III.

(c) ***Activity: Vehicle Weight Controls***

To increase road life and safety, MCC Funding will support:

(i) The construction of eight weight control stations along the Highway CA-5 or along major arteries feeding into the Highway CA-5, which areas MCA-Honduras shall select, subject to the prior approval of MCC, based on criteria that includes the proximity of areas that generate cargo, the level of traffic flow and the absence of means to easily avoid the controls set in place; and

(ii) The acquisition of ancillary weight control equipment.

The Government must enter into contractual arrangements with one or more private companies to administer the weight control stations and to charge fees to unload overweight vehicles. The selection of such private companies shall be through competitive, transparent bidding and hiring mechanisms. To guarantee the transparency and efficiency of the administration of the weight control system, the parties administrating the system shall be subject to the following:

(i) Evaluations and control mechanisms of the personnel responsible for systems operation;

(ii) Reporting requirements on all income collected through fees;

(iii) Requirements that over-weight trucks be charged to reduce loads to legal standards;

(iv) Internal financial audits;

(v) External financial audits to be performed by one or more companies or firms selected through a public bidding process;

(vi) On-going technical audits performed by SOPTRAVI; and

(vii) A requirement to conduct periodic public awareness and information dissemination campaigns geared to informing users and the general public about the benefits of the weight control system, its operating procedures, and other necessary information.

The *expected results* from, and the *key benchmarks* to measure progress on, these activities are set forth in Annex III.

3. Beneficiaries.

The principal beneficiaries of the Transportation Project are expected to be (i) users of the improved roads by decreasing transportation costs to markets and social service delivery points (e.g., hospitals, schools), and (ii) employees and owners of urban and rural businesses that rely on the Honduran road network. The Transportation Project also promises to have a significant economic impact in the greater Central American region since it constitutes a key component of the Atlantic Corridor.

4. Coordination with USAID and Other Donors.

(a) **Coordination during Project Development**. In developing the Transportation Project, the Parties investigated the work of the donors described below in an effort to ensure that the Transportation Project complements, and does not duplicate, replace or harm, such work.

The World Bank is financing (i) the improvement of sections of the Highway CA-5 that are adjacent to the sections that MCC will improve, (ii) the reconstruction of several highways and bridges (including rural roads), (iii) a project with the Honduran Fondo Vial (***"Road Fund"***) to use micro-enterprises for routine maintenance, and (iv) technical assistance to SOPTRAVI to support its planning unit and to strengthen the Road Fund to better ensure the sustainability of road investments.

The IDB is financing (i) the improvement of two sections of the Highway CA-5 that are adjacent to the sections that MCC will improve, (ii) the vehicle weight control study that informed the design of the vehicle weight control component that MCC will fund, and (iii) the Program for Sustainable Institutional Strengthening of the Road Sector, which seeks to institutionally strengthen SOPTRAVI to improve the quality of road construction, the reliability of resources allocated to the sector, road safety, and environmental management.

The Central American Bank for Economic Integration (***"CABEI"***) is financing (i) the section of the PPP's Atlantic Corridor that connects the Highway CA-5 to the Pacific Corridor, and (ii) the section of the Atlantic Corridor between Puerto Cortez and the Guatemalan border.

(b) **Coordination during Project Implementation**. In an effort to ensure that the Government, MCC and the other financial institutions involved in upgrading the Highway CA-5 coordinate their efforts, the Parties and other donors are committed to instituting a mechanism for coordination, dialogue and exchange of current information among such parties. Consistent with what has already been established between other donors and the Government, SOPTRAVI will prepare a semiannual report on works in execution on the Highway CA-5 and distribute it to each participating institution. The report will indicate progress toward physical and financial targets for the projects funded by each donor, summarize the number, description and status of physical and financial progress under each works and supervision contract, and offer a brief summary of critical aspects encountered that might affect successful completion and achievement of objectives for each project at a given time. After the report is distributed, SOPTRAVI will convene a meeting of participating financial institutions and development agencies.

5. Sustainability.

The implementation of the Transportation Project is designed to support the development of local capacity (yet maintain tight fiduciary risk controls) by providing Honduran professionals and institutions with experience in implementing the Program. This design is expected to add to Honduras's soft infrastructure — the human capital base that is essential for the successful design, management and oversight of public and private projects. While most procurement for the Transportation Project will be managed by a private firm that will be selected through an international competitive bidding process, local staff will be involved in each step of the process.

While all contracts will be open to international bidding, local and regional firms are expected to be very competitive in most activities. Even in activities where an international firm may win the contract, there will be opportunities to employ Honduran individuals or firms under those contracts. Construction contracts for the secondary roads will be relatively small contracts in which national and regional firms will be competitive. The Program also contemplates opportunities for small and medium size enterprises to participate in the maintenance of the roads, through coordination by the Road Fund.

In terms of developing the institutional capacity in the Honduran transportation sector, both the World Bank and IDB have, in recent years, funded programs to restructure and develop SOPTRAVI, activities from which the Transportation Project will benefit. These activities include building capacity to manage the transportation sector, strengthening investment selection (e.g., analytical capabilities, economic evaluation, etc.), introducing an emphasis on maintenance, and expanding the capacity of the private sector in the provision of transport services (e.g., maintenance contracting). In addition, the institutional framework for transportation now has a safety component. A bill before the Honduran Congress calls for establishing a national road safety council, establishing road safety units, implementation of an accident reporting system, police enforcement of traffic laws, and providing funding for road safety.

The key issue with respect to financial sustainability of the Transportation Project is road maintenance. The Road Fund is the agency responsible for routine, periodic and emergency road maintenance. The Road Fund, funded by a fixed charge on fuel sales, prepares annual road network maintenance plans, establishes and maintains road maintenance budgets, and executes the maintenance plan. As of 2002, the portion reserved for road conservation may not be less than 40%, and the Government has been increasing the funds devoted to road maintenance through the Road Fund. A condition precedent in the Disbursement Agreement for the continued disbursement of funds will be that the Government meet certain funding and maintenance targets. The Government has stated its intention to continue increasing the funds for maintenance to achieve 75% coverage by the end of 2005, and 80% by the end of 2006. The Road Fund will also be responsible for the managing the contracts to operate the weight control stations. These contracts are expected to generate income for the Road Fund as all (i) trucks weighed will be charged a toll for road usage and (ii) overweight trucks will be charged a fee to be unloaded.

The key to ensuring environmental and social sustainability of the Program is ongoing public consultation to ensure optimal design and implementation and to ensure full country-ownership of the Program. The PMU will include an ESI Director whose job will be to ensure that environmental and social mitigation measures (including resettlement and gender issues) are followed for all Project Activities in accordance with the provisions set forth in the Compact and other documents. The ESI Director also will serve as the point of contact for comments and concerns of Project-affected parties regarding the implementation of all segments of the Compact, and lead the effort to find feasible resolutions to those problems. The ESI Director will convene periodic public meetings to provide implementation updates and to identify and address public concerns.

6. Policy and Legal Reform.

The Parties have identified the following policy, legal and regulatory reforms and actions that the Government shall pursue in support, and to reach the full benefits, of the Transportation Project, the satisfactory implementation of which will be conditions precedent to certain MCC Disbursements as provided in the Disbursement Agreement:

(a) Enact adequate regulatory changes to enable the proper operation of a weight control system on the national highway network;

(b) Approve the issuance of one or more contracts to build and operate a weight control system on the national highway network, collect any necessary tolls and fees, and conduct maintenance on the Highway CA-5 sections and secondary roads that MCC Funding is used to improve;

(c) Enact adequate legislation on national road safety and enforcement; and

(d) Approve legislation and budget providing adequate planning and funding for sustainable road maintenance for the Highway CA-5 sections and secondary roads that MCC Funding is used to improve, including adequate funding to the Road Fund for road maintenance (funding targets will be agreed upon in the Disbursement Agreement) consistent with a commitment to properly maintain the roads in accordance with generally accepted technical standards and to provide annual maintenance reports.

To improve its level of performance under the policy criteria identified in Section 607 of the Act and the MCA Eligibility Criteria, the Government will pursue the following legislative and policy reforms:

(a) Enact new anti-trust legislation that reduces constraints on commerce and competition;

(b) Enact new civil service legislation, issue the corresponding regulations, appoint the head of the new civil service supervisory authority, and satisfactorily implement the new law; and

(c) Reform the civil procedures code to make all new lawsuits more transparent and expeditious by making them oral and public.

ANNEX II

FINANCIAL PLAN SUMMARY

This Annex II to the Compact (the "***Financial Plan Annex***") summarizes the Multi-Year Financial Plan for the Program. Each capitalized term in this Financial Plan Annex shall have the same meaning given such term elsewhere in this Compact.

1. **General.** A Multi-Year Financial Plan Summary is attached hereto as Exhibit A. By such time as specified in the Disbursement Agreement, MCA-Honduras will adopt, subject to MCC approval, a Multi-Year Financial Plan that includes, in addition to the multi-year summary of anticipated estimated MCC Funding and the Government's contribution of funds and resources, an estimated draw-down rate for the first year of the Compact based on the achievement of performance milestones, as appropriate, and the satisfaction or waiver of conditions precedent. Each year, at least 30 days prior to the anniversary of the Entry Into Force, the Parties shall mutually agree in writing to a Spending Plan for the upcoming year of the Program, which shall include a more detailed plan for such year, taking into account the status of the Program at such time and making any necessary adjustments to the Multi-Year Financial Plan.

2. **Implementation and Oversight.** The Financial Plan shall be implemented by MCA-Honduras, consistent with the approval and oversight rights of MCC and the Government as provided in this Compact, the Governance Agreement and the Disbursement Agreement.

3. **Estimated Contributions of the Parties.** The Multi-Year Financial Plan Summary, attached hereto as Exhibit A, identifies the estimated annual contribution of MCC Funding for Program administration and each Project. The Government's contribution of resources to Program administration and each Project shall consist of (i) "in-kind" contributions in the form of Government Responsibilities and any other obligations and responsibilities of the Government identified in the Compact, including contributions identified in the notes to the Multi-Year Financial Plan Summary, and (ii) such other contributions or amounts as may be identified in relevant Supplemental Agreements between the Parties or as may otherwise be agreed by the Parties; *provided*, in no event shall the Government's contribution of resources be less than the amount, level, type and quality of resources required to effectively carry out the Government Responsibilities or any other responsibilities or obligations of the Government under or in furtherance of this Compact.

4. **Modifications.** The Parties recognize that the anticipated distribution of MCC Funding between and among the various Program activities and Project Activities will likely require adjustment from time to time during the Compact Term. In order to preserve flexibility in the administration of the Program, the Parties may, upon agreement of the Parties in writing and without amending the Compact, change the designations and allocations of funds between Program administration and a Project, between one Project and another Project, between different activities within a Project, or between a Project identified as of the entry into force of this Compact and a new Project, without amending the Compact; *provided, however*, that such reallocation (i) is consistent with the Objectives, (ii) does not cause the amount of MCC Funding to exceed the aggregate amount specified in Section 2.1(a) of this Compact, and (iii) does not

cause the Government's responsibilities or overall contribution of resources to be less than specified in Section 2.2(a) of this Compact, this Annex II or elsewhere in the Compact.

5. Conditions Precedent; Sequencing. MCC Funding will be disbursed in tranches. The obligation of MCC to approve MCC Disbursements and Material Re-Disbursements for the Program and each Project is subject to satisfactory progress in achieving the Objectives and on the fulfillment or waiver of any conditions precedent specified in the Disbursement Agreement for the relevant Program activity or Project Activity. The sequencing of Project Activities and other aspects of how the Parties intend the Projects to be implemented will be set forth in the Implementation Plan, including Work Plans for the applicable Project, and MCC Disbursements and Re-Disbursements will be disbursed consistent with that sequencing.

EXHIBIT A: MULTI-YEAR FINANCIAL PLAN SUMMARY

Re-Disbursements Funded Directly from MCC Disbursements

Component	Year 1	Year 2	Year 3	Year 4	Year 5[1]	Total
1. Rural Development Project[2]						
(a) Farmer Training and Development[3]	1,525[4]	4,722	10,548	10,242	377	27,415
(b) Farmer Access to Credit[5]	2,860	8,160	1,277	1,217	258	13,773
(c) Farm to Market Roads[6]		6,450	15,050			21,500
(d) Agricultural Public Goods Grant Facility[7]		3,000	3,000	2,000		8,000
Rural Development Project Manager	270	304	324	304	304	1,509
Sub-Total	**4,656**	**22,636**	**30,200**	**13,764**	**939**	**72,195**
2. Transportation Project[8]						
(a) Highway CA-5[9]	15,705	35,157	36,278	9,272		96,412
(b) Secondary Roads[10]			5,320	15,960		21,280
(c) Weight Control System[11]	2,219	248	2,263			4,730
Transportation Project Manager	742	846	846	846		3,279
Sub-Total	**18,666**	**36,250**	**44,706**	**26,078**		**125,700**
3. Monitoring and Evaluation[12]	1,623	578	1,320	143	1,320	4,983
Sub-Total	**1,623**	**578**	**1,320**	**143**	**1,320**	**4,983**
4. Program Administration and Control						
(a) Program administration	2,389	1,952	1,952	1,793	1,181	9,268
(b) Audit	327	824	1,049	572	83	2,855
Sub-Total	**2,715**	**2,777**	**3,001**	**2,365**	**1,264**	**12,122**
Source of Funds:						
MCC CONTRIBUTION[13]	**27,659**	**62,240**	**79,227**	**42,350**	**3,523**	**215,000**

Re-Disbursements Funded from Loan Repayment (Financial Institutions to MCA-Honduras)

Component	Year 1	Year 2	Year 3	Year 4	Year 5[1]	Total
1. Rural Development Project[2]						
(a) Farmer Training and Development[3]					3,000	3,000
(b) Farmer Access to Credit[5]					2,000	2,000
(c) Farm to Market Roads[6]						
(d) Agricultural Public Goods Grant Facility[7]				1,000		1,000
Sub-Total				**1,000**	**5,000**	**6,000**
Source of Funds:						
Repayment of Loans (Farmer Access to Credit)				**1,000**	**5,000**	**6,000**

EXHIBIT A: MULTI-YEAR FINANCIAL PLAN SUMMARY (Notes)

[1] Although most Project Activities will take place from Year 1 through Year 4, the five-year Compact Term will allow additional time to ensure that Project Activities are completed. Monitoring and Evaluation will continue after the completion of the Project Activities.

[2] The Government will provide in-kind contributions in the form of staff time and resources from Secretary of Agriculture ("SAG"), Secretary of Public Works, Transportation and Housing ("SOPTRAVI"), Secretary of National Resources and Environment ("SERNA"), Honduran Social Investment Fund ("FHIS"), and National Commission of Banks and Insurance ("CNBS") to work towards the expected results of this Project. All of these contributions will be more specifically set forth in the relevant components of the Implementation Plan or relevant Supplemental Agreement between the Parties.

[3] The Government has provided in-kind contributions in the form of SAG staff time and responses used for developing this Project Activity and will provide in-kind contributions in the form of SAG staff time and resources to work towards the expected results of this Project Activity, which contributions will be more specifically set forth in the relevant components of the Implementation Plan or relevant Supplemental Agreement between the Parties.

[4] Amounts shown are U.S. Dollars in thousands.

[5] The Government will provide in-kind contributions in the form of CNBS, Ministry of Finance and Central Bank staff time and resources to work towards the expected results for this Project Activity, which contributions will be more specifically set forth in the relevant components of the Implementation Plan or relevant Supplemental Agreement between the Parties.

[6] These amounts will be disbursed only upon satisfaction of (i) agreements executed with municipalities to pay 20% of the cost of selected roads and to permanently maintain them, (ii) completion of full design studies, (iii) obtaining requisite approvals by the rural road advisory committee and others, and (iv) other conditions set out in the Disbursement Agreement. The Government will provide in-kind contributions in the form of staff time and resources from FHIS to work towards the expected results of this Project Activity, which contributions will be more specifically set forth in the relevant components of the Implementation Plan or relevant Supplemental Agreement between the Parties.

[7] These amounts will be disbursed only upon satisfaction of (i) obtaining requisite approvals by the Grant Committee and others, and (ii) other conditions set out in the Disbursement Agreement.

[8] The Government will provide in-kind contributions in the form of staff time and resources from SOPTRAVI and SERNA to work towards the expected results of this Project. All of these contributions will be more specifically set forth in the relevant components of the Implementation Plan or relevant Supplemental Agreement between the Parties.

[9] These amounts will be disbursed only upon satisfaction of (i) completion of a detailed Project management plan and coordination plan by MCA-Honduras in conjunction with Transportation Project Manager, and (ii) other conditions set out in the Disbursement Agreement.

[10] These amounts will be disbursed only upon satisfaction of (i) completion of a detailed Project management plan and coordination plan by MCA-Honduras in conjunction with Transportation Project Manager, and (ii) other conditions set out in the Disbursement Agreement. The amounts in Year 4 will be disbursed only upon satisfaction of a detailed vehicle weight control plan and other conditions set out in the Disbursement Agreement.

[11] These amounts will be disbursed only upon satisfaction of (i) completion of a detailed vehicle weight control plan, and (ii) other conditions set out in the Disbursement Agreement.

[12] The Government will provide in-kind contributions in the form of SAG, SOPTRAVI, FHIS and INE staff time and resources towards data collection and other monitoring and evaluation functions, which contributions will be more specifically set forth in the relevant components of the Implementation Plan or relevant Supplemental Agreement between the Parties.

[13] The Government will pursue legislative and policy reforms to improve its level of performance under the policy criteria identified in Section 607 of the Millennium Challenge Act of 2003, including by enacting new anti-trust, civil service and civil procedure legislation.

ANNEX III

DESCRIPTION OF THE M&E PLAN

This Annex III to the Compact (the "***M&E Annex***") generally describes the components of the M&E Plan for the Program. Each capitalized term in this Annex III shall have the same meaning given such term elsewhere in this Compact.

1. Overview.

The Parties shall implement an M&E Plan that specifies (i) how the implementation of the Program and progress toward the achievement of the Objectives and Compact Goal will be monitored ("***Monitoring Component***"), (ii) a process and timeline for the assessment of planned, ongoing, or completed Project Activities to determine their efficiency, effectiveness, impact and sustainability ("***Evaluation Component***"), and (iii) other components described below. Information regarding the Program's performance, including the M&E Plan, and any amendments or modifications thereto, and periodic reports, will be made publicly available on the MCA-Honduras Website and elsewhere.

2. Monitoring Component.

To monitor the implementation of the Program and progress toward the achievement of the Objectives and Compact Goal, the Monitoring Component shall define the Indicators (defined below), the party responsible for reporting each Indicator to MCA-Honduras, and the method by which the reported data will be validated.

(a) **Indicators**. The M&E Plan shall measure the results of the Program using objective data ("***Indicators***"). Each Indicator will have one or more expected results that specify the expected value and the expected time by which that result will be achieved ("***Targets***"). The M&E Plan will measure and report four types of Indicators. First, the Compact Goal Indicator ("***Goal Indicator***") will measure the impact of the Program on the incomes of Hondurans who participate or are covered by the Program (collectively, "***Beneficiaries***"). Second, Objective Indicators (each, an "***Objective Indicator***") will measure the final results of the Projects in order to monitor their success in meeting the Objectives. Third, Outcome Indicators (each, an "***Outcome Indicator***") will measure the intermediate results of goods and services delivered under the Project in order to provide an early measure of the likely impact of the Projects on the Objectives. Fourth, Project Activity Indicators (each, an "***Activity Indicator***") will measure the delivery of key goods and services in order to monitor the pace of Project Activity execution. For each Outcome, Objective and Goal Indicator, the M&E Plan will define a strategy for validating the value of such Indicator prior to being affected by the Program ("***Baseline***"). All Indicators will be disaggregated by gender, income level and age, to the extent practicable.

(i) **Compact Goal Indicator**. The Project Activities undertaken in connection with the Program are expected to increase the incomes of Beneficiaries. The increase in income accrued to a group of Beneficiaries as a result of one or more Project Activities over a period of time constitutes a benefit stream ("***Benefit Stream***"). The M&E Plan shall contain one Goal Indicator, listed in the table below, which is the change in the income of

Beneficiaries attributable to the Program. The Goal Indicator will be calculated as the sum of the Benefit Streams. MCA-Honduras, with approval from MCC, must define a methodology for estimating a Benefit Stream prior to the disbursement of funds for any Project Activity that may influence that Benefit Stream. Such a methodology would measure the difference between the actual income of Beneficiaries and the estimated value of what their income would have been without the Program.

Compact Goal: Increased Economic Growth and Reduced Poverty							
Indicator	Year 1	Year 2	Year 3	Year 4	Year 5	Year 20	PV[1]
Increase in income of Beneficiaries (annual US$ millions) (disaggregated by income level, gender and age, where appropriate.)	**$1.9**	**$5.9**	**$12.9**	**$43.5**	**$69.0**	**$158.4**	**$538.3**
Measured by							
Benefits of Highway CA-5 upgrade:[2] *Beneficiaries: Users of Highway CA-5 and employees of business that use road.*	$1.9	$5.5	$4.7	$15.3	$19.4	$30.0	$133.9
Benefits of secondary road paving:[3] *Beneficiaries: Users of paved secondary roads and employees of business that use those roads.*	$0.0	$0.0	$1.5	$4.0	$6.6	$14.8	$55.4
Increase in farm income resulting from Rural Development Project:[4] *Beneficiaries: Program Farmers*	$0.0	$0.2	$2.5	$10.2	$18.5	$60.1	$172.9
Increase in employment income resulting from Rural Development Project:[5] *Beneficiaries: Employees of Program Farmers*	$0.0	$0.2	$2.1	$8.8	$16.0	$51.9	$149.4
Benefit of Farm to Market Roads: [6] *Beneficiaries: Communities surrounding Farm to Market Roads.*	$0.0	$0.0	$1.7	$4.1	$7.1	$0.1	$18.0
Benefits of Agricultural Public Goods Grant Facility: [7] *Beneficiaries: Users of public goods*	$0.0	$0.0	$0.5	$1.0	$1.4	$1.4	$8.7

Notes to Compact Goal Table:

1) PV: Present Value of Benefit Streams calculated for 20 year period with 10% discount rate.

2) For the Highway CA-5, the Benefit Stream includes wages to local labor, savings due to reduced vehicle operating costs and travel time.

3) For secondary road paving, the Benefit Stream includes savings due to reduced vehicle operating costs and travel time.

4) For increase in farm income, the Benefit Stream is calculated as net profits per hectare of a typical horticulture crop (US$ 1203) minus the net profits per hectare of basic grain production (US$500) * number of hectares harvesting this typical horticulture crop. A typical horticulture crop is defined as the 25th percentile, in terms of costs and net profits, of a basket of 15 horticulture crops suitable for Honduras.

5) For increase in employment income, the Benefit Stream is calculated as the labor costs per hectare associated with a typical horticulture crop (US $ 608) * number of hectares harvesting this typical horticulture crop.

6) For Farm to Market Roads, the Benefit Stream is calculated based on the costs accrued in each year and the imputed value of benefits (assuming 25% depreciation per year) necessary to guarantee a 15% rate of return. Only roads that yield at least this rate of return will be funded.

7) For Agricultural Public Goods Fund, the Benefit Stream is calculated based on the costs accrued in each year and the imputed value of benefits necessary to guarantee a 15% rate of return. Only projects that yield at least this rate of return will be funded.

Outcome and Objective Indicators. The M&E Plan shall contain the Objective and Outcome Indicators listed in the table below. MCA-Honduras, with prior approval from MCC, may only add Objective and Outcome Indicators or refine the Targets of existing Objective and Outcome Indicators prior to the disbursement of funds for any Project Activity that may influence that Indicator.

Agricultural Objective						
Objective Level Indicators	**Baseline[1]**	**Year 1**	**Year 2**	**Year 3**	**Year 4**	**Year 5**
# of Program Farmers harvesting high-value horticulture crops at year end	0	--	625	3,499	7,340	8,255
# of hectares harvesting high-value horticulture crops at year end	0	--	950	5,410	11,830	14,400
Outcome Level Indicators	**Baseline**	**Year 1**	**Year 2**	**Year 3**	**Year 4**	**Year 5**
# of business plans prepared by Program Farmers with assistance of T.A. provider (total for year)	0	170	1340	3980	3310	0
Value of loans to Program Farmers[2] (year end US$ mil.)	TBD[3]	1.9	10.8	23.7	28.8	31.8
% of MCA-Honduras loan portfolio at risk[4]	0	4-6%	4-6%	4-6%	4-6%	4-6%
# Liens registered	0	0	TBD	TBD	TBD	TBD

Notes to Agricultural Objective Table:
1) Baseline data for each Indicator will be verified prior to undertaking any activity that affects the value of such Indicator.
2) Data should be disaggregated by type of collateral (if any), documentation required and tenor of loan.
3) There were $148 million in loans outstanding to the agricultural sector in Honduras in Sept 2004.
4) This indicator will be calculated as an average of the previous four quarters.

Transportation Objective			
Objective Level Indicators	**Baseline**	**Year 5**	**Year 10**
Freight shipment cost from Tegucigalpa to Puerto Cortes[1]	$6.37 /ton	$ 5.78/ton	$ 5.78/ton
Farm gate price of goods	TBD[2]	TBD	TBD
Average daily traffic volume[3]	T1. 8,374 T2. 5,411 T3 6,732	T1. 9,447 T2. 6,104 T3 7,594	T1. 11,550 T2. 7,462 T3 9,284
	Secondary Roads 676	Secondary Roads 887	Secondary Roads 1,115
	Rural Roads: TBD[4]	Rural Roads: TBD	Rural Roads: TBD
Outcome Level Indicators	**Baseline**	**Year 5**	**Year 10**
Cost per journey (Travel time)[5]		25% reduction from baseline	
Cost per journey (International roughness index)[6]	T1. 4.7 T2. 4.4 T3 4.0	T1. 1.9 T2. 2.0 T3 2.0	T1. 2.2 T2. 2.4 T3 2.4
	Secondary Roads 13.6	Secondary Roads 2.5	Secondary Roads 2.8
Proportion of overweight vehicles on main highway network	23%	7%	

Notes to Transportation Objective Table:
1) Baseline Freight shipment cost is from the Inter-American Development Bank, (HO-0207 Table III-2). Costs and prices will be reported in constant U.S. Dollars.
2) Farm-gate prices will depend on type of crop grown and will be confirmed by implementing entity(ies) as part of reporting requirements.
3) T1, T2, and T3 represent different sections of the highway being upgraded.
4) This information will be a requirement of the Rural Roads proposals submitted to the Program. Information will be verified as part of the Rural Roads selection process, prior to disbursement of Project funds.
5) Rural Roads.
6) Highway and Secondary Roads.

(ii) **Activity Indicators.** Prior to the disbursement of MCC Funding for any Project Activity, the Implementing Entity of that Project Activity must propose a set of Activity Indicators that is approved by its Project Manager, MCA-Honduras and MCC. The M&E Plan shall be amended to reflect the addition of such Indicators. The table below shows a notional list of Activity Indicators that the M&E Plan may contain.

Rural Development Project						
Activity Level Indicators	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Farmer Training and Development						
Hours of technical assistance delivered to Program Farmers (thousands)	10	80	330	420	170	1,010
Farmer Access to Credit						
Funds lent by MCA-Honduras to financial institutions ($US mil.)[1]		$6		-$1	-$5	$0
Hours of technical assistance to financial institutions[2]		4,800	4,800	4,800		14,400
Lien Registry equipment installed		yes				
Farm to Market Roads						
Kilometers of Farm to Market Road upgraded		300	500	700		1,500
Agricultural Public Goods Grant Facility[3]						

Transportation Project			
Activity Level Indicators	Year 3	Year 4	Total
Highway CA-5			
Kilometers of highway upgraded	61	48	109
Secondary Roads			
Kilometers of secondary road upgraded	38	53	91
Vehicle Weight Control			
Number of weight stations built	3	5	8

Notes to Activity Indicator Table:
1) Negative sign indicates funds repaid to MCA-Honduras Program Account.
2) Hours of banking technical assistance to financial institutions assumes: 3 staff * 8 hours/day * 200 days/year.
3) Activity Indicators will be determined by grant recipients.

(b) **Data Collection and Reporting**. The M&E Plan shall establish guidelines for data collection and a reporting framework, including a schedule of Project Activities and responsible parties. Prior to any Re-Disbursements with respect to a Project Activity, the baseline data or report, as applicable and as specified in the Disbursement Agreement, with respect to such Project Activity must be completed in form and substance satisfactory to MCC. With respect to any data or reports received by MCA-Honduras, MCA-Honduras shall promptly deliver such reports to MCC along with any other related documents, as specified in this Annex III or as may be requested from time to time by MCC.

(c) **Performance Assessments**. The PMU shall conduct regular Performance Assessments to inform MCA-Honduras, Project Managers and the MCC of progress under the Program and to alert these parties to any problems. These assessments will report the actual results compared to the Targets on the Indicators referenced in the Monitoring Component,

explain deviations between these actual results and Targets, and in general, serve as a management tool for implementation of the Program.

(d) **Data Quality Reviews.** From time to time, as determined in the M&E Plan or as otherwise requested by MCC, the quality of the data gathered through the M&E Plan shall be reviewed to ensure that data reported are as valid, reliable, and timely as resources will allow. The objective of any data quality review will be to verify the quality and the consistency of performance data across different implementation units and reporting institutions. Such data quality reviews also will serve to identify where those levels of quality are not possible given the realities of data collection.

3. Evaluation Component.

The Program shall be evaluated on the extent to which the interventions contributed to the Compact Goal. The Evaluation Component shall contain a process and timeline for analyzing data in order to assess planned, ongoing, or completed Project Activities to determine their efficiency, effectiveness, impact and sustainability. The Evaluation Component shall contain two types of reports, a Final Evaluation and Ad Hoc Evaluations and be finalized before any MCC Disbursement or Re-Disbursement for specific Project Activities.

(a) **Final Evaluation.** MCA-Honduras, with the prior approval of MCC, shall engage an independent evaluator to conduct an evaluation at the completion of the Program ("***Final Evaluation***"). The Final Evaluation must at a minimum (i) evaluate the efficiency and effectiveness of the Project Activities, (ii) estimate, in a statistically valid way, the casual relationship between the Projects and the Compact Goal, (iii) analyze the reasons why the Compact Goal was or was not achieved, (iv) identify positive and negative unintended results of the Program, (v) provide lessons learned that may be applied to similar projects, and (vi) assess the likelihood that results will be sustained over time.

(b) **Ad Hoc Evaluations.** Either MCC or MCA-Honduras may request ad hoc evaluations of Projects, Project Activities or the Program as a whole prior to the expiration of the Compact. If MCA-Honduras engages an evaluator, the evaluator will be an externally contracted independent source selected by MCA-Honduras, subject to the approval of MCC, following a tender in accordance with the Procurement Guidelines, and otherwise in accordance with any relevant Implementation Letter or Supplemental Agreement. The cost of an independent evaluation may be paid from MCC Funding. If MCA-Honduras requires an interim independent evaluation at the request of the Government for any reason, including for the purpose of contesting an MCC determination with respect to a Project or to seek funding from other donors, no MCC Funding or MCA-Honduras resources may be applied to such evaluation, without MCC's prior written approval.

4. Other Components of the M&E Plan.

In addition to the Monitoring and Evaluation Components, the M&E Plan shall include the following components for the Program and each Project and Project Activity, including, where appropriate, roles and responsibilities of the relevant parties and Providers:

(a) **Costs**. A detailed cost estimate for all components of the M&E Plan shall be set forth in the M&E Plan.

(b) **Assumptions and Risks**. The M&E Plan shall identify any assumptions and risks external to the Program that underlie the accomplishment of the Objectives and Outcomes; provided, however, such assumptions and risks shall not excuse performance of the Parties, unless otherwise expressly agreed to in writing by the Parties.

(c) **Modifications**. Notwithstanding anything to the contrary in the Compact, including the requirements of this M&E Annex, the Parties may modify or amend the M&E Plan or any component thereof, including those elements described herein, without amending the Compact; provided, any such modification or amendment of the M&E Plan has been approved by MCC and is otherwise consistent with the requirements of this Compact and any relevant Supplemental Agreement between the Parties.

[FR Doc. 05–12495 Filed 6–23–05; 8:45 am]
BILLING CODE 9210–01–C

Federal Register

Friday,
June 24, 2005

Part III

Department of Housing and Urban Development

24 CFR Part 2004
Office of Inspector General (OIG) Subpoenas and Production in Response to Subpoenas or Demands of Courts or Other Authorities; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 2004

[Docket No. FR–4942–F–02]

RIN 2508–AA14

Office of Inspector General (OIG) Subpoenas and Production in Response to Subpoenas or Demands of Courts or Other Authorities

AGENCY: Office of Inspector General, HUD.

ACTION: Final rule.

SUMMARY: On December 7, 2004, HUD published a proposed rule proposing to amend HUD's Office of Inspector General's (OIG's) regulations to provide an appellate review procedure regarding the OIG's responses to subpoenas issued to OIG employees requesting documents or testimony in legal proceedings where the OIG is not a party. The establishment of an appellate proceeding is designed to ensure both a thorough review process by the OIG and a complete opportunity for a party or person to take formal exception to the OIG's determination. This final rule follows publication of the December 7, 2004, proposed rule. HUD did not receive any public comments on the proposed rule and, therefore, is adopting the proposed rule without change.

DATES: *Effective Date:* July 25, 2005.

FOR FURTHER INFORMATION CONTACT: Bryan Saddler, Counsel to the Inspector General, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8260, Washington, DC 20410–4500; telephone (202) 708–1613 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The regulations regarding requests of HUD's Office of Inspector General (OIG) employees for testimony and production of documents are located at 24 CFR part 2004. Under § 2004.20, no OIG employee may produce official records or provide any testimony relating to official information in response to a demand or request without the prior written approval of the Inspector General (IG) or the Counsel for Inspector General (Counsel). The IG has delegated the authority to respond to requests and demands for production of OIG records and testimony of OIG employees to the Counsel.

Section 2004.21 identifies the factors that the OIG will consider in making determinations in response to requests for OIG documents or testimony, and § 2004.25 provides that the Counsel's decision is the final determination on demands and requests of OIG employees for the production of official records and information or testimony.

After request or demand of documents or testimony, the Counsel will review the demand and determine whether the OIG employee is authorized to release documents or testify. The Counsel will notify the requester of the final determination and the reasons for the grant or denial of the request.

On December 7, 2004 (69 FR 70868), HUD published a proposed rule proposing to amend 24 CFR part 2004 to provide for an appellate review process regarding the Counsel's responses to subpoenas issued to OIG employees in legal proceedings where the OIG is not a party.

II. This Final Rule

This final rule follows publication of the December 7, 2004, proposed rule. The proposed rule provided for a 60-day comment period. The comment period for the proposed rule closed on February 7, 2005. HUD did not receive any public comments on the proposed rule. Accordingly, this final rule adopts the proposed rule without change.

As the current regulations are written, no review process exists for unfavorable decisions made by the Counsel. Once the Counsel makes a determination denying a request for documents or testimony, or restricting the release of documents or testimony, the decision is final. This final rule addresses the need for a review process by amending 24 CFR part 2004 to provide for an appellate review process regarding the Counsel's responses to subpoenas issued to OIG employees in legal proceedings where the OIG is not a party.

When a party or any person is aggrieved by the Counsel's decision denying a request for documents or testimony, that party or person may seek review of the decision by filing a written Notice of Intention to Petition for Review (Notice). After filing this Notice, the party or person must also file a Petition for Review (Petition) detailing the issues and reasons why a review of the Counsel's decision is appropriate. All filings must be served on the Counsel in accordance with § 2004.23. Either the Counsel or the IG will review the Petition, and the decision on the Petition will become the final decision of the OIG.

If the party or person is not satisfied with the OIG's decision, the party or person may seek judicial review. However, as noted in the current regulations, if the Counsel declines to approve a demand for records or testimony, and a court or other authority rules that the demand must be complied with regardless of OIG instructions not to release the material or information sought, the OIG employee or former OIG employee upon whom the demand has been made shall respectfully decline to comply with the demand.

This rule amendment sets forth a review process where Counsel can thoroughly and timely consider the party's or person's petition prior to issuing a final decision on the release of documents or testimony.

III. Findings and Certifications

Paperwork Reduction Act

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB control number, when assigned, will be published in a separate notice. Under this Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule will provide those persons aggrieved by an OIG decision denying a request for production of documents or testimony the opportunity to seek review of the decision. This final rule will impose no additional economic or other burdens. Rather, this rule provides small entities with the benefit of a review process for unfavorable OIG decisions. Therefore, the undersigned certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

In accordance with 24 CFR 50.19(c)(1) of the Department's regulations, this final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition,

disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, this final rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This final rule does not impose any federal mandates on any State, local, or tribal government or the private sector within the meaning of UMRA.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from publishing any rule that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

List of Subjects in 24 CFR Part 2004

Administrative practice and procedure, Courts.

■ For the reasons stated in the preamble, HUD amends 24 CFR part 2004 as follows:

PART 2004—SUBPOENAS AND PRODUCTION IN RESPONSE TO SUBPOENAS OR DEMANDS OF COURTS OR OTHER AUTHORITIES

■ 1. The authority citation for 24 CFR part 2004 continues to read as follows:

Authority: Inspector General Act of 1978, as amended (5 U.S.C. app.) and 42 U.S.C. 3535(d).

■ 2. Revise § 2004.28 to read as follows:

§ 2004.28 Procedure in the event of an adverse ruling.

(a) *Opportunity to review adverse ruling.* Any person aggrieved by a decision made by the Counsel under this part denying a request for documents or testimony, or restricting the release of documents or testimony, may seek review of that decision pursuant to paragraph (c) of this section.

(b) *Procedure in the event of conflicting court order.* If the Inspector General or Counsel declines to approve a demand for records or testimony and a court or other authority rules that the demand must be complied with irrespective of the instructions from the OIG not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand, citing *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951).

(c) *Procedure.* (1) *Notice of intention to petition for review.* A party or any person aggrieved by the decision made pursuant to this part denying or restricting the release of documents or testimony may seek review of the decision by filing a written Notice of Intention to Petition for Review (Notice) within five business days of the date of this decision. The Notice shall identify the petitioner, the adverse decision, and any dates (such as deposition, hearing, or court dates) that are significant to the party. The Notice shall be served in accordance with § 2004.23.

(2) *Petition for review.* Within five business days of the filing of a Notice, the person or party seeking review shall file a Petition for Review (Petition) containing a clear and concise statement of the issues to be reviewed and the reasons why the review is appropriate. The petition shall include exceptions to any findings of fact or conclusions of law made, together with supporting reasons and arguments for such exceptions based on appropriate citations to such record or law as may exist. These reasons may be stated in summary form. Decisions on the Petition may be made by either the Inspector General or the Counsel and shall become the final decisions of the OIG. The Petition will be served in accordance with § 2004.23.

(d) *Prerequisite to judicial review.* Pursuant to Section 704 of the Administrative Procedure Act, 5 U.S.C. 704, a petition to the agency for review of a decision made under the authority of this part is a prerequisite to the seeking of judicial review of the final decision.

Dated: April 6, 2005.

Kenneth M. Donohue, Sr.,

Inspector General.

[FR Doc. 05–12477 Filed 6–23–05; 8:45 am]

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Federal Register

Friday,
June 24, 2005

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2005–06 Hunting Season; Notice of Meetings; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AT76

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2005–06 Hunting Season; Notice of Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter, Service or we) proposed in an earlier document to establish annual hunting regulations for certain migratory game birds for the 2005–06 hunting season. This supplement to the proposed rule provides the regulatory schedule; announces the Service Migratory Bird Regulations Committee and Flyway Council meetings; provides Flyway Council recommendations resulting from their March meetings; and provides regulatory alternatives for the 2005–06 duck hunting seasons.

DATES: The Service Migratory Bird Regulations Committee will meet to consider and develop proposed regulations for early-season migratory bird hunting on June 22 and 23, 2005, and for late-season migratory bird hunting and the 2006 spring/summer migratory bird subsistence seasons in Alaska on July 27 and 28, 2005. All meetings will commence at approximately 8:30 a.m. Following later **Federal Register** notices, you will be given an opportunity to submit comments for proposed early-season frameworks by July 30, 2005, and for proposed late-season frameworks and subsistence migratory bird seasons in Alaska by August 30, 2005.

ADDRESSES: The Service Migratory Bird Regulations Committee will meet in room 200 of the U.S. Fish and Wildlife Service's Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Send your comments on the proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. You may inspect comments during normal business hours in room 4107, Arlington Square Building, 4501 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, at: Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2005

On April 6, 2005, we published in the **Federal Register** (70 FR 17574) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the second in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. We will publish proposed early-season frameworks in early July and late-season frameworks in early August. We will publish final regulatory frameworks for early seasons on or about August 20, 2005, and for late seasons on or about September 15, 2005.

Service Migratory Bird Regulations Committee Meetings

The Service Migratory Bird Regulations Committee will meet June 22–23, 2005, to review information on the current status of migratory shore and upland game birds and develop 2005–06 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands. The Committee will also develop regulations recommendations for special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, the Committee will review and discuss preliminary information on the status of waterfowl.

At the July 27–28, 2005, meetings, the Committee will review information on the current status of waterfowl and develop 2005–06 migratory game bird regulations recommendations for regular waterfowl seasons and other species and seasons not previously discussed at the early-season meetings. In addition, the Committee will develop recommendations for the 2006 spring/summer migratory bird subsistence season in Alaska.

In accordance with Departmental policy, these meetings are open to public observation. You may submit written comments to the Service on the matters discussed.

Announcement of Flyway Council Meetings

Service representatives will be present at the individual meetings of the four Flyway Councils this July. Although agendas are not yet available, these meetings usually commence at 8 a.m. on the days indicated.

Atlantic Flyway Council: July 24–25, Regency and Harborside Hotels, Bar Harbor, Maine.

Mississippi Flyway Council: July 23–24, The Grand Casino, Tunica, Mississippi.

Central Flyway Council: July 21–22, Radisson Hotel and Suites, Helena, Montana.

Pacific Flyway Council: July 20, Utah Division of Wildlife Resources, 1594 W. North Temple, Salt Lake City, Utah.

Review of Public Comments

This supplemental rulemaking describes Flyway Council recommended changes based on the preliminary proposals published in the April 6, 2005, **Federal Register**. We have included only those recommendations requiring either new proposals or substantial modification of the preliminary proposals. This supplement does not include recommendations that simply support or oppose preliminary proposals and provide no recommended alternatives. We will consider these recommendations later in the regulations-development process. We will publish responses to all proposals and written comments when we develop final frameworks. In addition, this supplemental rulemaking contains the regulatory alternatives for the 2005–06 duck hunting seasons. We have included all Flyway Council recommendations received relating to the development of these alternatives.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items identified in the April 6, 2005, proposed rule. Only those categories requiring your attention or for which we received Flyway Council recommendations are discussed below.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy, (B) Regulatory Alternatives, including specification of framework dates, season length, and bag limits, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management.

A. General Harvest Strategy

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that regulations changes be restricted to one step per year, both when restricting as well as liberalizing hunting regulations.

Service Response: Incorporation of a one-step constraint into the Adaptive Harvest Management (AHM) process was addressed by the AHM Task Force of the International Association of Fish and Wildlife Agencies (IAFWA) in its report and recommendations. This recommendation will be included in considerations of potential changes to the set of regulatory alternatives at a later time. See also our response under *B. Regulatory Alternatives*.

B. Regulatory Alternatives

Council Recommendations: The Atlantic Flyway Council recommended the use of the same regulatory alternatives for duck hunting seasons in 2005–06 as were used in 2004–05, except that: (1) black duck bag limits should be specified as ''To be determined based on current status information''; and (2) all possession limits should be increased to four times the daily limit.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that regulatory alternatives for duck-hunting seasons remain the same as those used in 2004.

The Central Flyway Council recommended that the Service adopt Adaptive Harvest Management (AHM) duck regulations packages and additional species/sex restrictions for the Central Flyway in 2005–2006 that are the same as those used in the 2004–2005 season, with the following exception: for pintails and canvasbacks, regulations be implemented as described in their Hunter's Choice evaluation proposal (*i.e.*, during 2005–06, a 39-day season length concurrent with the regular season zones and splits, one-bird daily bag limit for both species).

Service Response: On March 11, 2005 the AHM Task Force submitted a draft final report (*http://migratorybirds.fws.gov/mgmt/ahm/taskforce/taskforce.htm*) to the IAFWA Executive Committee concerning the future development and direction of AHM. The Task Force endeavored to develop a strategic approach that was comprehensive and integrative, that recognized the diverse perspectives and desires of stakeholders, that was consistent with resource monitoring and assessment capabilities, and that hopefully could be embraced by all four Flyways Councils. We appreciate the extensive discussion the report received at the Flyway Council meetings in Arlington, Virginia in March 2005 and look forward to continuing dialogue concerning the future strategic course for AHM.

Among the most widely debated issues now, as in the past, is the nature of the regulatory alternatives. The Task Force recommended a simpler and more conservative approach than is reflected in the regulatory alternatives used since 1997, which are essentially those proposed by the Service for the 2005–06 hunting season (April 6 **Federal Register**). As yet, however, no consensus has emerged among the Flyway Councils concerning modifications to the regulatory alternatives, and it seems clear that no such consensus will be achieved in time to select a regulatory alternative for the 2005–06 hunting season. Therefore, the regulatory alternatives proposed in the April 6 **Federal Register** will be used for the 2005–06 hunting season, with the following exception. Beginning this year, the AHM regulatory alternatives will consist only of the maximum season lengths, framework dates, and bag limits for total ducks and mallards. Restrictions for certain species within these frameworks that are not covered by existing harvest strategies, and the request from the Central Flyway Council concerning its desire to begin implementation of the ''Hunters' Choice'' bag-limit experiment, will be addressed during the late-season regulations process. For those species with existing harvest strategies (canvasbacks and pintails), the strategies to be used for the 2005–06 hunting season will be established during the early-season regulations process.

C. Zones and Split Seasons

Council Recommendations: The Atlantic Flyway Council recommended that the Service allow three zones, with two-way splits in each zone, as an additional option for duck season configurations in 2006–2010. Guidelines for zone-split configurations should be finalized by September 2005 so that States have adequate opportunity to consider possible changes for 2006.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service allow three zones, with two-way splits in each zone, and four zones with no splits, as additional options for duck season configurations in 2006–2010. In addition, the Committee recommended that States with existing grandfathered status be allowed to retain that status.

D. Special Seasons/Species Management

iii. Black Ducks

Council Recommendations: The Atlantic Flyway Council requests the Service, in cooperation with the Atlantic and Mississippi Flyway Councils, develop a process to stratify black duck harvest using existing biological and harvest data to consider differential regulations among the Mississippi Flyway and appropriate regions of the Atlantic Flyway for the 2005 regulatory cycle.

Service Response: In 2003, we began working with the Atlantic Flyway Council and others to develop assessment methods that could be used to better inform black duck harvest management in the United States. Our goal is to assess the biological implications of any proposed changes to hunting regulations, as well as to complement the ongoing effort to develop an international program for the adaptive management of black duck harvests. The key components of the assessment methods would be: (1) A determination of sustainable harvest rates on a single, range-wide population of black ducks; and (2) a prediction of changes in harvest rates accompanying any regulatory proposals. The first task has largely been completed, but there have been technical obstacles in completing the second. We believe that successful completion of this technical work is a prerequisite to any effort to re-distribute the black duck harvest in the U.S.

We also wish to reiterate our obligate focus on a single, range-wide population of black ducks due to the limitations of current population monitoring programs. Moreover, the extent to which hunting regulations can be stratified to account for spatial variation in the harvest potential of black ducks is likely limited due to the mixing of birds from various breeding areas during the hunting seasons in the U.S. We are continuing to conduct technical assessment in cooperation with the Atlantic and Mississippi Flyway Councils that should help address this issue.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council recommended that Connecticut's September goose season framework dates of 1 September to 30 September become operational. The Council further recommended

raising the possession limit of geese to four times the daily bag limit, except where currently more liberal.

The Central Flyway Council recommended that Oklahoma's Experimental September Canada Goose Hunting Season become operational for the time period beginning September 16–25, beginning with the September 2005 hunting season.

The Pacific Flyway Council recommended extending Idaho's geographically limited September season framework to a Statewide framework.

B. Regular Seasons

Council Recommendations: The Atlantic Flyway Council recommended raising the possession limit of geese to four times the daily bag limit, except where currently more liberal.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the framework opening date for all species of geese for the regular goose seasons be September 16 in 2005 and future years. If this recommendation is not approved, the Committees recommended that the framework opening date for all species of geese for the regular goose seasons in Michigan and Wisconsin be September 16, 2005.

5. White-Fronted Geese

Council Recommendations: The Atlantic Flyway Council recommended that the Service include white-fronted geese as part of Canada goose hunting regulation frameworks in the Atlantic Flyway to allow the legal take of this species.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the 2005–06 white-fronted goose regulations be consistent with the ''base'' regulations in the current White-fronted Goose Management Plan. This would result in regulations options of 72 days with two white-fronted geese per day or 86 days with one white-fronted goose per day. Their recommendation is contingent upon the same regulations being implemented in the eastern portion of the Central Flyway.

The Central Flyway Council recommended a season framework of 72 days with a daily bag limit of two white-fronted geese, or an alternative season of 86 days with a daily bag limit of one goose, in all East-tier States. States could split the season once, and the possession limit would be twice the daily bag limit. In the West-tier States, the Council recommended a season framework of 107 days with a daily bag limit of five white-fronted geese, except in the Western Goose Zone of Texas where the daily bag limit would be one white-fronted goose. States could split the season once, and the possession limit would be twice the daily bag limit.

7. Snow and Ross's (Light) Geese

Council Recommendations: The Atlantic Flyway Council recommended raising the possession limit of geese to four times the daily bag limit, except where currently more liberal.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council recommended using the 2005 Rocky Mountain Population sandhill crane harvest allocation of 906 birds as proposed in the allocation formula using the 2002–2004 three-year running average. In addition, the Council recommended no changes in the Mid-continent Population sandhill crane hunting frameworks.

16. Mourning Doves

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that zoning remain an option for States in their management of mourning dove harvest. The Council recommends the following elements should be noted or made part of any change in zoning policy by the Service:

(1) There is no strong biological basis to establish a latitudinal line below which zoning is mandatory in the Eastern Management Unit;

(2) Use of September 20th as the earliest opening date for a South Zone has no biological basis; and

(3) Limiting the frequency that a State can select or change zoning options is supported, but the time period between changes should not exceed 5 years and States selecting zoning should be able to revert back to a non-zoning option for any remaining years left before zoning is again a regulatory option.

The Central Flyway Council recommends the following guidelines for mourning dove hunting zones and periods in the Central Management Unit (CMU):

(1) The time interval between changes in zone boundaries or periods within States in the CMU should not exceed 5 years consistent with the review schedule for duck zones and periods (*i.e.*, 2006–2010, 2011–2015, etc);

(2) States may select two zones and three segments except Texas has the option to select three zones and two segments; and

(3) The opening date of September 20 in the South Zone in Texas with the three zone option will remain unchanged.

The Council further recommends adopting the document, ''Implementation of Mourning Dove National Strategic Harvest Management Plan.'' The document provides guidance for addressing priority information needs referenced in the ''National Mourning Dove Strategic Harvest Management Plan'' (National Plan).

17. White-Winged and White-Tipped Doves

Council Recommendations: The Central Flyway Council recommends the boundary for the White-winged Dove Area in Texas be extended to include the area south and west of Interstate Highway 37 and U.S. Highway 90 with an aggregate daily bag limit of 12 doves, no more than 3 of which may be mourning doves. All other regulations would remain unchanged.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommended that the Canvasback Harvest Strategy include a statement to the effect that, ''In general, Alaska may annually select a canvasback season with limits of one daily, three in possession in lieu of annual prescriptions from this strategy. In the event that the breeding population declines to a level that indicates seasons will be closed for several years, the Service will consult with the Pacific Flyway Council to decide whether Alaska seasons should be closed.'' The Council and Service should appreciate that if season closure decisions are made during the late season process, Alaska will have to implement regulation changes by emergency orders, which will conflict with widely distributed public regulations summaries produced in July.

Further, the Council recommended removal of the Canada goose closure in the Aleutian Islands (Unit 10), reduction of dark goose limits in Units 18 and 9(E) to four daily with no more than two cackling/Canada geese, and reduction in the brant season length in Unit 9(D) from 107 days to 30 days. The Council's latter two recommendations are contingent on concomitant restrictions on primary migration and wintering areas in the lower 48 states.

Public Comment Invited

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. We intend that adopted final rules be as

responsive as possible to all concerned interests and, therefore, seek the comments and suggestions of the public, other concerned governmental agencies, nongovernmental organizations, and other private interests on these proposals. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations to the address indicated under the caption **ADDRESSES.**

Special circumstances involved in the establishment of these regulations limit the amount of time that we can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) The need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, we believe that to allow comment periods past the dates specified is contrary to the public interest. Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

You may inspect comments received on the proposed annual regulations during normal business hours at the Service's office in room 4107, 4501 North Fairfax Drive, Arlington, Virginia. For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments received during the comment period and respond to them after the closing date.

NEPA Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **ADDRESSES.**

In a proposed rule published in the April 30, 2001, **Federal Register** (66 FR 21298), we expressed our intent to begin the process of developing a new Supplemental Environmental Impact Statement for the migratory bird hunting program. We plan to begin the public scoping process in 2005.

Endangered Species Act Consideration

Prior to issuance of the 2005–06 migratory game bird hunting regulations, we will comply with provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; hereinafter the Act), to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species. Consultations under section 7 of the Act may cause us to change proposals in this and future supplemental proposed rulemaking documents.

Executive Order 12866

The migratory bird hunting regulations are economically significant and were reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990–96, updated in 1998, and updated again in 2004. It is further discussed below under the heading *Regulatory Flexibility Act*. Results from the 2004 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of $734 million to $1.064 billion, with a mid-point estimate of $899 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *www.migratorybirds.gov*.

Executive Order 12866 also requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule?

(6) What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov.*

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, and 2004. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2004 Analysis was based on the 2001 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $481 million and $1.2 billion at small businesses in 2004. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov*.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995 (PRA). There are no new information collections in this proposed rule that

would require OMB approval under the PRA. OMB has approved the information collection requirements of the surveys associated with the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 2/29/2008). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Survey and assigned clearance number 1018–0023 (expires 11/30/2007). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of the harvest, and the portion it constitutes of the total population. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this proposed rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2005–06 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 aj.

Dated: June 10, 2005.

Paul Hoffman,

Assistant Secretary for Fish and Wildlife and Parks.

BILLING CODE 4310–55–P

REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 2005-06 SEASON

	ATLANTIC FLYWAY			MISSISSIPPI FLYWAY			CENTRAL FLYWAY (a)			PACIFIC FLYWAY (b)(c)		
	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB
Beginning Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24
Closing Date	Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.
Season Length (in days)	30	45	60	30	45	60	39	60	74	60	86	107
Daily Bag/ Possession Limit	3 6	6 12	6 12	3 6	6 12	6 12	3 6	6 12	6 12	4 8	7 14	7 14
Species/Sex Limits within the Overall Daily Bag Limit												
Mallard (Total/Female)	3/1	4/2	4/2	2/1	4/1	4/2	3/1	5/1	5/2	3/1	5/2	7/2

(a) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway, with the exception of season length. Additional days would be allowed under the various alternatives as follows: restrictive - 12, moderate and liberal - 23. Under all alternatives, additional days must be on or after the Saturday nearest December 10.

(b) In the Columbia Basin Mallard Management Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all alternatives except the liberal alternative, an additional 7 days would be allowed.

(c) In Alaska, framework dates, bag limits, and season length would be different from the remainder of the Pacific Flyway. The bag limit would be 5-7 under the restrictive alternative, and 8-10 under the moderate and liberal alternatives. Under all alternatives, season length would be 107 days and framework dates would be Sep. 1 - Jan. 26.

[FR Doc. 05–12554 Filed 6–23–05; 8:45 am]
BILLING CODE 4310–55–C

Federal Register

Friday,
June 24, 2005

Part V

The President

Notice of June 23, 2005—Continuation of the National Emergency With Respect to the Western Balkans

Federal Register
Vol. 70, No. 121
Friday, June 24, 2005

Presidential Documents

Title 3—

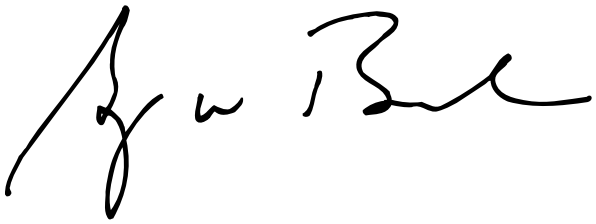
The President

Notice of June 23, 2005

Continuation of the National Emergency With Respect to the Western Balkans

On June 26, 2001, by Executive Order 13219, I declared a national emergency with respect to the Western Balkans pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions of persons engaged in, or assisting, sponsoring, or supporting (i) extremist violence in the Republic of Macedonia, and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. Subsequent to the declaration of the national emergency, the actions of persons obstructing implementation of the Ohrid Framework Agreement of 2001 in Macedonia also became a pressing concern. I amended Executive Order 13219 on May 28, 2003, in Executive Order 13304 to address this concern and to take additional steps with respect to the national emergency. Because the actions of persons threatening the peace and international stabilization efforts in the Western Balkans continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on June 26, 2001, and the measures adopted on that date and thereafter to deal with that emergency, must continue in effect beyond June 26, 2005. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the Western Balkans.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
June 23, 2005.

[FR Doc. 05–12735
Filed 6–23–05; 1:12 pm]
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Federal Register

Vol. 70, No. 121

Friday, June 24, 2005

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Agricultural Marketing Service

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  - Catch sharing plan; published 6-24-05

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  - Eligible telecommunications carrier designation; minimum requirements; published 5-25-05
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- Locomotive horns use at highway-rail grade crossings; sounding requirement; effective date change; published 3-18-05
- Locomotive horns use at highway-rail grade crossings; sounding requirements; published 4-27-05

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Agricultural Marketing Service

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 1760/P.L. 109–15

To designate the facility of the United States Postal Service located at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin, as the "Robert M. La Follette, Sr. Post Office Building". (June 17, 2005; 119 Stat. 337)

Last List June 2, 2005

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