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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—Session Closed
9:00 a.m.–Noon
Tuesday, August 16, 2005
9:00 a.m.–Noon

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

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

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4274

RIN 0570–AA42

Intermediary Relending Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) amends its regulations for the Intermediary Relending Program (IRP), 7 CFR 4274, subpart D. This action is needed to correct several problems that RBS has observed in the program operation. The intended effect of this action is to provide clarification and guidance and to allow the program to operate more efficiently and effectively.

DATES: This direct final rule is effective August 19, 2005 unless RBS receives written adverse comments or written notices of intent to submit adverse comments on or before August 4, 2005. If RBS receives such comments or notices, RBS will publish a timely document in the **Federal Register** withdrawing the direct final rule.

ADDRESSES: You may submit adverse comments or notice of intent to submit adverse comments to this rule by any of the following methods:

- *Agency Web site: http://rdinit.usda.gov/regs/.* Follow instructions for submitting comments on the Web site.
- *E-Mail: comments@usda.gov.* Include the RIN No. *0570–AA42* in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street, SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at 300 7th Street, SW., 7th Floor address listed above.

FOR FURTHER INFORMATION CONTACT: Lori A. Washington, Loan Specialist, Specialty Lenders Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Ave., SW., Washington, DC 20250–3225, telephone (202) 720–9815, e-mail *lori.washington@usda.gov*.

SUPPLEMENTARY INFORMATION:

Classification

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

Programs Affected

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.767, Intermediary Relending Program.

Intergovernmental Review

The IRP is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. RBS has conducted intergovernmental consultation in the manner delineated in RD Instruction 1940–J, ''Intergovernmental Review of Rural Development Programs and Activities,'' and in 7 CFR 3015, subpart V.

Civil Justice Reform

This direct final rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted, (2) no retroactive effect will be given this rule, and (3) administrative proceedings in accordance with the regulations of the Agency at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' RBS has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RBS must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, RBS has determined that this action would not have a significant economic impact on a substantial number of small entities because the action will not affect a significant number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). RBS made this determination based on the fact that this regulation

only impacts those who choose to participate in the program. Small entity applicants will not be impacted to a greater extent than large entity applicants. Therefore, a regulatory impact analysis was not performed.

Executive Order 13132, Federalism

It has been determined under Executive Order 13132, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Paperwork Reduction Act

This rule does not revise or impose any new information collection or recordkeeping requirements.

Background

A complete rewrite of the program regulations for the IRP was published on February 6, 1998. RBS has identified issues and requirements in the regulations that need further clarification for proficient administration of the program and to obtain maximum benefit of allocated funds. This action amends specific provisions of the regulation.

Currently, the regulation states that RBS is to take a security interest in all assets currently in or hereafter placed in the intermediary's IRP revolving fund. Recent enactment of the new Uniform Commercial Code provision has provided a control agreement with the depository bank, which is sufficient to protect RBS's security interest in the IRP bank account.

RD Instruction 4274, subpart D, § 4274.331(a)(3)(i) provides that in order to apply for and be considered for subsequent IRP loans, an intermediary must use at least 80 percent of its approved loan funds to be eligible. The purpose of this requirement is to help prevent an intermediary from borrowing more than it can use promptly and thereby holding or reserving funds that could otherwise be loaned to other intermediaries. RBS is changing this requirement to ease restrictions on intermediaries that have received multiple loans that serve different service areas. For example, an intermediary that normally serves several counties and has one loan to serve the entire area, may obtain a second loan from Empowerment Zone/Enterprise Communities and Rural Economic Area Partnership Zones (EZ/EC/REAP) earmarked funds to serve the area within an EZ/EC/REAP. The intermediary may not be able to use the EZ/EC/REAP funds as rapidly as the unrestricted funds. The current regulation prevents the intermediary from qualifying for a subsequent loan to meet the need for loans outside the EZ/EC/REAP until it is able to use the EZ/EC/REAP funds. This requirement appears to be an excessive burden on intermediaries, and the change removes this inequity.

Some intermediaries have received several loans over a period of years. Questions have been raised as to whether such an intermediary must have used 80 percent of the total funds received or 80 percent of each loan. This change clarifies the regulation by explaining that at least 80 percent of each prior Agency IRP loan approved for the intermediary must have been disbursed to eligible ultimate recipients, or that the subsequent loan will serve a different service area. If the intermediary has received multiple loans, at least 80 percent of each previous loan must have been disbursed.

To comply with the Environmental Policy Act, IRP regulations at § 4274.337(b) require Rural Development staff to complete a Class II Environmental Assessment for each IRP application from an intermediary. Since most intermediaries do not know, at the application stage, the ultimate recipients, the type of business, or where the business will be located, the assessment is of a generalized nature, and no public notices are issued. When the intermediary is ready to actually approve loans to specific ultimate recipients, RBS conducts an environmental review of each ultimate recipient loan. A program review by an RBS management control team has recommended the Class II Environmental Assessment not be required for a subsequent loan to an intermediary.

Normally, the factors to be assessed are the same for a subsequent loan as they were for the initial loan. RBS has decided to consider subsequent loans to an intermediary a categorical exclusion for environmental review, rather than a Class II action, provided the service area, eligibility requirements, and eligible purposes for loans to ultimate recipients will be the same for the subsequent loan as were considered in the previous environmental assessment.

The current priority scoring system allows points for the intermediary's equity contribution to the IRP revolving fund. It also allows points for other funds known as project contribution funds, to be provided by the intermediary to help meet ultimate recipient credit needs. The intermediary can contribute funds to, and receive points for, both categories. However, this is not well understood by RBS staff or applicants. Verbiage has been provided in RD Instruction 4274, subpart D, § 4274.344(c)(1)(ii) to better define the point structure.

The current regulation is silent regarding the timing of advancement of funds after closing the IRP loan. Outstanding obligations on IRP loans that are not advanced in a timely manner impact loan performance. This, in turn, negatively affects the program's subsidy rate resulting in increased administrative costs and reducing availability of funds for relending. Therefore, RBS will require that the intermediary initially draw up to 25 percent of the loan funds, or, have at least one ultimate recipient loan application ready to close upon closing of the IRP loan.

List of Subjects in 7 CFR 4274

Community development, Economic development, Loan programs—business, rural areas.

■ For reasons set forth in the preamble, Chapter XLII, title 7, of the Code of Federal Regulations is amended as follows:

PART 4274—DIRECT AND INSURED LOANMAKING

■ 1. The authority citation for part 4274 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932 note; 7 U.S.C. 1989.

Subpart D—Intermediary Relending Program (IRP)

■ 2. Section 4274.326 is amended by adding paragraph (a)(3) to read as follows:

§ 4274.326 Security.

(a) * * *

(3) In addition to normal security documents, a first lien interest in the intermediary's revolving fund account will be accomplished by a control agreement satisfactory to RBS. The control agreement does not have to require RBS signature for withdrawals. The depository bank shall waive its offset and recoupment rights against the depository account to RBS and subordinate any liens it may have against the IRP depository bank account. The use of Form RD 402–1, ''Deposit Agreement,'' or similar form developed by the State Regional Office of the General Counsel is acceptable.

* * * * *

3. Section 4274.331 is amended by revising paragraph (a)(3)(i) and paragraph (a)(4) to read as follows:

§ 4274.331 Loan limits.

(a) * * *

(3) * * *

(i) At least 80 percent of each of an intermediary's IRP loans, except those earmarked for special purposes, must have been disbursed to eligible ultimate recipients or the subsequent loan will serve a geographic area not included in an area currently served.

* * * * *

(4) Subsequent loans will not exceed $1 million each and not more than one loan will be approved by the Agency for an intermediary in any single fiscal year unless the request is from an IRP earmark.

* * * * *

4. Section 4274.337(b)(2) is amended by revising the first sentence and adding a sentence at the end of the paragraph to read as follows:

§ 4274.337 Other regulatory requirements.

* * * * *

(b) * * *

(2) For each application for an initial loan to an intermediary, the Agency will review the application, supporting materials, and any environmental information required from the intermediary and complete a Class II environmental assessment. * * * An application for a subsequent loan to an intermediary may be considered a categorical exclusion for environmental review, rather than a Class II action, provided the service area, eligibility requirements, and eligible purposes for loans to ultimate recipients will be the same for the subsequent loan as were considered in the previous environmental assessment, and the purpose of the loan is not environmentally controversial.

* * * * *

5. Section 4274.338 is amended by revising paragraph (a)(5)(i) and by revising the last sentence in paragraph (b)(4)(i)(B) to read as follows:

§ 4274.338 Loan agreements between the Agency and the intermediary.

* * * * *

(a) * * *

(5) * * *

(i) The intermediary may initially draw up to 25 percent of the loan funds or, the intermediary must have at least one ultimate recipient loan application ready to close. Upon requesting a disbursement, the intermediary must provide documentation showing that its equity contribution has been deposited into the IRP revolving loan fund account. The initial draw must be deposited in an interest bearing account in accordance with § 4274.332(b)(5) until needed and must be used for loans to ultimate recipients before any additional Agency IRP loan funds may be drawn by the intermediary.

* * * * *

(b) * * *

(4) * * *

(i) * * *

(B) * * * Intermediaries covered by OMB Circular A–133 should submit audits made in accordance with that circular.

* * * * *

6. Section 4274.344 is amended by revising the first sentence of the introductory text of paragraph (c) and by revising paragraph (c)(1)(ii) introductory text to read as follows:

§ 4274.344 Filing and processing applications for loans.

* * * * *

(c) *Loan priorities.* A point system will be used to determine an eligible applicant's priority for available loan funds. * * *

(1) * * *

(ii) The intermediary will provide loans to ultimate recipients from its project contribution funds to pay part of the costs of ultimate recipient projects. Project contribution funds must be separate and distinct from any loan or grant dollars provided to the intermediary under the IRP, as well as the intermediary's equity contribution. When evaluating an application for initial or supplemental funding, the Agency will consider the level of the applicant's project contribution and award points as follows:

* * * * *

Dated: May 19, 2005.

Peter J. Thomas,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 05–13144 Filed 7–1–05; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20870; Directorate Identifier 2004–NM–180–AD; Amendment 39–14174; AD 2005–13–37]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 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 Fokker Model F.28 Mark 0070 and 0100 airplanes. This AD requires repetitive inspections for damage of the drive rod assembly of the aileron tab on each aileron actuator; repetitive measurements of the clearance between the aileron hydraulic lines and the drive rod; and related investigative and corrective actions if necessary. This AD is prompted by a report of an aileron 2 fault caused by severe wear of the polyamide washer that is part of an anti-rotation bush assembly in the aileron attachment lug. We are issuing this AD to prevent excessive wear of the polyamide washer of the aileron actuator bush assembly, which could result in aileron flutter and loss of control of the airplane.

DATES: This AD becomes effective August 9, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of August 9, 2005.

ADDRESSES: For service information identified in this AD, contact Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands.

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–2005–20870; the directorate identifier for this docket is 2004–NM–180–AD.

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

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for all Fokker Model F.28 Mark 0070 and 0100 airplanes. That action, published in the **Federal Register** on April 6, 2005 (70 FR 17342), proposed to require repetitive inspections for damage of the drive rod assembly of the aileron tab on each aileron actuator; repetitive measurements of the clearance between the aileron hydraulic lines and the drive rod; and related investigative and corrective actions if necessary.

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 to Applicability

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.

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

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
Inspection	1	$65	None	$65	2	$130, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–13–37 Fokker Services B.V.: Amendment 39–14174. Docket No. FAA–2005–20870; Directorate Identifier 2004-NM–180-AD.

Effective Date

(a) This AD becomes effective August 9, 2005.

Affected ADs

(b) None.

Applicability: (c) This AD applies to all Fokker Model F.28 Mark 0070 and 0100 airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by a report of an aileron 2 fault caused by severe wear of the polyamide washer that is part of an anti-rotation bush assembly in the aileron attachment lug. We are issuing this AD to prevent excessive wear of the polyamide washer of the aileron actuator bush assembly, which could result in aileron flutter and loss of control 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.

Service Bulletin Reference

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Fokker Service Bulletin SBF100–27–083, dated October 20, 2003.

Repetitive Inspections and Measurements

(g) Within 24 months or 4,000 flight hours after the effective date of this AD, whichever occurs earlier: Do the actions in paragraphs (g)(1) and (g)(2) of this AD in accordance with the service bulletin. Repeat the actions thereafter at intervals not to exceed 4,000 flight hours.

(1) Do a detailed inspection for chafing damage of the aileron tab drive rod assembly on each aileron actuator.

(2) Measure the clearance between the hydraulic line and the aileron tab drive rod.

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

Corrective Action for Chafing Damage

(h) If any chafing damage that is greater than 0.2 mm is found during any inspection required by paragraph (g)(1) of this AD, replace the drive rod in accordance with the service bulletin, at the applicable threshold limits defined in the service bulletin.

Corrective Action for Discrepant Clearance Measurements

(i) If any clearance measurement that is outside the limits defined in the service bulletin is found during the action required by paragraph (g)(2) of this AD, do the actions in paragraphs (i)(1) and (i)(2) of this AD. Do all actions in accordance with the service bulletin at the applicable threshold limits defined in the service bulletin.

(1) Replace the polyamide washer or replace the bush assembly.

(2) Do all applicable related investigative and corrective actions after the replacement in paragraph (i)(1) of this AD, including replacing the aileron actuator with a serviceable aileron actuator as applicable.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(k) Dutch airworthiness directive 2003–141, dated November 28, 2003, also addresses the subject of this AD.

Material Incorporated by Reference

(l) You must use Fokker Service Bulletin SBF100–27–083, dated October 20, 2003, 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 Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. 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 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12836 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20852; Directorate Identifier 2004–NM–240–AD; Amendment 39–14175; AD 2005–13–38]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–100, DHC–8–200, and DHC–8–300 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 Bombardier Model DHC–8–100, DHC–8–200, and DHC–8–300 series airplanes. This AD requires revising the airworthiness limitations section of the Instructions for Continued Airworthiness by incorporating new and revised structural inspection procedures and new and revised inspection intervals for the longitudinal skin joints in the fuselage pressure shell. This proposed AD also requires phase-in inspections and repair of any crack found during any phase-in inspection. This AD is prompted by a report indicating that visual inspections were not adequate for detecting fatigue cracking in portions of the longitudinal skin joints in the fuselage pressure shell. We are issuing this AD to detect and correct fatigue cracking of the longitudinal skin joints in the fuselage pressure shell, which could affect the structural integrity of the airplane, and result in loss of cabin pressurization during flight.

DATES: This AD becomes effective August 9, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of August 9, 2005.

ADDRESSES: For service information identified in this AD, contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada.

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–2005–20852; the directorate identifier for this docket is 2004–NM–240–AD.

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

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for certain Bombardier Model DHC–8–100, DHC–8–200, and DHC–8–300 series airplanes. That action, published in the **Federal Register** on April 6, 2005 (70 FR 17377), proposed to require revising the airworthiness limitations section of the Instructions for Continued Airworthiness by incorporating new and revised structural inspection procedures and new and revised inspection intervals for the longitudinal skin joints in the fuselage pressure shell. That AD also proposed to require phase-in inspections and repair of any crack found during any phase-in inspection.

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 the AD

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 have changed the references to the Bombardier DHC–8 maintenance program support manuals in Table 1 of the proposed AD to reflect the way these documents are referenced in the de Havilland temporary revisions.

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

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
AWL revision	1	$65	N/A	$65	177	$11,505
Phase-in inspection	25	65	N/A	1,625	177	287,625

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):

2005–13–38 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–14175. Docket No. FAA–2005–20852; Directorate Identifier 2004-NM–240-AD.

Effective Date

(a) This AD becomes effective August 9, 2005.

Affected ADs

(b) None.

Applicability: (c) This AD applies to Bombardier Model DHC–8–100, DHC–8–200, and DHC–8–300 series airplanes; certificated in any category; serial number 003 and subsequent.

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

Unsafe Condition

(d) This AD was prompted by a report indicating that visual inspections were not adequate for detecting fatigue cracking in portions of the longitudinal skin joints in the fuselage pressure shell. We are issuing this AD to detect and correct fatigue cracking of the longitudinal skin joints in the fuselage pressure shell, which could affect the structural integrity of the airplane, and result in loss of cabin pressurization during flight.

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.

Revision of Airworthiness Limitation (AWL) Section

(f) Within 30 days after the effective date of this AD: Revise the AWL section of the Instructions for Continued Airworthiness by incorporating the contents of the applicable de Havilland temporary revision (TR) listed in Table 1 of this AD into the AWL section of the applicable Bombardier DHC–8 Maintenance Program Support Manual (PSM). Thereafter, except as provided by paragraphs (g) and (l) of this AD, no alternative structural inspection intervals may be approved for the longitudinal skin joints in the fuselage pressure shell.

TABLE 1.—TEMPORARY REVISIONS TO AWL

DHC–8 model	de Havilland TR	Dated	For Bombardier DHC–8 maintenance Program Support Manual
–102, –103, and –106 airplanes	AWL–92	June 28, 2004	PSM 1–8–7.

TABLE 1.—TEMPORARY REVISIONS TO AWL—Continued

DHC–8 model	de Havilland TR	Dated	For Bombardier DHC–8 maintenance Program Support Manual
	AWL–93	June 28, 2004.	
–201 and –202 airplanes	AWL 2–31	June 28, 2004	PSM 1–82–7.
	AWL 2–32	June 28, 2004.	
–301, –311, and –315 airplanes	AWL 3–98	June 28, 2004	PSM 1–83–7.
	AWL 3–99	June 28, 2004.	

Incorporation of TRs Into General Revisions

(g) When the information in the applicable de Havilland TR identified in Table 1 of this AD has been included in the general revisions of the applicable PSM identified in Table 1 of this AD, the general revisions may be inserted in the PSM, and the applicable TR may be removed from the AWL section of the Instruction for Continued Airworthiness.

Phase-In Inspections

(h) At the times specified in paragraph (i) of this AD, perform the detailed and eddy current inspections, as applicable, of the longitudinal skin joints in the fuselage pressure shell specified in the de Havilland TR listed in Table 2 of this AD for the applicable de Havilland maintenance task card (MTC) in the specified MTC manual section of the applicable Bombardier DHC–8 PSM.

TABLE 2.—TEMPORARY REVISIONS TO MTCS

DHC–8 model	de Havilland TR	Dated	Task No.	For Bombardier DHC–8 maintenance program support manual
–102, –103, and –106 airplanes	MTC–45	November 28, 2003	5310/29E	PSM 1–8–7TC.
	MTC–46	November 28, 2003	5310/30A.	
–201 and –202 airplanes	MTC 2–45	November 28, 2003	5310/29E	PSM 1–82–7TC.
	MTC 2–46	November 28, 2003	5310/30A.	
–301, –311, and –315 airplanes	MTC 3–47	November 28, 2003	5310/29E	PSM 1–83–7TC.
	MTC 3–48	November 28, 2003	5310/30A.	

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

Compliance Times

(i) Perform the inspections required by paragraph (h) of this AD at the applicable time specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD.

(1) For all airplanes with 40,000 total flight cycles or less as of the effective date of this AD: At the times specified in the applicable TR to the AWL listed in Table 1 of this AD.

(2) For airplanes with more than 40,000 total flight cycles but less than 57,500 total flight cycles as of the effective date of this AD:

(i) For Model –102, –103, –301, –311, and –315 airplanes: Within 5,000 flight hours after the effective date of this AD or prior to the accumulation of 60,000 total flight cycles, whichever is first.

(ii) For Model –106, –201, and –202 airplanes: Within 5,000 flight hours after the effective date of this AD or prior to the accumulation of 60,346 total flight cycles, whichever is first.

(3) For all airplanes with 57,500 total flight cycles or more as of the effective date of this AD: Within 12 months or 2,500 flight cycles after the effective date of this AD, whichever is first.

(j) Repeat the inspections required by paragraph (h) of this AD thereafter at the intervals specified in the applicable TR to the AWL required by paragraph (f) of this AD.

Repair

(k) If a crack is found in a longitudinal skin joint during any phase-in inspection required by paragraph (h) of this AD, and the MTC specifies contacting Bombardier for repair information: Before further flight, repair the affected longitudinal skin joint in accordance with a method approved by either the Manager, New York ACO; or Transport Canada Civil Aviation (or its delegated agent).

AMOCs

(l) The Manager, New York ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Related Information

(m) Canadian airworthiness directive CF–2004–16, dated September 7, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(n) You must use the applicable de Havilland temporary revisions to the applicable Bombardier DHC–8 Maintenance Program Support Manual specified in Table 3 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 temporary revisions, contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. 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 temporary revisions, 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 3.—MATERIAL INCORPORATED BY REFERENCE

de Havilland temporary revision	Dated	For Bombardier DHC–8 maintenance program support manual
AWL 2–31	June 28, 2004	PSM 1–82–7.
AWL 2–32	June 28, 2004.	
AWL 3–98	June 28, 2004	PSM 1–83–7.
AWL 3–99	June 28, 2004.	
AWL–92	June 28, 2004	PSM 1–8–7.
AWL–93	June 28, 2004.	
MTC 2–45	November 28, 2003	PSM 1–82–7TC.
MTC 2–46	November 28, 2003.	
MTC 3–47	November 28, 2003	PSM 1–83–7TC.
MTC 3–48	November 28, 2003.	
MTC–45	November 28, 2003	PSM 1–8–7TC.
MTC–46	November 28, 2003.	

Issued in Renton, Washington, on June 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12837 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20872; Directorate Identifier 2004–NM–271–AD; Amendment 39–14173; AD 2005–13–36]

RIN 2120–AA64

Airworthiness Directives; Learjet Model 23, 24, 24A, 24B, 24B–A, 24C, 24D, 24D–A, 24E, 24F, 24F–A, 25, 25A, 25B, 25C, 25D, 25F, 28, 29, 31, 31A, 35, 35A (C–21A), and 36 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 Learjet Model 23, 24, 24A, 24B, 24B–A, 24C, 24D, 24D–A, 24E, 24F, 24F–A, 25, 25A, 25B, 25C, 25D, 25F, 28, 29, 31, 31A, 35, 35A (C–21A), and 36 airplanes. This AD requires a one-time inspection of the center ball of the aileron control cable or cables for a defective swage, and corrective actions if necessary. This AD is prompted by a report indicating that an aileron cable failed on one affected airplane when the cable underwent a tension check. We are issuing this AD to prevent severe weakening of the aileron cable, and consequent reduced controllability of the airplane.

DATES: This AD becomes effective August 9, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of August 9, 2005.

ADDRESSES: For service information identified in this AD, contact Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942.

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–2005–20872; the directorate identifier for this docket is 2004–NM–271–AD.

FOR FURTHER INFORMATION CONTACT: David Hirt, 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) 946–4156; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for certain Learjet Model 23, 24, 24A, 24B, 24B–A, 24C, 24D, 24D–A, 24E, 24F, 24F–A, 25, 25A, 25B, 25C, 25D, 25F, 28, 29, 31, 31A, 35, 35A (C–21A), and 36 airplanes. That action, published in the **Federal Register** on April 6, 2005 (70 FR 17349), proposed to require a one-time inspection of the center ball of the aileron control cable or cables for a defective swage, and corrective actions if necessary.

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.

Clarification of Service Bulletin References

All references to ''Learjet Alert Service Bulletins'' have been changed to refer to ''Bombardier Alert Service Bulletins.'' This change more accurately reflects the published titles of these documents, and it is necessary to meet the Office of the Federal Register's guidelines for material incorporated by reference.

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

There are about 1,704 airplanes of the affected design in the worldwide fleet. This AD affects about 1,136 airplanes of U.S. registry. The inspection takes about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $73,840, or $65 per airplane.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in subtitle VII,

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

Regulatory Findings

We have determined that this 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):

2005–13–36 Learjet: Amendment 39–14173. Docket No. FAA–2005–20872; Directorate Identifier 2004–NM–271–AD.

Effective Date

(a) This AD becomes effective August 9, 2005.

Affected ADs

(b) None.

Applicability: (c) This AD applies to Learjet Model 23, 24, 24A, 24B, 24B–A, 24C, 24D, 24D–A, 24E, 24F, 24F–A, 25, 25A, 25B, 25C, 25D, 25F, 28, 29, 31, 31A, 35, 35A (C–21A), and 36 airplanes; certificated in any category; as identified in the Bombardier alert service bulletins in Table 1 of this AD.

TABLE 1.—SERVICE BULLETINS

Bombardier alert service bulletin	Date	Model
A23/24/25–27–17	December 23, 2002	23, 24, 24A, 24B, 24B–A, 24C, 24D, 24D–A, 24E, 24F, 24F–A, 25, 25A, 25B, 25C, 25D, and 25F airplanes.
A28/29–27–24	December 23, 2002	28 and 29 airplanes.
A31–27–25	December 23, 2002	31 and 31A airplanes.
A35/36–27–42	December 23, 2002	35, 35A (C–21A), and 36 airplanes.

Unsafe Condition

(d) This AD was prompted by a report indicating that an aileron cable failed on one affected airplane when the cable underwent a tension check. We are issuing this AD to prevent severe weakening of the aileron cable, and consequent reduced controllability of the airplane.

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

Inspection and Corrective Action

(f) Within 100 flight hours, or 90 days after the effective date of this AD, whichever occurs first: Do a detailed inspection of the center ball of the aileron control cable or cables for a defective swage, and before further flight, replace any damaged or defective cable with a new cable. Unless otherwise specified in this AD, do all actions in accordance with the Accomplishment Instructions of the applicable service bulletin in Table 1 of this AD.

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

Parts Installation

(g) As of the effective date of this AD, no person may install on any airplane an aileron control cable unless it has been inspected in accordance with paragraph (f) of this AD.

No Reporting or Parts Return Requirement

(h) Although the service bulletins in Table 1 of this AD have procedures for submitting a report showing compliance with the applicable service bulletin and for returning any discrepant parts to the manufacturer, this AD does not include those requirements.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, Wichita 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 the service information 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 Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942. 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

Bombardier alert service bulletins	Date
A23/24/25–27–17	December 23, 2002.
A28/29–27–24	December 23, 2002.
A31–27–25	December 23, 2002.
A35/36–27–42	December 23, 2002.

Issued in Renton, Washington, on June 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12842 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20755; Directorate Identifier 2004–NM–244–AD; Amendment 39–14176; AD 2005–13–39]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A321–100 and –200 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to Airbus Model A321 series airplanes. That AD currently requires revising the Limitations section of the airplane flight manual to include an instruction to use Flap 3 for landing when performing an approach in conditions of moderate to severe icing, significant crosswind (*i.e.*, crosswinds greater than 20 knots, gust included), or moderate to severe turbulence. This new AD requires replacing existing elevator and aileron computers (ELACs) with ELACs having either L83 or L91 software, as applicable, which terminates the requirements of the existing AD. This AD also requires a related concurrent action. In addition, this AD revises the applicability by removing airplanes with these ELAC software standards incorporated in production. This AD is prompted by issuance of mandatory continuing airworthiness information by a civil airworthiness authority. We are issuing this AD to prevent roll oscillations during approach and landing in certain icing, crosswind, and turbulent conditions, which could result in reduced controllability of the airplane.

DATES: This AD becomes effective August 9, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of August 9, 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–2005–20755; the directorate identifier for this docket is 2004–NM–244–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 to supersede AD 2004–03–02, amendment 39–13446 (69 FR 5007, February 3, 2004). The existing AD applies to all Airbus Model A321 series airplanes. The proposed AD was published in the **Federal Register** on March 30, 2005 (70 FR 16167), to require revising the airplane flight manual (AFM) to specify procedures for landing under certain conditions of icing, significant crosswind, or moderate to severe turbulence, until the new requirements of this new AD have been accomplished. That action also proposed to require replacing existing elevator and aileron computers (ELACs) with ELACs having either L83 or L91 software, as applicable, which would terminate the requirements of the existing AD. That action also proposed to require a related concurrent action. In addition, that action also proposed to revise the applicability by removing airplanes with these ELAC software standards incorporated in production.

Comment

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

Support for the Proposed AD

The commenter supports the proposed AD.

Explanation of Change to Applicability

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.

Conclusion

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

The following tables provide the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hour	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
AFM revision (required by AD 2004–03–02).	1	$65	None	$65	29	$1,885
Installation of ELACs having L83 or L91 software (new required action).	1	65	No charge ...	65	29	1,885

ESTIMATED CONCURRENT SERVICE BULLETIN COSTS

Action	Work hour	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Installation or ELACs having L81 software	1	$65	No charge ...	$65	29	$1,885

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing amendment 39–13446 (69 FR 5007, February 3, 2004) and adding the following new airworthiness directive (AD):

2005–13–39 Airbus: Amendment 39–14176. Docket No. FAA–2005–20755; Directorate Identifier 2004–NM–244—AD.

Effective Date

(a) This AD becomes effective August 9, 2005.

Affected ADs

(b) This AD supersedes AD 2004–03–02, amendment 39–13446.

Applicability: (c) This AD applies to Airbus Model A321–111, –112, –131, –211, and –231 airplanes; certificated in any category; except those with Airbus Modification 34043 installed in production.

Unsafe Condition

(d) This AD was prompted by issuance of mandatory continuing airworthiness information by a civil airworthiness authority. We are issuing this AD to prevent roll oscillations during approach and landing in certain icing, crosswind, and turbulent conditions, which could result in reduced controllability of the airplane.

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

Restatement of Requirements of AD 2004–03–02: Airplane Flight Manual Revision

(f) Within 10 days after February 18, 2004 (the effective date of AD 2004–03–02), revise the Limitations section of the airplane flight manual (AFM) to include the following statement. This may be done by inserting a copy of this AD into the AFM.

''*A321 Approach and Landing* (Roll Control) When moderate to severe icing conditions, or significant crosswind (i.e., crosswinds greater than 20 knots, gust included), or moderate to severe turbulence are anticipated:

Use FLAP 3 for landing.''

Note 1: When a statement identical to that in paragraph (f) 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 this AD may be removed from the AFM.

New Requirements of This AD: Installation of Elevator and Aileron Computers (ELACs) Having L83 or L91 Software

(g) Within 16 months after the effective date of this AD: Replace existing ELACs with ELACs having L83 software, by accomplishing all of the actions specified in the Accomplishment Instructions of Airbus Service Bulletin A320–27–1151, including Appendix 01, dated March 9, 2004; or with ELACs having L91 software, by accomplishing all of the actions specified in the Accomplishment Instructions of Airbus Service Bulletin A320–27–1152, including Appendix 01, dated June 4, 2004; as applicable. After accomplishing the ELAC replacements, remove the AFM revision required by paragraph (f) of this AD. Accomplishing the requirements of this paragraph terminates the requirements of paragraph (f) of this AD.

Note 2: Airbus Service Bulletin A320–27–1151 refers to Thales Service Bulletin 394512–27–026, dated March 5, 2004, as an additional source of service information for installing ELAC L83 software. Airbus Service Bulletin A320–27–1152 refers to Thales Service Bulletin 394512B–27–010, dated May 24, 2004, as an additional source of service information for installing ELAC L91 software.

Concurrent Service Bulletin

(h) Prior to doing the requirements of paragraph (g) of this AD: Install ELACs having L81 software in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1135, Revision 02, dated April 18, 2002.

Previously Accomplished Actions in Concurrent Service Bulletin

(i) Installation of ELACs having L81 software in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1135, dated June 29, 2001; or Service Bulletin A320–27–1135, Revision 01, dated August 31, 2001; is acceptable for compliance with the requirements of paragraph (h) of this AD.

Part Installation

(j) As of the effective date of this AD, no person may install on any airplane an ELAC, part number 3945122506, 3945123506, 3945128102, or 3945128103.

Alternative Methods of Compliance (AMOCs)

(k)(1) 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.

(2) Alternative methods of compliance, approved previously in accordance with AD 2004–03–02, are approved as alternative methods of compliance with the corresponding requirements of this AD.

Related Information

(l) French airworthiness directive F–2004–147, dated August 18, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(m) 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, 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*.

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Airbus service bulletin	Revision level	Date
A320–27–1135	02	April 18, 2002.
A320–27–1151, including Appendix 01	Original	March 9, 2004.
A320–27–1152, including Appendix 01	Original	June 4, 2004.

Issued in Renton, Washington, on June 17, 2005.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–12843 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulation No. 4]

RIN 0960–AF30

Revised Medical Criteria for Evaluating Genitourinary Impairments

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising the criteria in the Listing of Impairments (the listings) that we use to evaluate claims involving genitourinary impairments. We apply these criteria when you claim benefits based on disability under title II and title XVI of the Social Security Act (the Act). The revisions reflect advances in medical knowledge, treatment, and methods of evaluating genitourinary impairments.

DATES: These rules are effective September 6, 2005.

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 SSA (*i.e.*, Social Security Online) at *http://policy.ssa.gov/pnpublic.nsf/LawsRegs*.

FOR FURTHER INFORMATION CONTACT: Richard Bresnick, Social Insurance Specialist, Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1758 or TTY (410) 966–5609. 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 site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION: We are revising and making final the rules we proposed for evaluating genitourinary impairments in the Notice of Proposed Rulemaking (NPRM) we published in the **Federal Register** on August 23, 2004 (69 FR 51777).

What Programs Do These Final Regulations Affect?

These final regulations affect disability determinations and decisions that we make under title II and title XVI of the Act. In addition, to the extent that Medicare entitlement and Medicaid eligibility are based on whether you qualify for disability benefits under title II or title XVI, these final regulations also affect the Medicare and Medicaid programs.

Who Can Get Disability Benefits?

Under title II of the Act, we provide for the payment of disability benefits if you are disabled and belong to one of the following three groups:

- Workers insured under the Act,
- Children of insured workers, and
- Widows, widowers, and surviving divorced spouses (see § 404.336) of insured workers.

Under title XVI of the Act, we provide for Supplemental Security Income (SSI) payments on the basis of disability if you are disabled and have limited income and resources.

How Do We Define Disability?

Under both the title II and title XVI programs, disability must be the result of any medically determinable physical or mental impairment or combination of impairments that is expected to result in death or which has lasted or is expected to last for a continuous period of at least 12 months. Our definitions of disability are shown in the following table:

If you claim under . . .	And you are . . .	Disability means you have a medically determinable impairment(s) as described above and that results in . . .
title II	an adult or a child	the inability to do any substantial gainful activity (SGA).
title XVI	a person age 18 or order	the inability to do any SGA.
title XVI	a person under age 18	marked and severe functional limitations.

How Do We Decide Whether You Are Disabled?

If you are seeking benefits under title II of the Act, or if you are an adult seeking benefits under title XVI of the Act, we use a five-step ''sequential evaluation process'' to decide whether you are disabled. We describe this five-step process in our regulations at §§ 404.1520 and 416.920. We follow the five steps in order and stop as soon as we can make a determination or decision. The steps are:

1. Are you working and is the work you are doing substantial gainful activity (SGA)? If you are working and the work you are doing is SGA, we will find that you are not disabled, regardless of your medical condition or your age, education, and work experience. If you are not performing SGA, we will go on to step 2.

2. Do you have a ''severe'' impairment? If you do not have an impairment or combination of impairments that significantly limits your physical or mental ability to do basic work activities, we will find that you are not disabled. If you do have a severe impairment(s), we will go on to step 3.

3. Do you have an impairment(s) that meets or medically equals the severity of an impairment in the listings? If you do, and the impairment(s) meets the duration requirement, we will find that you are disabled. If you do not, we will go on to step 4.

4. Do you have the residual functional capacity to do your past relevant work? If you do, we will find that you are not disabled. If you do not, we will go on to step 5.

5. Does your impairment(s) prevent you from doing any other work that exists in significant numbers in the national economy, considering your residual functional capacity, age, education, and work experience? If it does, and it meets the duration requirement, we will find that you are disabled. If it does not, we will find that you are not disabled.

We use a different sequential evaluation process for children who apply for payments based on disability under title XVI of the Act. We describe that sequential evaluation process in § 416.924 of our regulations. If you are already receiving benefits, we also use a different sequential evaluation process when we decide whether your disability continues. (See §§ 404.1594, 416.924, 416.994, and 416.994a of our regulations.) However, all of these processes include steps at which we consider whether your impairment meets or medically equals one of our listings.

What Are the Listings?

The listings are examples of impairments that we consider severe enough to prevent you as an adult from doing any gainful activity. If you are a child seeking SSI based on disability, the listings describe impairments that we consider severe enough to result in marked and severe functional limitations. Although the listings are contained only in appendix 1 to subpart P of part 404 of our regulations, we incorporate them by reference in the SSI program in § 416.925 of our regulations and apply them to claims under both title II and title XVI of the Act.

How Do We Use the Listings?

The listings are in two parts. There are listings for adults (part A) and for children (part B). If you are an individual age 18 or over, we apply the listings in part A when we assess your claim, and we never use the listings in part B.

If you are an individual under age 18, we first use the criteria in part B of the listings. If the listings in part B do not apply, and the specific disease process(es) has a similar effect on adults and children, we then use the criteria in part A. (See §§ 404.1525 and 416.925 of our regulations.)

If your impairment(s) does not meet any listing, we will also consider whether it medically equals any listing; that is, whether it is as medically severe. (See §§ 404.1526 and 416.926 of our regulations.)

What If You Do Not Have an Impairment(s) That Meets or Medically Equals a Listing?

We use the listings only to decide that individuals are disabled or that they are still disabled. We will not deny your claim or decide that you no longer qualify for benefits because your impairment(s) does not meet or medically equal a listing. If you are not working and you have a severe impairment(s) that does not meet or medically equal any listing, we may still find you disabled based on other rules in the ''sequential evaluation process.'' Likewise, we will not decide that your disability has ended only because your impairment(s) does not meet or medically equal a listing.

Also, when we conduct reviews to determine whether your disability continues, we will not find that your disability has ended because we have changed a listing. Our regulations explain that, when we change our listings, we continue to use our prior listings when we review your case, if you qualified for disability benefits or SSI payments based on our determination or decision that your impairment(s) met or medically equaled a listing. In these cases, we determine whether you have experienced medical improvement, and if so, whether the medical improvement is related to the ability to work. If your condition(s) has medically improved so that you no longer meet or medically equal the prior listing, we evaluate your case further to determine whether you are currently disabled. We may find that you are currently disabled, depending on the full circumstances of your case. (See §§ 404.1594(c)(3)(i) and 416.994(b)(2)(iv)(A) of our regulations.) If you are a child who is eligible for SSI payments, we follow a similar rule when we decide that you have experienced medical improvement in your condition(s). (See § 416.994a(b)(2) of our regulations.)

Why Are We Revising the Listings for the Genitourinary System?

We are revising these listings to update our medical criteria for evaluating genitourinary impairments and to provide more information about how we evaluate such impairments. We last published final rules comprehensively revising the listings for the genitourinary system in the **Federal Register** on December 6, 1985 (50 FR 50068). Because we have not comprehensively revised the listings for this body system since 1985, we believe that we need to revise and update these rules.

What Do We Mean by ''Final Rules'' and ''Prior Rules''?

Even though these rules will not go into effect until 30 days after publication of this notice, for clarity, we refer to the changes we are making here as the ''final rules'' and to the rules that will be changed by these final rules as the ''prior rules.''

When Will We Start To Use These Final Rules?

We will start to use these final rules on their effective date. We will continue to use our prior rules until the effective date of these final rules. When the final rules become effective, we will apply them to new applications filed on or after the effective date of these rules and to claims pending before us, as we describe below.

As is our usual practice when we make changes to our regulations, we will apply these final rules on or after their effective date whenever we make a determination or decision, including

in those claims in which we make a determination or decision after remand to us from a Federal court. With respect to claims in which we have made a final decision and that are pending judicial review in Federal court, we expect that the court's review of the Commissioner's final decision would be made in accordance with the rules in effect at the time of the administrative law judge's (ALJ's) decision when the ALJ's decision is the final decision of the Commissioner. If the court determines that the Commissioner's final decision is not supported by substantial evidence or contains an error of law, we would expect that the court would reverse the Commissioner's decision and remand the case for further administrative proceedings pursuant to the fourth sentence of section 205(g) of the Act, except in those few instances in which the court determines that it is appropriate to reverse the final decision and award benefits without remanding the case for further administrative proceedings. If a court reverses the Commissioner's final decision and remands the case for further administrative proceedings after the effective date of these final rules, we will apply the provisions of these final rules to the entire period at issue in the claim in our new decision issued pursuant to the court's remand.

How Long Will These Final Rules Be Effective?

These final rules will no longer be effective 8 years after the date on which they become effective, unless we extend them or revise and issue them again. This is a technical change from the 5-year effective date as we proposed in the NPRM. We made this revision from 5 to 8 years because we believe this is medically appropriate for the impairments contained in this body system. This change is also consistent with other recent final rules where we also determined that it was medically appropriate to set an expiration date 8 years from the effective date of the rules. For example, we recently set an 8-year effective date for our final rules for evaluating skin disorders (69 FR 32260, 32269 (June 9, 2004)) and for our final rules for evaluating musculoskeletal impairments (66 FR 58010, 58037 (November 19, 2001)).

What Revisions Are We Making With These Final Rules?

We are revising the listings criteria to present them in a more logical order and to make them easier to use. To do this, we are:

- Expanding the language in the introductory text (preface) in sections 6.00 and 106.00 to provide more guidance for our adjudicators, to bring it up to date, and to reflect the revised listings. We are designating all of the paragraphs in the preface with letters or numbers to make it easier to refer to them.
- Adding final sections 6.00B and 106.00B defining important terms in the listings.
- Removing listings that are obsolete to reflect the current medical practice of initiating dialysis earlier in the treatment of chronic renal failure. (We define the medical term ''renal'' in final sections 6.00B and 106.00B as ''pertaining to the kidney.'' We use the term ''renal'' in most of these listings because it is the term that physicians use.) Because of current medical practice, some of the associated complications specified in the prior listings no longer occur or reach listing-level severity. For example, we are removing prior listing 6.02C4, chronic renal disease with intractable pruritus. Although you may still have intractable pruritus, you usually will be receiving dialysis for the underlying chronic renal disease; in that case, your impairment will meet final listing 6.02A. In addition, the treatments for many of the side effects and complications of chronic renal disease have improved.
- Revising listings to reflect current medical practice and to be consistent with the terminology used in other body system listings. For example, in the childhood listings, we are changing ''Renal transplant'' (prior listing 106.02D) to ''Kidney transplantation'' (final listing 106.02B).
- Redesignating the listings in part B to correspond to listings addressing the same impairments in part A. Except for minor changes to refer to children, we are also repeating much of the language of final section 6.00 in final section 106.00. This is because the same basic rules for establishing and evaluating the existence and severity of genitourinary impairments in adults also apply to children. In the discussion of the part B listings below, we only discuss changes to the childhood listings that we have not already discussed under the changes to the adult listings in part A.
- Adding final listing 106.07 in part B to address congenital genitourinary impairments that are not addressed in final listings 106.02 or 106.06.

We are also making nonsubstantive editorial changes to update the medical terminology in the introductory text and the listings and to make the language clearer.

How Are We Changing the Introductory Text to the Listings for Evaluating Genitourinary Impairments in Adults?

Final Section 6.00 Genitourinary Impairments

We are changing the name of this body system from ''Genito–Urinary System'' to ''Genitourinary Impairments'' to more accurately show that we use these listings to evaluate whether individuals are disabled in our disability programs. We are using the same heading for section 6.00 of these final rules as for final section 106.00, even though we recognize that we list only kidney impairments in part A of the listings. We believe it is preferable to use the same heading in part A and part B of the listings, and since kidney impairments are types of genitourinary impairments, we believe this heading is appropriate.

We are expanding and reorganizing the introductory text to these listings to:

- Provide additional guidance,
- Reflect the final listings, and
- Improve clarity and readability.

Throughout the final rules, we have also made a number of minor editorial changes from the language we proposed in the NPRM; for example, to use consistent terminology throughout the final rules, to simplify language, and to correct punctuation. Because these changes were only for clarity and did not change the substance of the rules we proposed in the NPRM, we do not summarize them below.

The following is an explanation of the major features of the final rules.

Final Section 6.00A—What Impairments Do These Listings Cover?

In this new section, we explain that we use these listings to evaluate genitourinary impairments resulting from chronic renal disease. In final section 6.00A2, we provide a list of examples of chronic renal disease that can lead to renal dysfunction. This provision replaces the parenthetical statement we included in prior listing 6.02. In final section 6.00A3, we explain that we use the criteria in listing 6.06 to evaluate nephrotic syndrome due to glomerular disease.

In a technical change from the NPRM, we revised the list of examples of chronic renal disease in final section 6.00A2. The revision corrects medically inaccurate statements from the NPRM but does not change the provision substantively.

Final Section 6.00B—What Do We Mean by the Following Terms in These Listings?

In final section 6.00B, we define what we mean by important terms in these listings. In final section 6.00B5, we revised the list of examples of symptoms and signs of persistent fluid overload syndrome in response to a commenter who pointed out inconsistencies between the examples in the preamble to the NPRM and the proposed rules. In several other definitions, we made minor changes for medical accuracy and consistency of terms within the final listing:

- In final section 6.00B9, we reorganized the text, changed the description from ''massive'' proteinuria to ''heavy'' proteinuria, and removed the reference to lipiduria because it is not a defining characteristic of nephrotic syndrome.
- In final section 6.00B10, we removed the reference to ''swelling'' from the list of effects of neuropathy because it is not generally a feature of neuropathy.
- In final section 6.00B14, we removed the example of osteomyelitis, which we do not mention in these listings, and replaced it with the example of osteoporosis, which we do. We also removed the reference to ''other diseases'' because we are providing only examples in this section.

We are revising the heading of proposed section 6.00B—''What do we mean by the following terms?''—by adding ''in these listings'' in the heading of final section 6.00B. We are doing this to clarify why the list of terms in final section 6.00B is different from the list of terms in final section 106.00B in the childhood listings. We do not use all of the same terms in part B as we do in part A, so the list is different. We are also revising the heading of final section 106.00B so that it is the same as the heading of final section 6.00B.

Final Section 6.00C—What Evidence Do We Need?

In final sections 6.00C1 and C2, we expand and clarify the documentation requirements discussed in prior section 6.00A. In final section 6.00C1, we briefly explain the kinds of evidence we need to evaluate claims of renal impairment.

In final section 6.00C2, we explain that we generally need a longitudinal clinical record covering a period of at least 3 months of observations and treatment, unless we can make a fully favorable determination or decision without it. We also explain that the record should include laboratory findings, such as serum creatinine or serum albumin values, obtained on more than one examination over at least a 3-month period.

Final section 6.00C3 corresponds to prior section 6.00C. We explain that we should have laboratory findings that show your renal function before you started dialysis.

Final sections 6.00C4 and 6.00C5 correspond to prior section 6.00B, which discussed nephrotic syndrome. We are clarifying the language and specifying appropriate laboratory evidence. In the last sentence of final section 6.00C5, we explain the evidence we can use when we do not have a pathology report.

Final Section 6.00D—How Do We Consider the Effects of Treatment?

In this new section, we explain how we consider your treatment, including your response to treatment, its efficacy, and any adverse consequences.

Final Section 6.00E—What Other Things Do We Consider When We Evaluate Your Chronic Renal Disease Under Specific Listings?

This section includes guidance about how we consider issues under specific listings. In the final rules, we are moving the text from proposed section 6.00G—''How do we evaluate specific genitourinary listings?''—into this section. The subparagraphs of final section 6.00E now follow the order of the listings. We believe that this is a more logical organization than the one we originally proposed. Except as noted below, there is no significant change in the text of these rules from the NPRM.

Final section 6.00E1, ''Chronic hemodialysis or peritoneal dialysis,'' corresponds to proposed section 6.00G1. It provides information for using final listing 6.02A.

Final section 6.00E2, ''Kidney transplantation,'' corresponds to proposed section 6.00E1. It provides information for using final listing 6.02B. In it, we explain that if you have had a kidney transplant, we will consider you disabled for 12 months following the surgery because there is a greater likelihood of organ rejection and infection during the first year. We explain further that after that year we will determine whether you are still disabled based on any residual impairment(s) you have.

In a technical change from the NPRM, we deleted the proposed provision in the second sentence of the paragraph that said that we would base our continuing disability evaluation on ''the residual impairment as shown by symptoms, signs, and laboratory findings.'' We determined that the proposed provision was unnecessary and that it could have been misinterpreted. When we determine whether you are still disabled, we consider whether there has been medical improvement in your impairment(s) based on symptoms, signs, and laboratory findings; however, at other steps of the process we use to determine whether your disability continues, we consider all other relevant evidence as well. (See §§ 404.1579, 404.1594, and 416.994 of our regulations.) We also simplified the fourth sentence of the paragraph. Neither of these changes is a substantive change in the meaning of the rules we proposed.

We also revised the list of complications at the end of the fourth sentence of the paragraph for technical medical reasons and to clarify our intent. Proposed section 6.00E1b indicated that we would consider the ''use of'' immunosuppressants; however, all people who have kidney transplants must use immunosuppressants. We are clarifying in final section 6.00E2b what we meant: that when we consider whether your disability continues 1 year after your transplant we will consider any side effects from your immunosuppressant treatment. We also combined proposed sections 6.00E1b and 6.00E1d, because corticosteroids are used for immunosuppression in individuals with kidney transplants. Therefore, in final section 6.00E2b, we now indicate that we consider the side effects of your immunosuppressants, including corticosteroids. These revisions in the final rules do not change the substance of the rules as we proposed them.

Final section 6.00E3, ''Renal osteodystrophy,'' corresponds to proposed section 6.00G2. It provides information for using final listing 6.02C1. In the final rule, we removed the list of examples from final section 6.00E3 that we proposed in section 6.00G2 of the NPRM because final listing 6.02C1 also includes examples and the lists were inconsistent. In final section 6.00E3, we now refer to the list of examples in final listing 6.02C1.

Final section 6.00E4, ''Persistent motor or sensory neuropathy,'' corresponds to proposed section 6.00G3. It provides information for using final listing 6.02C2. In it, we explain what the longitudinal clinical record of persistent neuropathy must show.

Final section 6.00E5, ''Nephrotic syndrome,'' corresponds to proposed section 6.00E2. It explains what the evidence must show for your impairment to meet the requirements of

final listing 6.06A or B. In a technical change from the NPRM, we are restoring the examples of complications of nephrotic syndrome that we evaluate under other listings. In the NPRM, we proposed to remove the last sentence of prior section 6.00B, which indicated that we consider complications of nephrotic syndrome, such as severe orthostatic hypotension, recurrent infections or venous thromboses, under appropriate listings. In reviewing this proposal, we determined that this guidance could still be helpful, so we decided to include it in our section devoted to nephrotic syndrome, final section 6.00E5. In these final rules, we made minor editorial changes in the sentence for context and clarity. We also deleted the word ''severe'' from the phrase ''severe hypotension'' because we believe it is unnecessary in the sentence, which only describes some of the complications that may be associated with nephrotic syndrome, not necessarily how severe your complications must be to show disability.

The changes we made to combine proposed sections 6.00E and 6.00G in the final rules necessitated redesignation of proposed section 6.00H as final section 6.00G and changes to cross-references throughout the final rules in the preamble and listings. None of these was a substantive change to the provisions of the affected rules.

Final Section 6.00F—What Does the Term ''Persistent'' Mean in These Listings?

In final section 6.00F, we explain that the term ''persistent'' in these listings means that the longitudinal clinical record shows that, with few exceptions, the required finding(s) has been at, or is expected to be at, the level specified in the listing for a continuous period of at least 12 months. We use this term in final listings 6.02C.

Final Section 6.00G—How Do We Evaluate Impairments That Do Not Meet One of the Genitourinary Listings?

Final section 6.00G (proposed section 6.00H) is new to this body system. In it, we state our basic adjudicative principle that, if your severe impairment(s) does not meet or medically equal the requirements of a listing, we will continue the sequential evaluation process to determine whether or not you are disabled.

How Are We Changing the Criteria in the Listings for Evaluating Genitourinary Impairments in Adults?

6.01 Category of Impairments, Genitourinary Impairments

Final Listing 6.02—Impairment of Renal Function

We are removing the parenthetical examples that were in the first sentence of prior listing 6.02 because we address them in final section 6.00A2, making their inclusion in the listing redundant. In a technical change from the NPRM, we are also revising the first sentence in final listing 6.02 regarding the duration of your chronic renal disease from ''expected to last 12 months'' to ''that has lasted or can be expected to last for a continuous period of at least 12 months'' to be consistent with our definition of duration in §§ 404.1509 and 416.909.

Final listing 6.02A, ''Chronic hemodialysis or peritoneal dialysis,'' corresponds to prior listing 6.02A, except that we are removing the statement ''necessitated by irreversible renal failure'' because it is redundant.

Final listing 6.02B, ''Kidney transplantation,'' corresponds to prior listing 6.02B, ''Kidney transplant.'' We are changing the heading to use terminology that is consistent with other body system listings, such as in listing 4.09, ''Cardiac transplantation.''

Final listing 6.02C, for persistent elevation of serum creatinine or reduction of creatinine clearance, corresponds to prior listing 6.02C. In final listing 6.02C1, for renal osteodystrophy, we are replacing the word ''marked'' with the word ''significant'' in the phrase describing osteoporosis. We use the term ''marked'' in various other listings (for example, the mental disorders listings in section 12.00) and other regulations (for example, the functional equivalence regulation for evaluating disability in children, § 416.926a) to describe a particular measure of functional limitations, and it does not describe what we intend in this final listing. The change we are making in this final rule will remove any potential confusion about our intent. However, we are not changing the degree of osteoporosis required to meet this listing.

In the NPRM, we also proposed to remove the word ''severe'' from the phrase that described bone pain in the prior listing. In final listing 6.02C1, we are restoring the word in response to a comment, as discussed below. See the public comments section of this preamble for an explanation of why we decided to keep the word in this listing.

We are removing prior listings 6.02C2, for a clinical episode of pericarditis, and 6.02C4, for intractable pruritus, because current treatment for most individuals with chronic renal disease includes the initiation of dialysis earlier in the course of treatment. Previously, dialysis would be delayed, and individuals would be maintained on a low protein diet. Prior listings 6.02C2 and 6.02C4 were useful for establishing disability in these individuals. However, now it is known that the long-term prognosis improves for individuals when dialysis is initiated earlier in the course of treatment, so most patients begin dialysis earlier. Therefore, if you have pericarditis or intractable pruritus, you usually will be receiving dialysis; in that case, your impairment will meet final listing 6.02A.

Because we are removing prior listing 6.02C2, we are redesignating prior listing 6.02C3, for persistent motor or sensory neuropathy, as final listing 6.02C2.

We are reorganizing prior listing 6.02C5, for persistent fluid overload syndrome, and redesignating it as final listing 6.02C3. In addition, we provide that there must be persistent signs of vascular congestion despite prescribed therapy. In a technical change from the proposed rules, we are removing the requirement we proposed that you must demonstrate that you have symptoms in addition to the signs we required to meet this listing. If you have the signs we require in this listing, you will be unable to do any gainful activity and it is unnecessary for you to show that you also have symptoms. We are also adding a cross-reference to final section 6.00B5, where we list some examples of symptoms and signs of fluid overload syndrome.

In the NPRM, we proposed to remove prior listing 6.02C6, for persistent elevation of serum creatinine or reduction of creatinine clearance with anorexia that meets the values in table III or IV of listing 5.08. In response to public comments described below, we decided to retain the listing in the final rules. The listing is redesignated as final listing 6.02C4.

We are removing prior listing 6.02C7, for persistent hematocrits of 30 percent or less, because hematocrits at this level do not necessarily correlate with an inability to do any gainful activity.

We may still find you disabled if you have chronic renal disease and persistently low hematocrit levels. As we discuss in final section 6.00G, we must consider whether your impairment(s) satisfies the criteria of any appropriate listing. If your impairment(s) does not meet a listing,

we will determine whether it medically equals a listing. If your impairment(s) does not meet or medically equal a listing, we will proceed to the fourth and, if necessary, the fifth steps of the sequential evaluation process as described in §§ 404.1520 and 416.920. We will consider the facts of your individual case, including your symptoms, such as fatigue and weakness, which may limit your functioning.

Final Listing 6.06—Nephrotic Syndrome

We are removing the word ''significant'' from the description of anasarca in prior listing 6.06. Anasarca is, by definition, significant.

How Are We Changing the Preface to the Listings for Evaluating Genitourinary Impairments in Children?

Final Section 106.00 Genitourinary Impairments

As in final section 6.00 in the adult rules, we are changing the name of this body system to ''Genitourinary Impairments.''

We are adding a new section 106.00E4a (proposed section 106.00H) to explain how we evaluate episodic genitourinary impairments in children under final listings 106.07A, B, and C. We are also adding a new section 106.00E4c (proposed section 106.00I) to explain what we mean by ''systemic infection,'' a criterion we use in final listing 106.07B.

We are also repeating much of the preface of final section 6.00 in the preface to final section 106.00, except for minor changes that are specific to the childhood listings. We are doing this because the same basic rules for establishing and evaluating the existence and severity of genitourinary impairments in adults also apply to children.

Because we have already described these provisions under the explanation of final section 6.00, the following discussion describes only those provisions that are unique to the childhood rules or that require further explanation specific to the evaluation of children's claims. When the provisions in section 106.00 are the same as the provisions in section 6.00 and we are revising provisions in section 6.00 from the provisions we proposed in the NPRM, we are making the same changes in final section 106.00 as we are making in final section 6.00.

Final Section 106.00A—What Impairments Do These Listings Cover?

In this section, we provide general guidance on evaluating chronic renal disease or renal dysfunction and congenital genitourinary impairments in children. In final section 106.00A4, we explain that we use the criteria in final listing 106.07 to evaluate congenital genitourinary impairments and give examples of such impairments. In the final rule, we are adding another example of a congenital genitourinary impairment, extrophic urinary bladder.

Final Section 106.00E—What Other Things Do We Consider When We Evaluate Your Genitourinary Impairment Under Specific Listings?

In this section, we are significantly reorganizing the rules we proposed in sections 106.00E, G, H, and I of the NPRM. We are combining proposed sections 106.00E and 106.00G for the same reasons we combined proposed sections 6.00E and 6.00G in part A. However, we are using a different heading for this section because in final section 106.00E4, it includes information about how we evaluate congenital genitourinary impairments under listing 106.07. Therefore, unlike the corresponding section in the adult rules, it is not only about chronic renal disease.

We are also moving the provisions of proposed sections 106.00H and I to final section 106.00E4 together with relevant provisions from proposed section 106.00G. In the NPRM, we proposed three separate sections that included guidance about how we use listing 106.07:

- In proposed section 106.00G2, we provided four subparagraphs that described features of listing 106.07. Proposed section 106.00G2a simply described what proposed listing 106.07 contained. Proposed section 106.00G2b, explained that diagnostic cystoscopy did not satisfy the requirement for repeated surgical procedures, a requirement in listing 106.07A. Proposed sections 106.00G2c and G2d provided guidance about the criteria for electrolyte disturbance and hospitalizations in listing 106.07C.
- Proposed section 106.00H—''How do we evaluate episodic genitourinary impairments?''—provided guidance that was relevant only to the provisions of listing 106.07. Only listings 106.07A, B, and C include criteria for episodic events.
- Likewise, proposed section 106.00I—''What do we mean by systemic infection?''—provided guidance that was relevant only to listing 106.07B.

We are combining all of these rules in final section 106.00E4 because they all address the same listing section and we believe that it will be clearer to keep this guidance together. However, we are removing proposed section 106.00G2a in these final rules because it merely repeated what listing 106.07 requires and was unnecessary. We are also organizing the sections of 106.00E4 so they address listings 106.07A, B, and C in order, starting with general information about the overall listing section.

We did not make any substantive changes in the provisions in final section 106.00E4, but only removed headings, reorganized the sections into a clearer and more logical presentation, and made editorial changes as described below. The final rule is as follows.

Final section 106.00E4a corresponds to proposed section 106.00H. In it, we explain that each of the listings in 106.07 (that is, listings 106.07A, B, and C) includes a criterion for at least three events within a consecutive 12-month period with intervening periods of improvement. These events include urologic surgical procedures, hospitalizations, and treatment with parenteral antibiotics. The occurrence of these events within the specified time period supports the severity and chronicity of the underlying impairment(s). We also indicate that there must be at least 1 month between the events to ensure that we are evaluating separate episodes. As an editorial clarification from the NPRM, we are adding ''(that is, 30 days)'' after ''at least 1 month'' to indicate we do not necessarily mean a calendar month.

In final section 106.00E4a, we are making minor editorial changes from the language in proposed section 106.00H. For example, in section 106.00H of the proposed rules we indicated that ''some listings'' are met when the longitudinal clinical record shows that at least three events have occurred within a period of 12 consecutive months. However, as we have already noted, the only listings in which we included such criteria were listings 106.07A, B, and C. Therefore, we clarified the final rule to refer specifically to final listing 106.07. We believe that these editorial changes will make final section 106.00E4a easier to understand and use.

Final section 106.00E4b corresponds to proposed section 106.00G2b. It explains that diagnostic cystoscopy does not satisfy the requirement for repeated urologic surgical procedures in listing 106.07A. In the final rule, we added a reference to final listing 106.07A and the word ''urologic'' before the word ''surgical'' to match the language of the listing.

Final section 106.00E4c corresponds to proposed section 106.00I, ''What do

we mean by systemic infection?''. In this section, we explain that the criterion for systemic infection in listing 106.07B means an infection requiring an initial course of parenterally administered antibiotics occurring at least once every 4 months or at least 3 times a year. This chronicity supports the severity required for this listing. In the final rule, we removed a sentence that included a cross-reference because we no longer need it. All of the provisions that explain listing 106.07 are now together in final section 106.00E4. We also made a minor editorial change for context.

Final section 106.00E4d corresponds to proposed sections 106.00G2c and G2d. As we have already noted, these were the proposed provisions that explained terms in listing 106.07C. In an editorial change from the NPRM, we changed our reference to ''hospital admissions'' to ''hospitalizations'' to use language that is closer to the provision in final listing 106.07C.

The changes we made to combine proposed sections 106.00E, 106.00G, 106.00H, and 106.00I in the final rules necessitated redesignation of proposed section 106.00J as final section 106.00G and changes to cross-references throughout the final rules in the preamble and listings. None of these was a substantive change to the provisions of the affected rules.

Final Section 106.00G—How Do We Evaluate Impairments That Do Not Meet One of the Genitourinary Listings?

In final section 106.00G (proposed section 106.00J), we repeat the provisions of final section 6.00G, but also include the definition of disability for children who claim SSI payments in final section 106.00G2.

How Are We Changing the Criteria in the Listings for Evaluating Genitourinary Impairments in Children?

106.01 Category of Impairments, Genitourinary Impairments

We are adding a new listing 106.07, ''Congenital genitourinary impairments,'' specifically for children. There is no parallel listing in the adult genitourinary listings because we expect that these impairments will have been treated or resolved before adulthood. We are also redesignating the childhood listings to be consistent with the adult listings.

Final Listing 106.02—Impairment of Renal Function

In final listing 106.02, we are changing the heading of the prior listing to make it consistent with the final adult listing.

We are also reordering the sequence of impairments included under listing 106.02 to more closely follow the order in final listing 6.02:

- Final listing 106.02A, ''Chronic hemodialysis or peritoneal dialysis,'' replaces prior listing 106.02C.
- Final listing 106.02B, ''Kidney transplantation,'' replaces prior listing 106.02D.
- Final listing 106.02C, ''Persistent elevation of serum creatinine,'' replaces prior listing 106.02A.
- Final listing 106.02D, ''Reduction of creatinine clearance,'' replaces prior listing 106.02B.

Final Listing 106.06—Nephrotic Syndrome

In final listing 106.06, ''Nephrotic syndrome,'' we specify that anasarca must persist despite at least 3 months of prescribed therapy. ''Anasarca'' is a more accurate term than ''edema'' for this listing.

In final listing 106.06B, we are revising the terminology in prior listing 106.06B for measuring proteinuria to reflect current medical practice. This revision does not make the criterion more stringent. Rather, it is a more appropriate method of measuring proteinuria in children and is equivalent to the measurements used in prior listing 106.06B.

Final Listing 106.07—Congenital Genitourinary Impairments

In this new listing, we provide criteria that include consideration of repeated urologic surgical procedures, episodic systemic infections requiring parenteral antibiotics, and episodes of electrolyte disturbance requiring repeated hospitalizations. In final listing 106.07C, we made an editorial change to replace the parenthetical reference to hospitalizations ''for 24 hours or more'' with a cross-reference to final section 106.00E4d, which already explains that hospitalizations in listing 106.07C must be inpatient hospitalizations for 24 hours or more. The change eliminates an unnecessary redundancy.

Public Comments

In the NPRM we published on August 23, 2004 (69 FR 51777), we provided the public with a 60-day period in which to comment. The period ended on October 22, 2004.

We received comments from four public commenters. We carefully considered all of the comments. Because some of the comments were long, we have condensed, summarized, and paraphrased them. We have tried, however, to summarize the commenters' views accurately and to respond to all of the significant issues raised by the commenters that were within the scope of these rules.

One commenter submitted a markup of the notice pointing out stylistic and technical editorial issues in the preamble and the proposed rules. Although we do not summarize and respond to those comments below, we have made appropriate corrections in these final rules.

Other commenters noted provisions with which they agreed and did not make suggestions for changes in those provisions. We did not summarize or respond to those comments either.

The following are the significant public comments that do require a response.

Proposed Listing 6.02A, Chronic Hemodialysis or Peritoneal Dialysis

Comment: One commenter disagreed with our proposal to delete the parenthetical statement ''necessitated by irreversible renal failure'' from prior listing 6.02A. The commenter did not agree that all individuals who require chronic hemodialysis for at least 12 months would necessarily have irreversible renal failure. For example, a particular claimant could have several acute renal failures for a variety of different reasons in the course of a year. The commenter said that an individual with such episodic crises for 12 months would have an impairment that medically equals the listing but recommended that we specify that only individuals who have dialysis ''necessitated by [an] end-stage renal disease process'' would have an impairment that meets listing 6.02.

Response: We did not adopt the comment. Listing 6.02A requires that the individual have ''chronic'' renal disease with ''chronic'' hemodialysis or peritoneal dialysis. Therefore, we believe that the reference to irreversible failure was redundant and that the listing clearly does not include individuals who have a series of acute events that require dialysis.

Proposed Listing 6.02B, Kidney Transplantation

Comment: One commenter recommended that we add a cross-reference to proposed section 6.00E1 (final section 6.00E2) at the end of listing 6.02B. The commenter said that this would emphasize to our adjudicators the critical need to carefully look at the residuals of the treatment required by the transplant.

Response: We adopted the comment. In the proposed rules, we already included a cross-reference to proposed section 6.00E1 (final section 6.00E2) at

the beginning of proposed listing 6.02. In these final rules, we have moved the cross-reference to the end of the listing. For consistency, we made the same change in final listing 106.02B.

Listing 6.02C, Persistent Elevation of Serum Creatinine or Reduction of Creatinine Clearance

Comment: One commenter disagreed with our proposal to eliminate the requirement for ''severe'' bone pain for individuals with renal osteodystrophy under listing 6.02C1 and to require only that there be pain of an unspecified degree. The commenter believed that the change would require adjudicators to have to choose more frequently between whether an impairment meets or medically equals a listing and to weigh the issue of the credibility of an individual's symptoms more than the medical documentation itself. The commenter said that there was no specific demand for this modification because unspecified pain is never a basis for an allowance under our rules, but that severe pain that is ''fully documented by medical and lay evidence can be.''

Response: Although we did not agree with the commenter's rationale, we did adopt the comment. Many people with osteodystrophy do not have severe bone pain, and in reconsidering our proposed rule we realized that by deleting the word ''severe'' we might include some individuals under the listing who should not be presumed to be disabled. In final listing 6.02C1, we use the word ''severe'' to describe medical severity; it does not have the same meaning as it does when we use it in connection with a finding at the second step of the sequential evaluation process.

We do not agree with the commenter that the proposed listing would have required adjudicators to choose more frequently between whether an impairment meets or medically equals this listing or to make more difficult findings about an individual's credibility. To the contrary, we believe that these issues would have arisen less often under the proposed listing because it required only the finding of pain and not ''severe'' pain as in the prior listing. However, like the prior listing, we are restoring the word ''severe'' in the final listing for the reason stated in the previous paragraph.

Finally, although it is true that under the Act and our regulations an individual cannot be found disabled solely on the basis of a symptom, such as pain, the commenter may have misunderstood other aspects of our policies on the evaluation of symptoms. For example, in §§ 404.1525(f) and 416.925(f) of our regulations we explain that some listed impairments include symptoms usually associated with those impairments among their criteria. We then explain that:

> [g]enerally, when a symptom is one of the criteria in a [listing], it is only necessary that the symptom be present in combination with the other criteria. It is not necessary, unless the listing specifically states otherwise, to provide information about the intensity, persistence or limiting effects of the symptom as long as all other findings required by the specific listing are present.

Likewise, we do not have a requirement that an individual's pain be ''fully documented'' by the medical and lay evidence in order to establish that the individual is disabled. (See §§ 404.1529 and 416.929 of our regulations.)

Comment: Two commenters disagreed with our proposal to remove listing 6.02C6 because it was a reference listing. Both commenters pointed out that listing 6.02C6 did not simply describe the same impairment described in listing 5.08, because listing 5.08 requires weight loss ''due to any persisting gastrointestinal disorder.'' Rather, prior listing 6.02C6 described persistent anorexia associated with chronic renal disease, and the reference to the current weight values in two tables in listing 5.08 was only a severity criterion. Both commenters were concerned that some individuals would be inappropriately denied if we deleted the listing.

Response: We adopted the comments. The restored listing is listing 6.02C4 in these final rules.

Because of this change from the NPRM, we also deleted the example we proposed to include in section 6.00H1 explaining that weight loss associated with chronic renal disease should be evaluated under listing 5.08 in final section 6.00G1. We did not replace it with another example because we do not believe an example is necessary in this section.

Listing 106.07, Congenital Genitourinary Impairments

Comment: One commenter recommended that we add a new listing 106.07D to the proposed listing for children with ''[a]ny anatomical congenital malformation of a genito-urinary organ(s) which markedly limits adaptive functional capabilities of the child.'' The commenter said that this would complete all medical possibilities.

Response: We did not adopt the comment. The commenter essentially described a situation that would be covered by our rules for evaluating functional equivalence in § 416.926a of our regulations. That standard requires either an ''extreme'' limitation in one of the functional domains we list in § 416.926a(b)(1) or ''marked'' limitations in two of those domains.

Interstitial Cystitis

Comment: One commenter noted that in 2002 we issued a Social Security Ruling (SSR) explaining how to evaluate cases of individuals with interstitial cystitis. (SSR 02–2p, ''Titles II and XVI: Evaluation of Interstitial Cystitis,'' 67 FR 67436 (November 5, 2002)). The commenter recommended that we address this impairment ''in some fashion'' in the listing.

Response: We did not adopt the comment. As we indicate in SSR 02–2p, the causes of interstitial cystitis are unknown, and there are no definitive tests for the disorder; the diagnosis is made after excluding other possibilities for an individual's symptoms. Therefore, although we do recognize interstitial cystitis as a medically determinable impairment that can be very serious and result in disability under our rules, we are unable to include it in our genitourinary body system listings at this time. We also believe that SSR 02–2p provides more detailed and useful criteria than we would have been able to include in the preface to the listings.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these final rules meet the requirements 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 do not have a significant economic impact on a substantial number of small entities because they affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

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 Office of Management and Budget (OMB) control number. In accordance with the PRA, SSA is providing notice that OMB has approved the information collection requirements contained in sections 6.00C, 6.00E, 106.00C and 106.00E of these final rules. The OMB

Control Number for these collections is 0960–0642, expiring March 31, 2008.

(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; and 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 404

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

Dated: March 28, 2005.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ For the reasons set out in the preamble, subpart P of part 404 of chapter III of title 20 of the Code of Federal Regulations is amended as set forth below:

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

■ 1. 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.

Appendix 1 to Subpart P of Part 404—[Amended]

■ 2. Appendix 1 to subpart P of part 404 is amended as follows:

■ a. Item 7 of the introductory text before part A of appendix 1 is amended by revising the body system name and expiration date.

■ b. The Table of Contents for part A of appendix 1 is amended by revising the body system name for section 6.00.

■ c. Section 6.00 of part A of appendix 1 is revised.

■ d. The Table of Contents for part B of appendix 1 is amended by revising the body system name for section 106.00.

■ e. Section 106.00 of part B of appendix 1 is revised.

The revised text is set forth as follows:

Appendix 1 to Subpart P of Part 404—Listing of Impairments

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7. Genitourinary Impairments (6.00 and 106.00): September 6, 2013.

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Part A

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6.00 Genitourinary Impairments

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6.00 Genitourinary Impairments

A. What impairments do these listings cover?

1. We use these listings to evaluate genitourinary impairments resulting from chronic renal disease.

2. We use the criteria in 6.02 to evaluate renal dysfunction due to any chronic renal disease, such as chronic glomerulonephritis, hypertensive renal vascular disease, diabetic nephropathy, chronic obstructive uropathy, and hereditary nephropathies.

3. We use the criteria in 6.06 to evaluate nephrotic syndrome due to glomerular disease.

B. What do we mean by the following terms in these listings?

1. *Anasarca* is generalized massive edema (swelling).

2. *Creatinine* is a normal product of muscle metabolism.

3. *Creatinine clearance test* is a test for renal function based on the rate at which creatinine is excreted by the kidney.

4. *Diastolic hypertension* is elevated diastolic blood pressure.

5. *Fluid overload syndrome* associated with renal disease occurs when there is excessive sodium and water retention in the body that cannot be adequately removed by the diseased kidneys. Symptoms and signs of vascular congestion may include fatigue, shortness of breath, hypertension, congestive heart failure, accumulation of fluid in the abdomen (ascites) or chest (pleural effusions), and peripheral edema.

6. *Glomerular disease* can be classified into two broad categories, nephrotic and nephritic. Nephrotic conditions are associated with increased urinary protein excretion and nephritic conditions are associated with inflammation of the internal structures of the kidneys.

7. *Hemodialysis,* or *dialysis,* is the removal of toxic metabolic byproducts from the blood by diffusion in an artificial kidney machine.

8. *Motor neuropathy* is neuropathy or polyneuropathy involving only the motor nerves.

9. *Nephrotic syndrome* is a general name for a group of diseases involving defective kidney glomeruli, characterized by heavy proteinuria, hypoalbuminemia, hyperlipidemia, and varying degrees of edema.

10. *Neuropathy* is a problem in peripheral nerve function (that is, in any part of the nervous system except the brain and spinal cord) that causes pain, numbness, tingling, and muscle weakness in various parts of the body.

11. *Osteitis fibrosa* is fibrous degeneration with weakening and deformity of bones.

12. *Osteomalacia* is a softening of the bones.

13. *Osteoporosis* is a thinning of the bones with reduction in bone mass resulting from the depletion of calcium and bone protein.

14. *Pathologic fractures* are fractures resulting from weakening of the bone structure by pathologic processes, such as osteomalacia and osteoporosis.

15. *Peritoneal dialysis* is a method of hemodialysis in which the dialyzing solution is introduced into and removed from the peritoneal cavity either continuously or intermittently.

16. *Proteinuria* is excess protein in the urine.

17. *Renal* means pertaining to the kidney.

18. *Renal osteodystrophy* refers to a variety of bone disorders usually caused by chronic kidney failure.

19. *Sensory neuropathy* is neuropathy or polyneuropathy that involves only the sensory nerves.

20. *Serum albumin* is a major plasma protein that is responsible for much of the plasma colloidal osmotic pressure and serves as a transport protein.

21. *Serum creatinine* is the amount of creatinine in the blood and is measured to evaluate kidney function.

C. What evidence do we need?

1. We need a longitudinal record of your medical history that includes records of treatment, response to treatment, hospitalizations, and laboratory evidence of renal disease that indicates its progressive nature. The laboratory or clinical evidence will indicate deterioration of renal function, such as elevation of serum creatinine.

2. We generally need a longitudinal clinical record covering a period of at least 3 months of observations and treatment, unless we can make a fully favorable determination or decision without it. The record should include laboratory findings, such as serum creatinine or serum albumin values, obtained on more than one examination over the 3-month period.

3. When you are undergoing dialysis, we should have laboratory findings showing your renal function before you started dialysis.

4. The medical evidence establishing the clinical diagnosis of nephrotic syndrome must include a description of the extent of edema, including pretibial, periorbital, or presacral edema. The medical evidence should describe any ascites, pleural effusion, or pericardial effusion. Levels of serum albumin and proteinuria must be included.

5. If a renal biopsy has been performed, the evidence should include a copy of the report of the microscopic examination of the specimen. However, if we do not have a copy of the microscopic examination in the evidence, we can accept a statement from an acceptable medical source that a biopsy was performed, with a description of the results.

D. How do we consider the effects of treatment?

We consider factors such as the:
1. Type of therapy.
2. Response to therapy.
3. Side effects of therapy.
4. Effects of any post-therapeutic residuals.
5. Expected duration of treatment.

E. What other things do we consider when we evaluate your chronic renal disease under specific listings?

1. *Chronic hemodialysis or peritoneal dialysis* (6.02A). A report from an acceptable medical source describing the chronic renal disease and the need for ongoing dialysis is sufficient to satisfy the requirements in 6.02A.

2. *Kidney transplantation* (6.02B). If you have undergone kidney transplantation, we will consider you to be disabled for 12 months following the surgery because, during the first year, there is a greater likelihood of rejection of the organ and recurrent infection. After the first year posttransplantation, we will base our continuing disability evaluation on your residual impairment(s). We will include absence of symptoms, signs, and laboratory findings indicative of kidney dysfunction in our consideration of whether medical improvement (as defined in §§ 404.1579(b)(1) and (c)(1), 404.1594(b)(1) and (c)(1), 416.994(b)(1)(i) and (b)(2)(i), or 416.994a, as appropriate) has occurred. We will consider the:
a. Occurrence of rejection episodes.
b. Side effects of immunosuppressants, including corticosteroids.
c. Frequency of any renal infections.
d. Presence of systemic complications such as other infections, neuropathy, or deterioration of other organ systems.

3. *Renal osteodystrophy* (6.02C1). This condition is bone deterioration resulting from chronic renal disease. The resultant bone disease includes the impairments described in 6.02C1.

4. *Persistent motor or sensory neuropathy* (6.02C2). The longitudinal clinical record must show that the neuropathy is a ''severe'' impairment as defined in §§ 404.1520(c) and 416.920(c) that has lasted or can be expected to last for a continuous period of at least 12 months.

5. *Nephrotic syndrome* (6.06). The longitudinal clinical record should include a description of prescribed therapy, response to therapy, and any side effects of therapy. In order for your nephrotic syndrome to meet 6.06A or B, the medical evidence must document that you have the appropriate laboratory findings required by these listings and that your anasarca has persisted for at least 3 months despite prescribed therapy. However, we will not delay adjudication if we can make a fully favorable determination or decision based on the evidence in your case record. We may also evaluate complications of your nephrotic syndrome, such as orthostatic hypotension, recurrent infections, or venous thromboses, under the appropriate listing for the resultant impairment.

F. What does the term ''persistent'' mean in these listings?

Persistent means that the longitudinal clinical record shows that, with few exceptions, the required finding(s) has been at, or is expected to be at, the level specified in the listing for a continuous period of at least 12 months.

G. How do we evaluate impairments that do not meet one of the genitourinary listings?

1. These listings are only examples of common genitourinary impairments that we consider severe enough to prevent you from doing any gainful activity. If your severe impairment(s) does not meet the criteria of any of these listings, we must also consider whether you have an impairment(s) that satisfies the criteria of a listing in another body system.

2. If you have a severe medically determinable impairment(s) that does not meet a listing, we will determine whether your impairment(s) medically equals a listing. (See §§ 404.1526 and 416.926.) If you have a severe impairment(s) that does not meet or medically equal the criteria of a listing, you may or may not have the residual functional capacity to engage in substantial gainful activity. Therefore, we proceed to the fourth and, if necessary, the fifth steps of the sequential evaluation process in §§ 404.1520 and 416.920. When we decide whether you continue to be disabled, we use the rules in §§ 404.1579(b)(1) and (c)(1), 404.1594(b)(1) and (c)(1), 416.994(b)(1)(i) and (b)(2)(i), or 416.994a, as appropriate.

6.01 Category of Impairments, Genitourinary Impairments

6.02 *Impairment of renal function*, due to any chronic renal disease that has lasted or can be expected to last for a continuous period of at least 12 months. With:

A. *Chronic hemodialysis or peritoneal dialysis* (see 6.00E1).

or

B. *Kidney transplantation.* Consider under a disability for 12 months following surgery; thereafter, evaluate the residual impairment (see 6.00E2).

or

C. *Persistent elevation of serum creatinine* to 4 mg per deciliter (dL) (100 ml) or greater or *reduction of creatinine clearance* to 20 ml per minute or less, over at least 3 months, with one of the following:
1. Renal osteodystrophy (see 6.00E3) manifested by severe bone pain and appropriate medically acceptable imaging demonstrating abnormalities such as osteitis fibrosa, significant osteoporosis, osteomalacia, or pathologic fractures; or
2. Persistent motor or sensory neuropathy (see 6.00E4); or
3. Persistent fluid overload syndrome with:
a. Diastolic hypertension greater than or equal to diastolic blood pressure of 110 mm Hg; or
b. Persistent signs of vascular congestion despite prescribed therapy (see 6.00B5); or
4. Persistent anorexia with recent weight loss and current weight meeting the values in 5.08, table III or IV.

6.06 *Nephrotic syndrome,* with anasarca, persisting for at least 3 months despite prescribed therapy (see 6.00E5). With:

A. Serum albumin of 3.0 g per dL (100 ml) or less and proteinuria of 3.5 g or greater per 24 hours.

or

B. Proteinuria of 10.0 g or greater per 24 hours.

* * * * *

Part B

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106.00 Genitourinary Impairments

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106.00 Genitourinary Impairments

A. What impairments do these listings cover?

1. We use these listings to evaluate genitourinary impairments resulting from chronic renal disease and congenital genitourinary disorders.

2. We use the criteria in 106.02 to evaluate renal dysfunction due to any

chronic renal disease, such as chronic glomerulonephritis, hypertensive renal vascular disease, diabetic nephropathy, chronic obstructive uropathy, and hereditary nephropathies.

3. We use the criteria in 106.06 to evaluate nephrotic syndrome due to glomerular disease.

4. We use the criteria in 106.07 to evaluate congenital genitourinary impairments such as ectopic ureter, extrophic urinary bladder, urethral valves, and neurogenic bladder.

B. What do we mean by the following terms in these listings?

1. *Anasarca* is generalized massive edema (swelling).

2. *Creatinine* is a normal product of muscle metabolism.

3. *Creatinine clearance test* is a test for renal function based on the rate at which creatinine is excreted by the kidney.

4. *Glomerular disease* can be classified into two broad categories, nephrotic and nephritic. Nephrotic conditions are associated with increased urinary protein excretion and nephritic conditions are associated with inflammation of the internal structures of the kidneys.

5. *Hemodialysis,* or *dialysis,* is the removal of toxic metabolic byproducts from the blood by diffusion in an artificial kidney machine.

6. *Nephrotic syndrome* is a general name for a group of diseases involving defective kidney glomeruli, characterized by heavy proteinuria, hypoalbuminemia, hyperlipidemia, and varying degrees of edema.

7. *Neuropathy* is a problem in peripheral nerve function (that is, in any part of the nervous system except the brain and spinal cord) that causes pain, numbness, tingling, and muscle weakness in various parts of the body.

8. *Parenteral antibiotics* refer to the administration of antibiotics by intravenous, intramuscular, or subcutaneous injection.

9. *Peritoneal dialysis* is a method of hemodialysis in which the dialyzing solution is introduced into and removed from the peritoneal cavity either continuously or intermittently.

10. *Proteinuria* is excess protein in the urine.

11. *Renal* means pertaining to the kidney.

12. *Serum albumin* is a major plasma protein that is responsible for much of the plasma colloidal osmotic pressure and serves as a transport protein.

13. *Serum creatinine* is the amount of creatinine in the blood and is measured to evaluate kidney function.

C. What evidence do we need?

1. We need a longitudinal record of your medical history that includes records of treatment, response to treatment, hospitalizations, and laboratory evidence of renal disease that indicates its progressive nature or of congenital genitourinary impairments that documents their recurrent or episodic nature. The laboratory or clinical evidence will indicate deterioration of renal function, such as elevation of serum creatinine, or changes in genitourinary function, such as episodes of electrolyte disturbance.

2. We generally need a longitudinal clinical record covering a period of at least 3 months of observations and treatment, unless we can make a fully favorable determination or decision without it. The record should include laboratory findings, such as serum creatinine or serum albumin values, obtained on more than one examination over the 3-month period.

3. When you are undergoing dialysis, we should have laboratory findings showing your renal function before you started dialysis.

4. The medical evidence establishing the clinical diagnosis of nephrotic syndrome must include a description of the extent of edema, including pretibial, periorbital, or presacral edema. The medical evidence should describe any ascites, pleural effusion, or pericardial effusion. Levels of serum albumin and proteinuria must be included.

5. If a renal biopsy has been performed, the evidence should include a copy of the report of the microscopic examination of the specimen. However, if we do not have a copy of the microscopic examination in the evidence, we can accept a statement from an acceptable medical source that a biopsy was performed, with a description of the results.

6. The medical evidence documenting congenital genitourinary impairments should include treating physician records, operative reports, and hospital records. It should describe the frequency of your episodes, prescribed treatment, laboratory findings, and any surgical procedures performed.

D. How do we consider the effects of treatment?

We consider factors such as the:

1. Type of therapy.

2. Response to therapy.

3. Side effects of therapy.

4. Effects of any post-therapeutic residuals.

5. Expected duration of treatment.

E. What other things do we consider when we evaluate your genitourinary impairment under specific listings?

1. *Chronic hemodialysis or peritoneal dialysis* (106.02A). A report from an acceptable medical source describing the chronic renal disease and the need for ongoing dialysis is sufficient to satisfy the requirements in 106.02A.

2. *Kidney transplantation* (106.02B). If you have undergone kidney transplantation, we will consider you to be disabled for 12 months following the surgery because, during the first year, there is a greater likelihood of rejection of the organ and recurrent infection. After the first year posttransplantation, we will base our continuing disability evaluation on your residual impairment(s). We will include absence of symptoms, signs, and laboratory findings indicative of kidney dysfunction in our consideration of whether medical improvement (as defined in §§ 404.1594(b)(1) and (c)(1) and 416.994a, as appropriate) has occurred. We will consider the:

a. Occurrence of rejection episodes.

b. Side effects of immunosuppressants, including corticosteroids.

c. Frequency of any renal infections.

d. Presence of systemic complications such as other infections, neuropathy, or deterioration of other organ systems.

3. *Nephrotic syndrome* (106.06). The longitudinal clinical record should include a description of prescribed therapy, response to therapy, and any side effects of therapy. In order for your nephrotic syndrome to meet 106.06A or B, the medical evidence must document that you have the appropriate laboratory findings required by these listings and that your anasarca has persisted for at least 3 months despite prescribed therapy. However, we will not delay adjudication if we can make a fully favorable determination or decision based on the evidence in your case record. We may also evaluate complications of your nephrotic syndrome, such as orthostatic hypotension, recurrent infections, or venous thromboses, under the appropriate listing for the resultant impairment.

4. *Congenital genitourinary impairments* (106.07).

a. Each of the listings in 106.07 requires a longitudinal clinical record showing that at least three events have occurred within a consecutive 12-month period with intervening periods of improvement. *Events* include urologic surgical procedures, hospitalizations, and treatment with parenteral antibiotics. To meet the requirements of

these listings, there must be at least 1 month (that is, 30 days) between the events in order to ensure that we are evaluating separate episodes.

b. Diagnostic cystoscopy does not satisfy the requirement for repeated urologic surgical procedures in 106.07A.

c. In 106.07B, *systemic infection* means an infection requiring an initial course of parenterally administered antibiotics occurring at least once every 4 months or at least 3 times a year.

d. In 106.07C, appropriate laboratory and clinical evidence document electrolyte disturbance. Hospitalizations are inpatient hospitalizations for 24 hours or more.

F. What does the term ''persistent'' mean in these listings?

Persistent means that the longitudinal clinical record shows that, with few exceptions, the required finding(s) has been at, or is expected to be at, the level specified in the listing for a continuous period of at least 12 months.

G. How do we evaluate impairments that do not meet one of the genitourinary listings?

1. These listings are only examples of common genitourinary impairments that we consider severe enough to prevent you from doing any gainful activity or that result in marked and severe functional limitations. If your severe impairment(s) does not meet the criteria of any of these listings, we must also consider whether you have an impairment(s) that satisfies the criteria of a listing in another body system.

2. If you have a severe medically determinable impairment(s) that does not meet a listing, we will determine whether your impairment(s) medically equals a listing, or, in the case of a claim for SSI payments, functionally equals the listings. (See §§ 404.1526, 416.926, and 416.926a.) When we decide whether a child receiving SSI payments continues to be disabled, we use the rules in § 416.994a.

106.01 Category of Impairments, Genitourinary Impairments

106.02 *Impairment of renal function,* due to any chronic renal disease that has lasted or can be expected to last for a continuous period of at least 12 months. With:

A. *Chronic hemodialysis or peritoneal dialysis* (see 106.00E1).

or

B. *Kidney transplantation.* Consider under a disability for 12 months following surgery; thereafter, evaluate the residual impairment (see 106.00E2).

or

C. *Persistent elevation of serum creatinine* to 3 mg per deciliter (dL) (100 ml) or greater, over at least 3 months.

or

D. *Reduction of creatinine clearance* to 30 ml per minute (43 liters/24 hours) per 1.73 m2 of body surface area over at least 3 months.

106.06 *Nephrotic syndrome,* with anasarca, persisting for at least 3 months despite prescribed therapy. (See 106.00E3.) With:

A. Serum albumin of 2.0 g/dL (100 ml) or less.

or

B. Proteinuria of 40 mg/m2/hr or greater.

106.07 *Congenital genitourinary impairments* (see 106.00E4) resulting in one of the following:

A. Repeated urologic surgical procedures, occurring at least 3 times in a consecutive 12-month period.

or

B. Documented episodes of systemic infection requiring an initial course of parenteral antibiotics, occurring at least 3 times in a consecutive 12-month period (see 106.00E4).

or

C. Hospitalization (see 106.00E4d) for episodes of electrolyte disturbance, occurring at least 3 times in a consecutive 12-month period.

[FR Doc. 05–13097 Filed 7–1–05; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–05–042]

Drawbridge Operation Regulations; Back Bay of Biloxi, Biloxi, Harrison County, MS

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Popps Ferry Road Bascule Span Bridge across the Back Bay of Biloxi, mile 8.0, at Biloxi, Harrison County, Mississippi. This deviation allows the north bascule span of the bridge to remain closed to navigation for twelve hours on July 26, 2005 with an alternate date of August 2, 2005 in case of inclement weather. This temporary deviation is necessary for the replacement of the hydraulic hoses of the drawbridge operating system.

DATES: This deviation is effective from 7:30 a.m. on Tuesday, July 26, 2005 through 7:30 p.m. on Tuesday, August 2, 2005.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 500 Poydras Street, New Orleans, Louisiana 70130–3310 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The City of Biloxi has requested a temporary deviation in order to replace 24 hydraulic hoses of the north bascule span of the Popps Ferry Road Bridge across the Back Bay of Biloxi, mile 8.0 at Biloxi, Harrison County, Mississippi. This temporary deviation will allow the north bascule span of the bridge to remain in the closed-to-navigation position from 7:30 a.m. to 7:30 p.m. on Tuesday, July 26, 2005 with an alternate date of Tuesday, August 2, 2005 in case of inclement weather. For vessels that do not require the full channel width to safely pass through the bridge, the south bascule span will continue to open on signal, except that it need not open from 7:30 a.m. to 9 a.m. and from 4:30 p.m. to 6 p.m. as provided for in 33 CFR 117.675(c).

The bridge has a vertical clearance of 25 feet above mean high water, elevation 0.8 feet Mean Sea Level and 26.6 feet above mean low water, elevation −0.8 feet Mean Sea Level in the closed-to-navigation position. It has a horizontal clearance of 180 feet between bascule span tips while in the open-to-navigation position, normal to the channel axis. When the south bascule span is in the open-to-navigation position and the north span remains in the closed-to-navigation position, 90 feet of horizontal clearance will be available between the north bascule span tip and the south fender facing. Navigation at the site of the bridge consists mainly of tows with barges and some recreational vessels including sailing vessels. Many of the vessels that currently require an opening of the draw will be able to pass through the bridge with only the south bascule span open. Due to prior

experience, as well as coordination with waterway users, it has been determined that this 12-hour closure of the north bascule span will not have a significant effect on the vessels that do require full opening of the draw. Normally, the bridge opens on signal, except that it need not open for the passage of vessels from 7:30 a.m. to 9 a.m. and from 4:30 p.m. to 6 p.m. Monday through Friday except Federal holidays, as provided for in 33 CFR 117.675(c). The north bascule span may not be able to open for emergencies during the closure period, but the south bascule span of the bridge will open at any time for vessels in distress. Alternate routes are not available.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 27, 2005.

Marcus Redford,

Bridge Administrator.

[FR Doc. 05–13126 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–05–019]

RIN 1625–AA09

Drawbridge Operation Regulations; Kent Island Narrows, Kent Island, MD

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations that govern the operation of the S.R. 18–B Bridge, over Kent Island Narrows, mile 1.0, in Kent Island, MD. The final rule allows the S.R. 18–B Bridge to open on signal for vessel traffic on the hour and half-hour from 6 a.m. to 9 p.m., from May 1 through October 31, but need not be opened from 9 p.m. to 6 a.m. From November 1 through April 30, the draw shall open on signal from 6 a.m. to 6 p.m., but need not be opened from 6 p.m. to 6 a.m. The draw shall open on signal for public vessels of the United States, State, or local government vessels used for public safety purposes, and vessels in distress. This change will allow for a more efficient flow of vessel traffic.

DATES: This rule is effective August 4, 2005.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–05–019 and are available for inspection or copying at Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Anton Allen, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6227.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 27, 2005, we published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulations; Kent Island Narrows, Kent Island, MD'' in the **Federal Register** (70 FR 21700). We received two comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

Maryland Department of Transportation (MDOT), who owns and operates this bascule bridge at mile 1.0 across Kent Island Narrows, in Kent Island, MD, requested a change to the current operating procedures set out in 33 CFR Part 117.561, which requires the draw to open on signal from November 1 through April 30, from 6 a.m. to 6 p.m., but need not be opened from 6 p.m. to 6 a.m.; and from May 1 through October 31 with the following restrictions: On Monday (except when Monday is a holiday) through Thursday (except when Thursday is the day before a Friday holiday), the draw shall open on signal on the hour from 7 a.m. to 7 p.m., but need not be opened at any other time; On Friday (except when Friday is a holiday) and on Thursday when it is the day before a Friday holiday, the draw shall open on signal on the hour from 6 a.m. to 3 p.m. and at 8 p.m., but need not be opened at any other time; On Saturday and on a Friday holiday, the draw shall open on signal at 6 a.m. and 12 noon and on signal on the hour from 3 p.m. to 8 p.m., but need not open at any other time; On Sunday and on a Monday holiday, the draw shall open on signal on the hour from 6 a.m. to 1 p.m. and at 3:30 p.m., but need not be opened at any other time; The draw shall open at scheduled opening times only if vessels are waiting to pass. At each opening, the draw shall remain open for a sufficient period of time to allow passage of all waiting vessels; and if a vessel is approaching the bridge and cannot reach the bridge exactly on the hour, the drawtender may delay the hourly opening up to ten minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

In 1990, MDOT completed a new high-rise bridge along U.S. Route 50/301, which carries the majority of vehicle traffic, parallel to the drawbridge, allowing the draw to operate with fewer restrictions to vessels. The drawbridge has been inadvertently operated by MDOT on this final rule schedule since October 31, 1991.

The Coast Guard issued a temporary deviation from May 1, 2004 to July 29, 2004, to test the proposed regulation and solicit comments. The Coast Guard did not receive any comments during the temporary deviation.

This change is being requested to make the operation of the S.R. 18–B Bridge more efficient. In addition, the draw will provide for greater flow of vessel traffic than the current regulation.

Discussion of Comments and Changes

The Coast Guard received one comment on the NPRM from a private boater and one from MDOT. The private boater is in support of the opening schedule. MDOT provided information to correct slight inaccuracies in the background and purpose of this rule. The Coast Guard has incorporated the following correction to the background and purpose: Construction of the high-rise bridge parallel to the drawbridge actually completed in 1990 vice 1997.

The Coast Guard considers this change necessary to accurately describe details in the background and purpose. The comment provided by MDOT did not have an impact on the regulation itself, but was included for informational purposes only.

Regulatory Evaluation

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

We expect the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the fact that the

majority of vehicle traffic utilizes the high-rise bridge and this rule will increase the number of openings for maritime traffic transiting the bridge.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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 dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. No assistance was requested from any small entity.

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 may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

This 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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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 M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. In § 117.561 revise paragraphs (b) and (c) to read as follows:

§ 117.561 Kent Island Narrows.

* * * * *

(b) From May 1 through October 31, the draw shall open on signal on the hour and half-hour from 6 a.m. to 9 p.m., but need not be opened from 9 p.m. to 6 a.m.

(c) The draw shall open on signal for public vessels of the United States, state and local government vessels used for public safety purposes, and vessels in distress. Operational information will be available 24 hours a day by calling 1–800–543–2515.

Dated: June 27, 2005.

Sally Brice-O'Hara,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 05–13129 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040830250–5062–03; I.D. 062705B]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Specifications and Management Measures; Inseason Adjustments

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

ACTION: Inseason adjustments; request for comments.

SUMMARY: NMFS announces adjustments to management measures in the commercial Pacific Coast groundfish fishery. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), will allow fisheries to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: Effective 0001 hours (local time) July 1, 2005. Comments on this rule will be accepted through August 4, 2005.

ADDRESSES: You may submit comments, identified by I.D. 062705B, by any of the following methods:

- E-mail: *GroundfishInseason3.nwr@noaa.gov*. Include 062705B in the subject line of the message.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070; or Rod McInnis, Administrator, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802–4213.
- Fax: 206–526–6736, Attn: Carrie Nordeen.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen (Northwest Region, NMFS), phone: 206–526–6144; fax: 206–526–6736; and e-mail: *carrie.nordeen@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available on the Government Printing Office's website at: *www.gpoaccess.gov/fr/index.html*.

Background information and documents are available at the NMFS Northwest Region website at: *www.nwr.noaa.gov/1sustfsh/gdfsh01.htm* and at the Pacific Fishery Management Council's website at: *www.pcouncil.org*.

Background

The FMP and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Fishery Management Council (Pacific Council), and are implemented by NMFS. The specifications and management measures for 2005–2006 were codified in the CFR (50 CFR Part 600, Subpart G) and published in the **Federal Register** as a proposed rule on September 21, 2004 (69 FR 56550), and as a final rule on December 23, 2004 (69 FR 77012). The final rule was subsequently amended on March 18, 2005 (70 FR 13118), March 30, 2005 (70 FR 16145), May 3, 2005 (70 FR 22808), May 4, 2005 (70 FR 23040), May 5, 2005 (70 FR 23804), and May 19, 2005 (70 FR 28852).

The following changes to current groundfish management measures were recommended by the Pacific Council, in consultation with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, at its June 12–17, 2005, meeting in Foster City, CA. The changes recommended by the Pacific Council are as follows: (1) increase the limited entry trawl trip limits for sablefish, longspine thornyhead, shortspine thornyhead, minor slope rockfish, and splitnose rockfish; (2) increase the limited entry fixed gear and open access limits for minor shelf rockfish, minor nearshore rockfish, and black rockfish; and (3) increase the open access bycatch limits for canary rockfish and yelloweye rockfish. Pacific Coast groundfish landings will be monitored throughout the year; further adjustments to trip limits or management measures will be made as necessary to allow achievement of, or to avoid exceeding, optimum yields (OYs).

Limited Entry Trawl Fishery

At the June meeting, the Pacific Council's Groundfish Management Team (GMT) reviewed the best available data on estimates of landed catch and total mortality for the limited entry trawl fishery. These data, which were complete through the end of April, were compared to catch and mortality estimates modeled for the trawl fishery and were used to update model predictions through the end of the year.

Based on the Pacific Fishery Information Network's (PacFIN's) Quota Species Monitoring(QSM) data, groundfish landed catch and total mortality data were, in general, either similar to the total mortality estimated by the trawl bycatch model or were much lower than model projections. For example, the reported catch of Dover sole and petrale sole was within 10 percent of model predictions while the catch of longspine thornyhead was 59 percent less than predicted. The catch of slope rockfish is an exception, however, as landed catch estimates were 63 percent higher than model predictions.

The trawl bycatch model was updated with these most recent landed catch and total mortality estimates and was used to predict groundfish catch levels for the remainder of the year. Based on model results, the catch of Dover sole, petrale sole, and shortspine thornyhead is predicted to achieve their respective OYs by the end of the year. The catch of overfished species is not predicted to exceed their rebuilding OYs. Additionally, if current limited entry trawl trip limits and rockfish conservation area (RCA) boundaries remain unchanged, the trawl bycatch models predicts that the catch of longspine thornyhead, sablefish, and slope rockfish will be significantly less than their respective OYs.

The GMT discussed inseason adjustments to allow fisheries for slope rockfish, sablefish, and longspine thornyhead to be prosecuted more effectively. One option to allow access to these species would have been to decrease the size of the trawl RCA, in the area between the U.S./Canada border and 40°10′ N. lat., by moving the westward boundary of the trawl RCA boundary from specific latitude and longitude coordinates approximating the 200–fm (366–m) depth contour to coordinates approximating the 180–fm (329–m) depth contour. Because this inseason adjustment has the potential of increasing the incidental catch of darkblotched rockfish during summer months, the GMT decided against recommending a decrease in the size of the trawl RCA. The GMT also analyzed

increasing limited entry trawl trip limits and recommended that the Pacific Council consider modest increases for certain species in order to allow greater harvest opportunities while keeping catch within groundfish OYs.

The Pacific Council considered and adopted the GMT's recommendations and NMFS is implementing these limited entry trawl trip limit increases. The following limited entry trawl trip limit increases apply to the area between the U.S./Canada border and 40°10′ N. lat. The limited entry trawl large and small footrope sablefish trip limit is increased from 17,000 lb (7,711 kg) per 2 months to 18,000 lb (8,165 kg) per 2 months during July through October and from 8,000 lb (3,629 kg) per 2 months to 13,000 lb (5,897 kg) per 2 months for November and December. The limited entry trawl selective flatfish sablefish trip limit is increased from 10,000 lb (4,536 kg) per 2 months to 15,000 lb (6,804 kg) per 2 months during July through October and from 1,500 lb (680 kg) per 2 months to 10,000 lb (4,536 kg) per 2 months for November and December. The limited entry trawl selective flatfish longspine thornyhead trip limit is increased from 1,000 lb (454 kg) per 2 months to 8,000 lb (3,629 kg) per 2 months during July through October and from 1,000 lb (454 kg) per 2 months to 2,000 lb (907 kg) per 2 months for November and December. The limited entry trawl large and small footrope shortspine thornyhead trip limit is increased from 4,900 lb (2,223 kg) per 2 months to 5,200 lb (2,359 kg) per 2 months during July through October and from 3,500 lb (1,588 kg) per 2 months to 3,700 lb (1,678 kg) per 2 months for November and December. Additionally, the limited entry trawl selective flatfish shortspine thornyhead trip limit is increased from 3,000 lb (1,361 kg) per 2 months to 4,000 lb (1,814 kg) per 2 months during July through October and from 1,000 lb (454 kg) per 2 months to 2,000 lb (907 kg) per 2 months for November and December.

For the area between 40°10′ N. lat. and 38° N. lat., the limited entry trawl minor slope rockfish and splitnose trip limit is increased from 8,000 lb (3,629 kg) per 2 months to 20,000 lb (9,072 kg) per 2 months during July and August.

The following limited entry trawl trip limit increases apply to the area between 40°10′ N. lat. and the U.S./Mexico border. The limited entry trawl sablefish trip limit is increased from 14,000 lb (6,350 kg) per 2 months to 16,000 lb (7,258 kg) per 2 months for the remainder of the year. Additionally, the limited entry trawl shortspine thornyhead trip limit is increased from 4,200 lb (1,905 kg) per 2 months to 4,600 lb (2,087 kg) per 2 months for the remainder of the year.

These trip limit increases are designed to allow the harvest of slope species to approach, but not exceed, their OYs. When compared to status quo management, these modest increases are predicted to result in only small amounts of additional overfished species catch above catch levels currently predicted for the fishery. The fishery is proceeding at a lower harvest rate than NMFS had predicted at the start of 2005. Therefore, the increased harvest opportunities provided in this notice are expected to keep overall harvest within allowable 2005 levels. Groundfish catch levels will continue to be monitored throughout the year and further inseason adjustments will be made if catch is predicted to exceed any groundfish OY.

Limited Entry Fixed Gear and Open Access

The Pacific Council received three trip limit increase requests, one from the limited entry fixed gear fleet and two from the open access fishery fleet, and considered these requests at its June meeting. The request from the limited entry fixed gear fleet was to increase minor shelf rockfish limits in the area between 34°27′ N. lat. and the U.S./Mexico border from 2,000 lb (907 kg) per 2 months to 5,000 lb (2,268 kg) per 2 month for the remainder of the year.

Because landed catch estimates of shelf rockfish are generally tracking lower than predicted through the end of April and total mortality estimates of overfished species are not yet a concern this year, the GMT discussed and analyzed an increase in the limited entry fixed gear limit for minor shelf rockfish. Cowcod, an overfished species, can be incidentally encountered in the area south of 34°27′ N. lat. and particularly in waters 40 fm (73 m) to 60 fm (110 m) in depth. For the area south of 34°27′ N. lat., the shoreward boundary of the non-trawl RCA is a series of specific latitude and longitude coordinates that approximate the 60 fm (110 m) depth contour; therefore, fishing effort may have become concentrated in areas between 40 fm (73 m) and 60 fm (110 m). Few groundfish observer data exist for the limited entry fixed gear sector in this area of the coast, so the GMT was unable to predict the increased amount of cowcod catch that may be associated with the trip limit increase from 2,000 lb (907 kg) per 2 months to 5,000 lb (2,268 kg) per two months. After discussing the potential effects of such an increase, the GMT recommended to the Pacific Council that a smaller trip limit increase, one that increased limits to 3,000 lb (1,361 kg) per 2 months, would be more risk averse and could be accommodated more easily. The Pacific Council considered and adopted the GMT's recommendation and NMFS is implementing an increase to the limited entry fixed gear minor shelf rockfish limit, for the area between 34°27′ N. lat. and the U.S./Mexico border, from 2,000 lb (907 kg) per 2 months to 3,000 lb (1,361 kg) per 2 months for the remainder of the year.

One of the trip limit requests from the open access fleet was also regarding the minor shelf rockfish limit. The request addressed the open access minor shelf rockfish limit from 500 lb (227 kg) per 2 months to 1,000 lb (454 kg) per 2 months. For reasons discussed previously, the GMT discussed the potential for additional incidental catch of cowcod associated with this requested trip limit increase. The GMT also considered whether this trip limit increase could result in unanticipated effort shifts, given the high value of certain nearshore species. Without a better understanding of how this increase may affect effort in the open access fishery, the GMT did not believe that this increase could be accommodated. To address equity between limited entry fixed gear and open access fisheries, the GMT considered an open access increase similar to one implemented for the limited entry fixed gear minor shelf rockfish trip limit. A more moderate minor shelf rockfish increase, from 500 lb (227 kg)per 2 months to 750 lb (340 kg)per 2 months, is more risk averse than the initial request and could be accommodated without conservation concerns. Therefore, the Pacific Council recommended and NMFS is implementing an increase to the open access minor shelf rockfish limit, in the area between 34°27′ N. lat. and the U.S./Mexico border, from 500 lb (227 kg) per 2 months to 750 lb (340 kg) per 2 months for the remainder of the year.

The second request from the open access fleet was to increase black rockfish limits in the area between 42° N. lat. and 40°0′ N. lat. The catch of black rockfish through the end of April has been lower than predicted. To provide additional access to black rockfish, the GMT considered increasing the minor nearshore rockfish and black rockfish limit and determined that a modest increase could be accommodated without conservation concerns. Again, to address equity between the limited entry fixed gear and open access fleets, a similar increase will apply to the limited entry fixed gear fishery. Therefore the Pacific Council

recommended and NMFS is implementing an increase to the limited entry fixed gear and open access minor nearshore rockfish and black rockfish limit, in the area between 42° N. lat. and 40°10′ N. lat., from 5,000 lb (2,268 kg)per 2 months, no more than 1,200 lb (544 kg) of which may be species other than black or blue rockfish, to 6,000 lb (2,722 kg) per 2 months, no more than 1,200 lb (544 kg) of which may be species other than black or blue rockfish. As mentioned previously, these trip limit increases are designed to allow the harvest of rockfish species to approach, but not exceed, their OYs. These modest increases are not predicted to result in additional catch of any overfished species. Groundfish catch levels will continue to be monitored throughout the year and further inseason adjustments will be made if catch is predicted to exceed any groundfish OY.

Open Access Bycatch Limits

In May, NMFS implemented an emergency rule (70 FR 23804, May 5, 2005) to establish bycatch limits for two overfished species, canary rockfish and yelloweye rockfish, in the directed open access fishery. This rule was prompted by the possibility of an unanticipated effort increase in the directed open access fishery and the potential effect this unanticipated effort could have had on the total catch of canary rockfish and yelloweye rockfish. The rebuilding OYs of both canary rockfish and yelloweye rockfish are constraining factors for the Pacific Coast groundfish fishery. If the total catch of either of these species was higher than predicted, for any sector of the fishery, it could have severe consequences for the entire groundfish fishery. As a precautionary measure to keep catch within projected levels, NMFS implemented bycatch limits of 1.0 mt of canary rockfish and 0.6 mt of yelloweye rockfish for the directed open access fishery. If either of these bycatch limits is reached, the open access groundfish fishery would be constrained to incidental landings levels, such that fishery participants would be subject to a 200 lb (91 kg) per month trip limit for all groundfish species, except Pacific whiting.

The bycatch limits for the canary rockfish and yelloweye rockfish were based on the GMT's bycatch scorecard, a tool for tracking reported, as well as projected, catch of overfished species throughout the year. At the Pacific Council's June meeting, the bycatch scorecard was updated with catch estimates from the open access fishery. This update revised bycatch scorecard projections of catch in the open access fishery through the end of the year. Based on updated and revised projections, the open access bycatch limits for canary rockfish and yelloweye rockfish will be increased. The Pacific Council recommended and NMFS is implementing an increase to the open access canary rockfish bycatch limit from 1.0 mt to 3.0 mt and an increase to the open access yelloweye rockfish bycatch limit from 0.6 mt to 3.0 mt. These bycatch limits are designed to keep the open access catch of canary and yelloweye rockfish within projected catch levels and to prevent higher than anticipated catch of these species from constraining, perhaps significantly, the harvesting opportunities of the limited entry fisheries for the remainder of the year. As described above, if either of these bycatch limits is reached, the open access groundfish fishery would be constrained to a 200 lb (91 kg) per month trip limit for all groundfish species, except Pacific whiting.

Clarification

The specifications and management measures for 2005–2006 were codified in the CFR (50 CFR Part 660, Subpart G) and published in the **Federal Register** as a proposed rule on September 21, 2004 (69 FR 56550) and as a final rule on December 23, 2004 (69 FR 77012). During this process, a 2005 commercial harvest guideline of 90.9 mt was set for darkblotched rockfish. After 2005 projected research catch (3.8 mt) and the 2005 commercial harvest guideline were subtracted from the darkblotched rockfish acceptable biological catch (ABC)/OY of 269 mt, a darkblotched rockfish residual amount of 174.3 mt was left over to be used as necessary during the 2005 fishing year. The GMT anticipates that the darkblotched rockfish commercial harvest guideline of 90.9 mt will likely be achieved some time this summer or early fall. Because darkblotched rockfish is an important slope species and constraining the fishery to the darkblotched rockfish harvest guideline would result in severe economic consequences, the GMT and the Pacific Council recommended using some of the 174.3 mt residual to allow for continued fishing seaward of the RCA throughout the year. Because such an action is not anticipated to result in exceeding the darkblotched rockfish ABC/OY or the OY of any other groundfish species, NMFS concurs with this recommendation.

This inseason action also clarifies the limited entry trawl large and small footrope trip limit for Pacific whiting during the whiting primary season, 10,000 lb (4,536 kg) per trip, in Table 3 (North) and Table 3 (South).

Classification

These actions are taken under the authority of 50 CFR 660.370(c) and are exempt from review under Executive Order 12866.

These actions are authorized by the FMP and its implementing regulations, and are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS, (see **ADDRESSES**) during business hours.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The data upon which these recommendations were based were provided to the Pacific Council and the Pacific Council made its recommendations at its June 12–17, 2005, meeting in Foster City, CA. There was not sufficient time after that meeting to draft this notice and undergo proposed and final rulemaking before these actions need to be in effect, as explained below.

The adjustments to groundfish management measures in this document are trip limit increases for the limited entry and open access fisheries and increases to open access bycatch limits. These adjustments to fishery management measures must be implemented by July 1, 2005, the start of the next cumulative limit period, to keep the harvest of groundfish species within the projected harvest levels for 2005 and encourage the OY attainment for certain commercially important target species. Additionally, increases to bycatch limits for two overfished species whose catch constrains the directed open access fishery will provide additional fishing opportunity for open access fisheries. Delaying any of these increases would be contrary to the public interest, because doing so could jeopardize achieving FMP management objectives, specifically the goals to maximize the value of the groundfish resource, achieve the maximum biological yield of the overall groundfish fishery, and promote year-round availability of quality seafood to the consumer.

For these reasons, good cause also exists to waive the 30 day delay in effectiveness requirement under 5 U.S.C. 553 (d)(3).

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives,

Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: June 28, 2005.

Alan D. Risenhoover,

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

■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. In § 660.383, paragraph (f) is revised to read as follows:

§ 660.383 Open access fishery management measures.

* * * * *

(f) 2005 bycatch limits in the directed open access fishery. Bycatch limits for the directed open access fishery may be used inseason to reduce overall groundfish trip limits to incidental levels to achieve the rebuilding of an overfished or depleted stock, under routine management measure authority at § 660.370(c)(1)(ii). These limits are routine management measures under § 660.370(c)(1)(ii) and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. For 2005, the directed open access fishery bycatch limits are 3.0 mt of canary rockfish and 3.0 mt of yelloweye rockfish. Under automatic action authority at Sec. 660.370(d), if either of these limits is reached, groundfish trip limits will be reduced to an incidental level. Under this authority, reducing groundfish trip limits to an incidental level means that any vessel operating off the West Coast that is not registered for use with a limited entry permit will be constrained to a trip limit for all groundfish, excluding Pacific whiting of no more than 200 lb(90.7 kg) per month.

* * * * *

■ 3. In part 660, subpart G, Tables 3–5 are revised to read as follows:

BILLING CODE 3510–22–S

Table 3 (North) to Part 660, Subpart G -- 2005-2006 Trip Limits for Limited Entry Trawl Gear North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 062005

TABLE 3 (North)

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]: North of 40°10' N. lat.	75 fm - modified 200 fm [7/]	100 fm - 200 fm				75 fm - modified 200 fm [7/]
	Selective flatfish trawl gear is required shoreward of the RCA; all trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season.						
	See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, and Cordell Banks).						
	State trip limits may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
1	**Minor slope rockfish[2/] & Darkblotched rockfish**	4,000 lb/ 2 months					
2	**Pacific ocean perch**	3,000 lb/ 2 months					
3	**DTS complex**						
4	Sablefish						
5	large & small footrope gear	9,500 lb/ 2 months		17,000 lb/ 2 months	18,000 lb/ 2 months		13,000 lb/ 2 months
6	selective flatfish trawl gear	1,500 lb/ 2 months	10,000 lb/ 2 months		15,000 lb/ 2 months		10,000 lb/ 2 months
7	multiple bottom trawl gear [8/]	1,500 lb/ 2 months	9,500 lb/ 2 months	10,000 lb/ 2 months	15,000 lb/ 2 months		10,000 lb/ 2 months
8	Longspine thornyhead						
9	large & small footrope gear	15,000 lb/ 2 months		23,000 lb/ 2 months			15,000 lb/ 2 months
10	selective flatfish trawl gear	1,000 lb/ 2 months			8,000 lb/ 2 months		2,000 lb/ 2 months
11	multiple bottom trawl gear [8/]	1,000 lb/ 2 months			8,000 lb/ 2 months		2,000 lb/ 2 months
12	Shortspine thornyhead						
13	large & small footrope gear	3,500 lb/ 2 months		4,900 lb/ 2 months	5,200 lb/ 2 months		3,700 lb/ 2 months
14	selective flatfish trawl gear	1,000 lb/ 2 months		3,000 lb/ 2 months	4,000 lb/ 2 months		2,000 lb/ 2 months
15	multiple bottom trawl gear [8/]	1,000 lb/ 2 months		3,000 lb/ 2 months	4,000 lb/ 2 months		2,000 lb/ 2 months
16	Dover sole						
17	large & small footrope gear	69,000 lb/ 2 months		30,000 lb/ 2 months			22,000 lb/ 2 months
18	selective flatfish trawl gear	20,000 lb/ 2 months	35,000 lb/ 2 months	35,000 lb/ 2 months			8,000 lb/ 2 months
19	multiple bottom trawl gear [8/]	20,000 lb/ 2 months	35,000 lb/ 2 months	30,000 lb/ 2 months			8,000 lb/ 2 months

Table 3 (North). Continued

TABLE 3 (North) con't

20	**Flatfish** (except Dover sole)				
21	Other flatfish [3/], English sole & Petrale sole				
22	large & small footrope gear for Other flatfish [3/] & English sole	110,000 lb/ 2 months	110,000 lb/ 2 months, no more than 42,000 lb/ 2 months of which may be petrale sole.	110,000 lb/ 2 months, no more than 40,000 lb/ 2 months of which may be petrale sole.	80,000 lb/ 2 months, no more than 60,000 lb/ 2 months of which may be petrale sole.
23	large & small footrope gear for Petrale sole	Not limited			
24	selective flatfish trawl gear	100,000 lb/ 2 months, no more than 25,000 lb/ 2 months of which may be petrale sole.	100,000 lb/ 2 months, no more than 35,000 lb/ 2 months of which may be petrale sole.	90,000 lb/ 2 months, no more than 35,000 lb/ 2 months of which may be petrale sole.	75,000 lb/ 2 months, no more than 15,000 lb/ 2 months of which may be petrale sole.
25	multiple bottom trawl gear [8/]	100,000 lb/ 2 months, no more than 25,000 lb/ 2 months of which may be petrale sole.	100,000 lb/ 2 months, no more than 35,000 lb/ 2 months of which may be petrale sole.	90,000 lb/ 2 months, no more than 35,000 lb/ 2 months of which may be petrale sole.	75,000 lb/ 2 months, no more than 15,000 lb/ 2 months of which may be petrale sole.
26	Arrowtooth flounder				
27	large & small footrope gear	Not limited	150,000 lb/ 2 months		80,000 lb/ 2 months
28	selective flatfish trawl gear	70,000 lb/ 2 months			
29	multiple bottom trawl gear [8/]	70,000 lb/ 2 months			
30	**Whiting**				
31	midwater trawl	Before the primary whiting season: CLOSED -- During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: CLOSED			
32	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip -- During the primary season: 10,000 lb/trip -- After the primary whiting season: 10,000 lb/trip			
33	**Minor shelf rockfish [1/], Shortbelly, Widow & Yelloweye rockfish**				
34	midwater trawl for Widow rockfish	Before the primary whiting season: CLOSED -- During primary whiting season: In trips of at least 10,000 lb of whiting, combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED			
35	large & small footrope gear	300 lb/ 2 months			
36	selective flatfish trawl gear	300 lb/ month		1,000 lb/ month, no more than 200 lb/ month of which may be yelloweye rockfish	300 lb/ month
37	multiple bottom trawl gear [8/]	300 lb/ month		300 lb/ 2 months, no more than 200 lb/ month of which may be yelloweye rockfish	300 lb/ month

Table 3 (North). Continued

38	**Canary rockfish**			
39	large & small footrope gear	CLOSED		
40	selective flatfish trawl gear	100 lb/ month	300 lb/ month	100 lb/ month
41	multiple bottom trawl gear [8/]	CLOSED		
42	**Yellowtail**			
43	midwater trawl	Before the primary whiting season: CLOSED -- During primary whiting season: In trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED		
44	large & small footrope gear	300 lb/ 2 months		
45	selective flatfish trawl gear	2,000 lb/ 2 months		
46	multiple bottom trawl gear [8/]	300 lb/ 2 months		
47	**Minor nearshore rockfish & Black rockfish**			
48	large & small footrope gear	CLOSED		
49	selective flatfish trawl gear	300 lb/ month		
50	multiple bottom trawl gear [8/]	CLOSED		
51	**Lingcod** [4/]			
52	large & small footrope gear	500 lb/ 2 months		
53	selective flatfish trawl gear	800 lb/ 2 months	1,000 lb/ 2 months	800 lb/ 2 months
54	multiple bottom trawl gear [8/]	500 lb/ 2 months		
55	**Other Fish** [5/] **& Pacific cod**	Not limited		

TABLE 3 (North) con't

1/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish.
2/ Splitnose rockfish is included in the trip limits for minor slope rockfish.
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
5/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.
7/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
8/ If a vessel has both selective flatfish gear and large or small footrope gear on board during a cumulative limit period (either simultaneously or successively), the most restrictive cumulative limit for any gear on board during the cumulative limit period applies for the entire cumulative limit period.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart G -- 2005-2006 Trip Limits for Limited Entry Trawl Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 062005

	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[6/]:						
40°10' - 38° N. lat.	75 fm - modified 200 fm [7/]	100 fm - 200 fm	100 fm - 150 fm			75 fm - 150 fm
38° - 34°27' N. lat.	75 fm - 150 fm	100 fm - 150 fm				
South of 34°27' N. lat.	75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands	100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands				75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands

Small footrope gear is required shoreward of the RCA; all trawl gear (large footrope, midwater trawl, and small footrope gear) is permitted seaward of the RCA.

See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions.
See §§ 660.390-660.394 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, and Cordell Banks).

State trip limits may be more restrictive than federal trip limits, particularly in waters off Oregon and California.

1	**Minor slope rockfish[2/] & Darkblotched rockfish**					
2	40°10' - 38° N. lat.	4,000 lb/ 2 months	8,000 lb/ 2 months	20,000 lb/ 2 months	8,000 lb/ 2 months	
3	South of 38° N. lat.	40,000 lb/ 2 months				
4	**Splitnose**					
5	40°10' - 38° N. lat.	4,000 lb/ 2 months	8,000 lb/ 2 months	20,000 lb/ 2 months	8,000 lb/ 2 months	
6	South of 38° N. lat.	40,000 lb/ 2 months				
7	**DTS complex**					
8	Sablefish	14,000 lb/ 2 months		16,000 lb/ 2 months		
9	Longspine thornyhead	19,000 lb / 2 months				
10	Shortspine thornyhead	4,200 lb/ 2 months		4,600 lb/ 2 months		
11	Dover sole	50,000 lb/ 2 months	40,000 lb/ 2 months			35,000 lb/ 2 months
12	**Flatfish** (except Dover sole)					
13	Other flatfish[3/] & English sole	110,000 lb/ 2 months	Other flatfish, English sole & Petrale sole: 110,000 lb/ 2 months, no more than 42,000 lb/ 2 months of which may be petrale sole			110,000 lb/ 2 months
14	Petrale sole	No limit				100,000 lb/ 2 months
15	Arrowtooth flounder	No limit	10,000 lb/ 2 months			20,000 lb/ 2 months
16	**Whiting**					
17	midwater trawl	Before the primary whiting season: CLOSED -- During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: CLOSED				
18	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip -- During the primary season: 10,000 lb/trip -- After the primary whiting season: 10,000 lb/trip				

TABLE 3 (South)

Table 3 (South). Continued

19	**Minor shelf rockfish[1/], Chilipepper, Shortbelly, Widow, & Yelloweye rockfish**				TABLE 3 (South) con't
20	large footrope or midwater trawl for Minor shelf rockfish & Shortbelly	300 lb/ month			
21	large footrope or midwater trawl for Chilipepper	2,000 lb/ 2 months	12,000 lb/ 2 months	8,000 lb/ 2 months	
22	large footrope or midwater trawl for Widow & Yelloweye	CLOSED			
23	small footrope trawl	300 lb/ month			
24	**Bocaccio**				
25	large footrope or midwater trawl	300 lb/ 2 months			
26	small footrope trawl	CLOSED			
27	**Canary rockfish**				
28	large footrope or midwater trawl	CLOSED			
29	small footrope trawl	100 lb/ month	300 lb/ month	100 lb/ month	
30	**Cowcod**	CLOSED			
31	**Minor nearshore rockfish & Black rockfish**				
32	large footrope or midwater trawl	CLOSED			
33	small footrope trawl	300 lb/ month			
34	**Lingcod[4/]**				
35	large footrope or midwater trawl	500 lb/ 2 months			
36	small footrope trawl	800 lb/ 2 months	1,000 lb/ 2 months	800 lb/ 2 months	
37	**Other Fish[5/] & Cabezon**	Not limited			

1/ Yellowtail is included in the trip limits for minor shelf rockfish.
2/ POP is included in the trip limits for minor slope rockfish
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
5/ Other fish are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Pacific cod is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.
7/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4 (North) to Part 660, Subpart G -- 2005-2006 Trip Limits for Limited Entry Fixed Gear North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 062005

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
	North of 46°16' N. lat.	shoreline - 100 fm					
	46°16' N. lat. - 40°10' N. lat.	30 fm - 100 fm					
	See § 660.370 and § 660.382 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, and Cordell Banks).						
	State trip limits may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
1	**Minor slope rockfish [2/] & Darkblotched rockfish**	4,000 lb/ 2 months					
2	**Pacific ocean perch**	1,800 lb/ 2 months					
3	**Sablefish**	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 3,600 lb/ 2 months					
4	**Longspine thornyhead**	10,000 lb/ 2 months					
5	**Shortspine thornyhead**	2,000 lb/ 2 months					
6	**Dover sole**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb (0.45 kg) of weight per line are not subject to the RCAs.					
7	**Arrowtooth flounder**						
8	**Petrale sole**						
9	**English sole**						
10	**Other flatfish[1/]**						
11	**Whiting**	10,000 lb/ trip					
12	**Minor shelf rockfish[2/], Shortbelly, Widow, & Yellowtail rockfish**	200 lb/ month					
13	**Canary rockfish**	CLOSED					
14	**Yelloweye rockfish**	CLOSED					
15	**Minor nearshore rockfish & Black rockfish**						
16	North of 42° N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/]					
17	42° - 40°10' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/]			6,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/]		
18	**Lingcod[4/]**	CLOSED		800 lb/ 2 months			CLOSED
19	**Other fish[5/] & Pacific cod**	Not limited					

TABLE 4 (North)

1/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.
2/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish and splitnose rockfish is included in the trip limits for minor slope rockfish.
3/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
5/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4 (South) to Part 660, Subpart G -- 2005-2006 Trip Limits for Limited Entry Fixed Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 062005

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[5/]:						
	40°10' - 34°27' N. lat.	30 fm - 150 fm		20 fm - 150 fm		30 fm - 150 fm	
	South of 34°27' N. lat.	60 fm - 150 fm (also applies around islands)					
	See § 660.370 and § 660.382 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, and Cordell Banks).						
	State trip limits may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
1	**Minor slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months					
2	**Splitnose**	40,000 lb/ 2 months					
3	**Sablefish**						
4	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 3,600 lb/ 2 months					
5	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
6	**Longspine thornyhead**	10,000 lb / 2 months					
7	**Shortspine thornyhead**	2,000 lb/ 2 months					
8	**Dover sole**	5,000 lb/ month When fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb (0.45 kg) of weight per line are not subject to the RCAs.					
9	**Arrowtooth flounder**						
10	**Petrale sole**						
11	**English sole**						
12	**Other flatfish[1/]**						
13	**Whiting**	10,000 lb/ trip					
14	**Minor shelf rockfish[2/], Shortbelly, & Widow rockfish**						
15	40°10' - 34°27' N. lat.	300 lb/ 2 months	CLOSED	200 lb/ 2 months		300 lb/ 2 months	
16	South of 34°27' N. lat.	2,000 lb/ 2 months		2,000 lb/ 2 months	3,000 lb/ 2 months		
17	**Chilipepper rockfish**	2,000 lb/ 2 months, this opportunity only available seaward of the nontrawl RCA					
18	**Canary rockfish**	CLOSED					
19	**Yelloweye rockfish**	CLOSED					
20	**Cowcod**	CLOSED					
21	**Bocaccio**						
22	40°10' - 34°27' N. lat.	200 lb/ 2 months	CLOSED	100 lb/ 2 months	300 lb/ 2 months		
23	South of 34°27' N. lat.	300 lb/ 2 months		300 lb/ 2 months			
24	**Minor nearshore rockfish & Black rockfish**						
25	Shallow nearshore	300 lb/ 2 months	CLOSED	500 lb/ 2 months	600 lb/ 2 months	500 lb/ 2 months	300 lb/ 2 months
26	Deeper nearshore						
27	40°10' - 34°27' N. lat.	500 lb/ 2 months	CLOSED	500 lb/ 2 months		400 lb/ 2 months	500 lb/ 2 months
28	South of 34°27' N. lat.			600 lb/ 2 months			400 lb/ 2 months
29	California scorpionfish	300 lb/ 2 months	CLOSED	300 lb/ 2 months	400 lb/ 2 months		300 lb/ 2 months
30	**Lingcod[3/]**	CLOSED		800 lb/ 2 months			CLOSED
31	**Other fish[4/] & Cabezon**	Not limited					

TABLE 4 (South)

Table 4 (South). Continued

1/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.

2/ POP is included in the trip limits for minor slope rockfish. Yellowtail is included in the trip limits for minor shelf rockfish.

3/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

4/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Pacific cod is included in the trip limits for "other fish."

5/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 5 (North) to Part 660, Subpart G -- 2005-2006 Trip Limits for Open Access Gears North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 062005

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
	North of 46°16' N. lat.	shoreline - 100 fm					
	46°16' N. lat. - 40°10' N. lat.	30 fm - 100 fm					
	See § 660.370 and § 660.383 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, and Cordell Banks).						
	State trip limits may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
1	**Minor slope rockfish[1/] & Darkblotched rockfish**	Per trip, no more than 25% of weight of the sablefish landed					
2	**Pacific ocean perch**	100 lb/ month					
3	**Sablefish**	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 3,600 lb/ 2 months					
4	**Thornyheads**	CLOSED					
5	**Dover sole**	3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb (0.45 kg) of weight per line are not subject to the RCAs.					
6	**Arrowtooth flounder**						
7	**Petrale sole**						
8	**English sole**						
9	**Other flatfish[2/]**						
10	**Whiting**	300 lb/ month					
11	**Minor shelf rockfish[1/], Shortbelly, Widow, & Yellowtail rockfish**	200 lb/ month					
12	**Canary rockfish**	CLOSED					
13	**Yelloweye rockfish**	CLOSED					
14	**Minor nearshore rockfish & Black rockfish**						
15	North of 42° N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/]					
16	42° - 40°10' N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/]			6,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/]		
17	**Lingcod[4/]**	CLOSED		300 lb/ month			CLOSED
18	**Other Fish[5/] & Pacific cod**	Not limited					
19	**PINK SHRIMP NON-GROUNDFISH TRAWL**	*(not subject to RCAs)*					
20	North	**Effective April 1 - October 31:** groundfish 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					
21	**SALMON TROLL**						
22	North	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons and RCA restrictions listed in the table above.					

TABLE 5 (North)

Table 5 (North). Continued

1/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for minor shelf rockfish. Splitnose rockfish is included in the trip limits for minor slope rockfish.

2/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.

3/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

4/ The size limit for lingcod is 24 inches (61 cm) total length.

5/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."

6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 5 (South) to Part 660, Subpart G -- 2005-2006 Trip Limits for Open Access Gears South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 062005

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[5/]:						
	40°10' - 34°27' N. lat.	30 fm - 150 fm		20 fm - 150 fm		30 fm - 150 fm	
	South of 34°27' N. lat.	60 fm - 150 fm (also applies around islands)					
	See § 660.370 and § 660.383 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, and Cordell Banks).						
	State trip limits may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
1	**Minor slope rockfish[1/] & Darkblotched rockfish**						
2	40°10' - 38° N. lat.	Per trip, no more than 25% of weight of the sablefish landed					
3	South of 38° N. lat.	10,000 lb/ 2 months					
4	**Splitnose**	200 lb/ month					
5	**Sablefish**						
6	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 3,600 lb/ 2 months					
7	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
8	**Thornyheads**						
9	40°10' - 34°27' N. lat.	CLOSED					
10	South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
11	**Dover sole**	3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. When fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb of weight per line are not subject to the RCAs.					
12	**Arrowtooth flounder**						
13	**Petrale sole**						
14	**English sole**						
15	**Other flatfish[2/]**						
16	**Whiting**	300 lb/ month					
17	**Minor shelf rockfish[1/], Shortbelly, Widow & Chilipepper rockfish**						
18	40°10' - 34°27' N. lat.	300 lb/ 2 months	CLOSED	200 lb/ 2 months		300 lb/ 2 months	
19	South of 34°27' N. lat.	500 lb/ 2 months		500 lb/ 2 months	750 lb/ 2 months		
20	**Canary rockfish**	CLOSED					
21	**Yelloweye rockfish**	CLOSED					
22	**Cowcod**	CLOSED					
23	**Bocaccio**						
24	40°10' - 34°27' N. lat.	200 lb/ 2 months	CLOSED	100 lb/ 2 months		200 lb/ 2 months	
25	South of 34°27' N. lat.	100 lb/ 2 months		100 lb/ 2 months			
26	**Minor nearshore rockfish & Black rockfish**						
27	Shallow nearshore	300 lb/ 2 months	CLOSED	500 lb/ 2 months	600 lb/ 2 months	500 lb/ 2 months	300 lb/ 2 months
28	Deeper nearshore						
29	40°10' - 34°27' N. lat.	500 lb/ 2 months	CLOSED	500 lb/ 2 months		400 lb/ 2 months	500 lb/ 2 months
30	South of 34°27' N. lat.			600 lb/ 2 months			400 lb/ 2 months
31	California scorpionfish	300 lb/ 2 months	CLOSED	300 lb/ 2 months	400 lb/ 2 months		300 lb/ 2 months
32	**Lingcod[3/]**	CLOSED		300 lb/ month, when nearshore open			CLOSED

TABLE 5 (South)

Table 5 (South). Continued

33	**Other Fish[4/] & Cabezon**	Not limited			
34	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*				
35	South	**Effective April 1 - October 31:** Groundfish 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.			
36	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**				
37	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut and Sea Cucumber:**				
38	40°10' - 38° N. lat.	75 fm - modified 200 fm [7/]	100 fm - 200 fm	100 fm - 150 fm	75 fm - 150 fm
39	38° - 34°27' N. lat.	75 fm - 150 fm	100 fm - 150 fm		
40	South of 34°27' N. lat.	75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands	100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands		75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands
41	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for Ridgeback Prawn:**				
42	40°10' - 38° N. lat.	75 fm - modified 200 fm [7/]	100 fm - 200 fm	100 fm - 150 fm	75 fm - 150 fm
43	38° - 34°27' N. lat.	75 fm - 150 fm	100 fm - 150 fm		
44	South of 34°27' N. lat.	100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands			
45		Groundfish 300 lb/trip. Trip limits in this table also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57'30" N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).			

TABLE 5 (South) con't

1/ Yellowtail rockfish is included in the trip limits for minor shelf rockfish and POP is included in the trip limits for minor slope rockfish.
2/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.
3/ The size limit for lingcod is 24 inches (61 cm) total length.
4/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Pacific cod is included in the trip limits for "other fish."
5/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.
6/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 70, No. 127
Tuesday, July 5, 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

Office of Energy Policy and New Uses

7 CFR Part 2902

RIN 0503–AA26

Designation of Biobased Items for Federal Procurement

AGENCY: Office of Energy Policy and New Uses, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Agriculture (USDA) is proposing to amend 7 CFR part 2902, Guidelines for Designating Biobased Products for Federal Procurement, to add six sections to designate the following six items that are made with biobased products that would be afforded Federal procurement preference, as provided for under section 9002 of the Farm Security and Rural Investment Act of 2002: Mobile equipment hydraulic fluids; urethane roof coatings; water tank coatings; diesel fuel additives; penetrating lubricants; and bedding, bed linens, and towels. USDA also is proposing a minimum biobased content for each of these items. Once USDA designates an item, Federal agencies are required generally to purchase biobased products within these designated items where the purchase price of the procurement item exceeds $10,000 or where the quantity of such items or of functionally equivalent items purchased over the preceding fiscal year equaled $10,000 or more. USDA additionally proposes to revise section 2902.2 to add definitions for ''biodegradability'' and ''functional unit'' and section 2902.8 to adopt applicable ASTM International performance tests to verify biodegradability.

DATES: USDA will accept public comments on this proposed rule until September 6, 2005.

ADDRESSES: You may submit comments by any of the following methods. All submissions received must include the agency name and Regulatory Information Number (RIN). The RIN for this rulemaking is 0503–AA26. Also, please identify submittals as pertaining to the ''Proposed Designation of Items.''

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.biobased.oce.usda.gov*. Follow the instructions for submitting comments.
- E-mail: *fb4p@oce.usda.gov*. Include RIN number 0503–AA26 and ''Proposed Designation of Items'' on the subject line. Please include your name and address in your message.
- Mail/commercial/hand delivery: Mail or deliver your comments to: Marvin Duncan, USDA, Office of the Chief Economist, Office of Energy Policy and New Uses, Room 4059, South Building, 1400 Independence Avenue SW., MS–3815, Washington, DC 20250–3815.
- Persons with disabilities who require alternative means for communication for regulatory information (braille, large print, audiotape, etc.) should contact the USDA TARGET Center at (202) 720–2600 (voice) and (202) 401–4133 (TDD).

FOR FURTHER INFORMATION CONTACT: Marvin Duncan, USDA, Office of the Chief Economist, Office of Energy Policy and New Uses, Room 4059, South Building, 1400 Independence Avenue, SW., MS–3815 Washington, DC 20250–3815; e-mail: *mduncan@oce.usda.gov*; phone (202) 401–0461. Information regarding the Federal Biobased Products Preferred Procurement Program is available on the Internet at *http://www.biobased.oce.usda.gov*.

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Authority
II. Background
  A. Overview of Section 9002
  B. Development of Guidelines
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  A. Background
  B. Items Proposed for Designation
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  D. Effective Date for Procurement Preference and Incorporation into Specifications
V. Where Can Agencies Get More Information on These USDA-designated Items?
VI. Regulatory Information
  A. Executive Order 12866: Regulatory Planning and Review
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  C. Executive Order 12630: Governmental Actions and Interference with Constitutionally Protected Property Rights
  D. Executive Order 12988: Civil Justice Reform
  E. Executive Order 13132: Federalism
  F. Unfunded Mandates Reform Act of 1995
  G. Executive Order 12372: Intergovernmental Review of Federal Programs
  H. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
  I. Paperwork Reduction Act
  J. Government Paperwork Elimination Act Compliance

I. Authority

The designation of these items is proposed under the authority of section 9002 of the Farm Security and Rural Investment Act of 2002 (FSRIA), 7 U.S.C. 8102 (referred to in this document as ''section 9002'').

II. Background

A. Overview of Section 9002

Section 9002 of FSRIA provides for the preferred procurement of biobased products by Federal agencies. The objectives of this preferred procurement program are threefold. The first objective is to increase demand for biobased products. This would have beneficial effects, including an increase in domestic demand for many agricultural commodities that can serve as feedstocks for production of biobased products. Another important effect would be the substitution of products with a possibly more benign or beneficial environmental impact, as compared to the use of fossil energy-based products.

The second objective is to spur development of the industrial base through value-added agricultural processing and manufacturing in rural communities. Because biobased feedstocks are largely produced in rural settings and, in many cases because of their bulk require pre-processing or manufacturing close to where they are grown, increased dependence on biobased products appears likely to increase the amount of pre-processing and manufacturing of biobased products in rural regions of the Nation. This trend would help to create new investment, job formation, and income generation in these rural regions.

The third objective is to enhance the Nation's energy security by substituting biobased products for fossil energy-based products derived from imported oil and natural gas. The growing dependence of the Nation on imported oil and natural gas, along with heightened concerns about political instability in some of the oil rich regions in the world, have led the Congress to place a higher priority on domestic energy and biobased resources.

Federal agencies are required to purchase biobased products, as defined in regulations to implement the statute, for designated items costing over $10,000 each or when the quantities of functionally equivalent items purchased over the preceding fiscal year equaled $10,000 or more. Each Federal agency must procure biobased products within each designated item unless the agency determines that the items are not reasonably available within a reasonable period of time, fail to meet applicable performance standards, or are available only at an unreasonable price. Procurements by a Federal agency subject to section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) are not subject to the requirements under section 9002 to the extent that the requirements of the two programs are inconsistent.

Section 9002 also requires USDA to provide information to Federal agencies on the availability, relative price, performance, and environmental and public health benefits of such items and, under section 9002(e)(1)(C), to recommend when appropriate the minimum level of biobased content to be contained in the procured products.

To achieve these objectives, section 9002 requires Federal agencies to develop procurement programs that give preference to the purchase of biobased products. To ensure that items composed of biobased products will be purchased to the maximum extent practicable, section 9002 requires each agency procurement program to adopt and implement one of the following options: (1) Award contracts to the vendor offering an item composed of the highest percentage of biobased products content practicable; (2) establish minimum biobased products content specifications which are set in such a way as to ensure that the biobased products content required is consistent with the requirements of section 9002; or (3) a substantially equivalent alternative. An example of a substantially equivalent alternative would be where a Federal agency elects to implement the first option for most items, but establishes the second option for a specified subset of items.

USDA recognizes that choices for procurement importantly depend on the performance needs for a given application. USDA is not requiring procuring agencies to limit their choices to qualified biobased products that fall under the items for designation in this proposed rule. Rather, the effect of the designation of the items is to require procuring agencies to determine their performance needs, determine whether there are qualified biobased products that fall under the designated items that meet those needs, and to purchase such qualified biobased products to the maximum extent practicable as required by section 9002.

USDA Departmental Administration, Office of Procurement and Property Management, will issue guidance to Federal agencies regarding a model Biobased Products Preference Program, a promotion program for the Preference Program, and an annual review and monitoring of the effectiveness of an agency Preference Program. Information on the model Biobased Products Preference Program and other documents and tools is available on the USDA Federal Biobased Products Preferred Procurement Program Web site at *http://www.biobased.oce.usda.gov.*

There are a number of preference purchasing programs that Federal procurement officials must take into account when planning a procurement. There is, however, only one biobased product preferred procurement program. When USDA designates by rulemaking an item (a generic grouping of products) for preferred procurement under the Federal Biobased Products Preferred Procurement Program, manufacturers of all products under the umbrella of that item that meet the requirements to qualify for preferred procurement can claim that status for their products. USDA will invite the manufacturers of these qualifying products to post product and contact information on its Web site, *http://www.biobased.oce.usda.gov.* Federal agencies will be able to utilize this Web site as one tool to determine the availability of qualifying biobased products under a designated item. Procurement officials are encouraged to select products that fall within as many of the environmental programs as possible under the Federal Acquisition Regulation (FAR) part 23. To the extent that procurement officials will have to choose between products under different programs, procurement officials should look to the FAR for guidance regarding the relative priority of the various preferences.

As required under section 9002(e)(1), USDA consulted with the Environmental Protection Agency (EPA), the General Services Administration (GSA), and the Department of Commerce National Institute of Standards and Technology (NIST) regarding various aspects of today's proposed rulemaking. USDA also consulted with several Offices within the Defense Logistics Agency (DLA) and the USDA Departmental Administration. These consultations focused on topics such as the time frame for incorporating designated items into procurement specifications, the environmental and economic performance of designated items, the biobased content of designated items, and the availability of market demand information.

B. Development of Guidelines

On December 19, 2003, USDA published in the **Federal Register** (68 FR 70730) a proposed rule to establish guidelines implementing the provisions of section 9002. A 60-day comment period followed, during which USDA received 271 comments from 64 commenters. The comments were from private citizens, consultants, individual companies, industry organizations and trade groups, nonprofit organizations, universities, a Member of Congress, and State and Federal agencies.

After considering these comments, USDA made revisions and clarifications to the proposed guidelines. The final guidelines were published in the **Federal Register** on January 11, 2005, (70 FR 1792), along with a summary of the comments and USDA responses to those comments. The final guidelines are contained in 7 CFR part 2902, ''Guidelines for Designating Biobased Products for Federal Procurement.'' The part is divided into two subparts, ''Subpart A-General,'' and ''Subpart B-Designated Items.'' Subpart A addresses the purpose and scope of the guidelines and their applicability, provides guidance on product availability and procurement, defines terms used in the part, and addresses affirmative procurement programs and USDA funding for testing. Subpart B, which was reserved in the final guidelines, will be amended each time designated item rules (including today's proposed rule) are finalized and will identify and define the designated items, specify their minimum biobased contents, specify the time frames by which Federal agencies must incorporate the designated items into their procurement specifications, and specify any other factors relevant to specific designated items.

III. Summary of Today's Proposed Rulemaking

Today, USDA is proposing to designate the following six items for preferred procurement by Federal agencies: mobile equipment hydraulic fluids; urethane roof coatings; water tank coatings; diesel fuel additives; penetrating lubricants; and bedding, bed linens, and towels (see Section IV.B). USDA is also proposing a minimum biobased content for each of these items (see Section IV.C). USDA is also proposing to establish a time frame for Federal agencies to incorporate designated items into their procurement specifications (see Section IV.D).

USDA is also proposing in today's proposed rulemaking to amend section 2902.2, to add definitions of the terms ''biodegradability'' and ''functional unit'', and to amend section 2902.8 to require the use of applicable ASTM performance tests to verify manufacturer or vendor claims that their biobased products are biodegradable.

In today's proposed rulemaking, USDA is providing information on its findings as to the availability, economic and technical feasibility, environmental and public health benefits, and life cycle costs for each of the six designated items. Information on the availability, relative price, performance, and environmental and public health benefits of products within each of these six items is not presented in this notice. Instead, Section V provides instructions to agencies on how to obtain this information on products within these items through the following Web site: *http://www.biobased.oce.usda.gov.*

Finally, today's proposed rulemaking is the first in a series of actions to designate items. USDA invites comment on the proposed designation of these items, including the definition, proposed minimum biobased content, time frame for incorporation into Federal agencies' procurement specifications, requirement for determining biodegradability, and any of the relevant analyses performed during the selection of these items. Comments should be submitted as directed in the **ADDRESSES** section above.

IV. Designation of Items, Minimum Biobased Contents, and Time Frame

A. Background

In order to designate items (generic groupings of specific products such as crankcase oils or products that contain qualifying biobased fibers) for preferred procurement, section 9002 requires USDA to consider: (1) the availability of items; and (2) the economic and technological feasibility of using the items, including the life cycle costs of the items.

In considering an item's availability, USDA used several sources of information. The initial source of information USDA used was a report entitled ''USDA Biobased Products Sourcebook Outreach: An Evaluation of Industry Perspectives on Proposed Biobased Product Content Guidelines,'' April 2002. This report was prepared for USDA by Concurrent Technologies Corporation and is referred to as the ''CTC Report.'' (USDA has posted the CTC Report on its informational Web site, *http://www.biobased.oce.usda.gov.* The report can also be viewed at the Office of Energy Policy and New Uses, Room 4059, South Building, 1400 Independence Avenue, SW., MS–3815, Washington, DC 20250–3815. To arrange a viewing, contact Marvin Duncan at (202) 401–0461.) The purpose of the CTC Report was to provide descriptions of biobased items (generic groupings of products), including a proposed biobased content level. Then, USDA performed Internet searches, contacted trade associations (such as the Biobased Manufacturers Association) and commodity groups, searched the Thomas Register (a database, used as a resource for finding companies and products manufactured in North America, containing over 173,000 entries), and contacted individual manufacturers and vendors to identify those manufacturers and vendors with biobased products within items being considered for designation. USDA used the results of these same searches to determine if an item was generally available.

In considering an item's economic and technological feasibility, USDA examined evidence pointing to the general commercial use of an item and cost and performance characteristics. This information was obtained from the sources used to assess an item's availability. Commercial use, in turn, was evidenced by any or all of the following: (1) An item being listed in the CTC Report; (2) manufacturer and vendor information on the availability, relative prices, and performance of their products; and (3) evidence of an item being purchased by a Federal agency or other entity, where available. In sum, USDA considered an item economically and technologically feasible for purposes of designation if products within that item are being offered and used in the marketplace.

In considering the life cycle costs of items proposed for designation, USDA used the National Institute of Standards and Technology Building for Environmental and Economic Sustainability (BEES) analysis to test individual products within each proposed item. (Detailed information on this analytical tool can be found on the Web site *http://www.bfrl.nist.gov/oae/software/bees.html.*) The BEES analysis measures the environmental performance and the economic performance of a product.

Environmental performance is measured in the BEES analysis using the internationally-standardized and science-based life cycle assessment approach specified in the International Organization for Standardization (ISO) 14000 standards. All stages in the life of a product are analyzed: Raw material production; manufacture; transportation; installation; use; and recycling and waste management. The BEES environmental performance analysis includes human health as one of its components. The time period over which environmental performance is measured begins with raw material production and ends with disposal (waste management). The BEES environmental performance analysis also addresses products made from biobased feedstocks.

In addition to the information provided by the BEES environmental performance analysis, or by the alternative ASTM International (ASTM) D7075 ''Standard Practice for Evaluating and Reporting Environmental Performance of Biobased Products,'' the biodegradability of certain biobased products may be a key environmental consideration in the selection of a product for purchase by Federal agencies. For example, mobile equipment hydraulic fluids may be used in environmentally sensitive areas such as wetlands or National Forests, and the biodegradability of biobased fluids may be of interest to the users. Similarly, the biodegradability of biobased lubricants would be a key environmental attribute to be considered. Single use, short life packaging and consumer plastics, and coated paper products may beneficially be composted along with other biowastes to generate much needed compost for land application. In such cases, the biodegradability of the products under composting conditions is a key environmental consideration.

To deter manufacturers from making false or unproven claims of product biodegradability, USDA is proposing that, if biodegradability is claimed by the manufacturer as a characteristic of a biobased product, the product must meet the appropriate, product-specific ASTM biodegradability standard(s). ASTM biodegradability standards include: D5864 ''Standard Test Method

for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components''; D6139 ''Standard Test Method for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components Using the Gledhill Shake Flask''; D6006 ''Standard Guide for Assessing Biodegradability of Hydraulic Fluids''; D6400 ''Standard Specification for Compostable Plastics'' and the standards cited therein; and D6868 ''Standard Specification for Biodegradable Plastics Used as Coatings on Paper and Other Compostable Substrates.''

USDA is proposing to adopt ASTM biodegradability standards because there are no other biodegradability standards in the U.S. written by any other standards writing organizations, because ASTM standards are already in use within industry, and because ASTM is the oldest and most well-established standards writing organization in the world. In addition, ASTM standards are widely used and referenced for both regulatory and procurement purposes by the Federal government.

Economic performance in the BEES analysis is measured using the ASTM standard life cycle cost method (ASTM E917), which covers the costs of initial investment, replacement, operation, maintenance and repair, and disposal. The time frame for economic performance extends from the purchase of the product to final disposal.

USDA then utilized the BEES results of individual products within a designated item in its consideration of the life cycle costs at the item level. There is a single unit of comparison associated with each designated item. The basis for the unit of comparison is the ''functional unit,'' defined so that the products compared are true substitutes for one another. If significant differences have been identified in the useful lives of alternative products within a designated item (*e.g.*, if one product lasts twice as long as another) the functional unit will include reference to a time dimension to account for the frequency of product replacement. The functional unit also will account for products used in different amounts for equivalent service. For example, one urethane roof coating product may be environmentally and economically preferable to another on a pound-for-pound basis, but may require twice the mass to cover one square foot of roof, and last half as long, as the other product. To account for these performance differences, the functional unit for the urethane roof coating item would be ''one square foot of application for 50 years'' instead of ''one pound of urethane roof coating.'' The functional unit provides the critical reference point to which all BEES results for products within an item are scaled. Because functional units vary from item to item, performance comparisons are valid only among products within a designated item.

In gathering information relevant to the analyses discussed above, USDA made extensive efforts to contact and request information and product samples from representatives of all known manufacturers of products within the items proposed for designation. However, because the submission of information was on a strictly voluntary basis, USDA was able to obtain information and samples only from those manufacturers who were willing voluntarily to invest the resources required to gather and submit the information and samples. USDA used the samples to test for biobased content and the information to conduct the BEES analyses. The data presented are all the data that were submitted in response to USDA requests for information from all known manufacturers of the products within the six items proposed for designation. While USDA would prefer to have complete data on the full range of products within each item, the data that were submitted are sufficient to support designation of the items in today's proposed rulemaking.

To propose an item for designation, USDA must have sufficient information on a sufficient number of products within an item to be able to assess its availability and its economic and technological feasibility, including its life cycle costs. For some items, there may be numerous products available. For other items, there may be only one product currently available. USDA has determined that the number of products available in an item, by itself, is not critical in determining whether or not to propose the item for designation. Given the infancy of the market for some items, it is not unexpected that single product items will be identified. Further, given that the intent of section 9002 is largely to stimulate the production of new biobased products and to energize emerging markets for those products, USDA has determined that the identification of even a single biobased product within an item is sufficient to consider the designation of that item. Similarly, the documented availability, benefits, and life cycle costs of even a very small percentage of all products that may exist within an item are also considered sufficient to support designation.

B. Items Proposed for Designation

In today's proposed rulemaking, USDA is proposing to designate six items for the preferred procurement program: mobile equipment hydraulic fluids; urethane roof coatings; water tank coatings; diesel fuel additives; penetrating lubricants; and bedding, bed linens, and towels. USDA has determined that each of these six items meets the necessary statutory requirements—that they are being produced with biobased products and that their procurement will carry out the objectives of section 9002:

- To improve demand for biobased products;
- To spur development of the industrial base through value-added agricultural processing and manufacturing in rural communities; and
- To enhance the Nation's energy security by substituting biobased products for fossil energy-based products derived from imported oil and natural gas.

Further, USDA has sufficient information on these six items to determine their availability and to conduct the requisite analyses to determine their biobased content and their economic and technological feasibility, including life cycle costs. USDA selected these six items for this notice of proposed rulemaking because USDA was able to expeditiously identify and analyze these items.

Finally, in proposing ''bedding, bed linens, and towels'' as a designated item, USDA is using information on the availability of biobased fibers produced by two manufacturers. Currently blankets are being produced using one of these manufacturer's biobased fibers. USDA is unaware of any products within this item being produced with the other manufacturer's biobased fibers. Based on the production of these blankets with biobased fibers and information on the potential use of either manufacturer's biobased fibers in similar products, USDA thinks that using the information available on biobased blankets to create a broader item designation (*i.e.*, bedding, bed linens, and towels) is reasonable. In addition, USDA thinks that the broader designation will further hasten development and use of biobased products within this item. USDA solicits comments on the appropriateness of creating this broader item designation.

Section 2902.5(c)(2) of the final guidelines states that USDA will not designate items for preferred procurement that are determined to

have mature markets. Mature markets are described as items that had significant national market penetration in 1972. USDA contacted manufacturers, manufacturing associations, and industry researchers to determine if any of the items proposed for designation today had a significant market share in 1972. The USDA research found that none of the six items proposed for designation today had a significant market share in 1972 and that, generally, products within these proposed designated items have only been available for 10 to 15 years.

Each of the six proposed designated items are discussed in the following sections.

1. *Mobile Equipment Hydraulic Fluids*

Mobile equipment hydraulic fluids represent that group of hydraulic fluid products formulated for use in non-stationary equipment such as tractors, end loaders, or backhoes.

For biobased mobile equipment hydraulic fluids, USDA identified 10 different manufacturers producing 32 individual products. These 10 manufacturers do not necessarily include all manufacturers of biobased mobile equipment hydraulic fluids, merely those identified during USDA information gathering activities. Information supplied by these manufacturers indicates that each of these products has been tested against one or more industry performance standards and is being used commercially. USDA contacted procurement officials with various Federal agencies including GSA, several offices within DLA, the Office of the Federal Environmental Executive (OFEE), USDA Departmental Administration, and the Office of Management and Budget (OMB) in an effort to gather information on the purchases of products within the six items proposed for designation today. Communications with these officials lead to the conclusion that obtaining credible current usage statistics and specific potential markets within the Federal government for biobased products is not possible at this time. Most of the contacted officials reported that procurement data are reported in higher level groupings of materials and supplies than the proposed designated items. Also, the purchasing of such materials as part of contracted services and with individual purchase cards used to purchase products locally further obscures credible data on purchases of specific products. USDA also investigated the Web site *FEDBIZOPPS.gov*, a site which lists Federal contract purchase opportunities greater than $25,000. The information provided on this Web site, however, is for broad categories of products rather than the specific types of products that are included in today's rulemaking. Therefore, USDA has been unable to obtain data on the amount of mobile equipment hydraulic fluids purchased by Federal agencies. However, USDA is aware that the various Federal agencies, including USDA, operate non-stationary equipment, such as construction or agricultural machinery, with hydraulic cylinders. In addition, many Federal agencies contract for services involving the use of such equipment. Thus, Federal agencies have a need for mobile equipment hydraulic fluids and for services which require the use of mobile equipment hydraulic fluids. Therefore, designation of mobile equipment hydraulic fluids will promote the use of biobased products, furthering the objectives of this program.

An analysis of the environmental and human health benefits and the life cycle costs of biobased mobile equipment hydraulic fluid was performed for three of the products using the BEES analytical tool. Table 1 summarizes the BEES results for the three mobile equipment hydraulic fluid products. As seen in Table 1, the environmental performance score, which includes human health, ranges from 2.46 to 3.22 points per 55 gallon drum of fluid. The environmental performance score indicates the share of annual per capita U.S. environmental impacts that is attributable to 1 drum (55 gallons) of the product, expressed in 100ths of 1 percent. For example, the total amount of criteria air pollutants emitted in the U.S. in one year was divided by the total U.S. population to derive a ''criteria air pollutants per person value.'' The production and use of one drum of Fluid A was estimated to contribute 0.000088 percent of this value.

TABLE 1.—SUMMARY OF BEES RESULTS FOR MOBILE EQUIPMENT HYDRAULIC FLUID

Parameters	Mobile equipment hydraulic fluid		
	Fluid A	Fluid B	Fluid C
BEES Environmental Performance—Total Score [1] [2]	2.8411	2.4611	3.2248
Acidification (5%)	0.0002	0.0001	0.0003
Criteria Air Pollutants (6%)	0.0088	0.0076	0.0107
Ecological Toxicity (11%)	0.4573	0.3201	0.5826
Eutrophication (5%)	0.8642	0.5203	1.1129
Fossil Fuel Depletion (5%)	0.4630	0.7958	0.3617
Global Warming (16%)	0.2759	0.1949	0.3507
Habitat Alteration (16%)	0.0000	0.0000	0.0000
Human Health (11%)	0.1968	0.2571	0.0662
Indoor Air (11%)	0.0000	0.0000	0.0000
Ozone Depletion (5%)	0.0000	0.0000	0.0000
Smog (6%)	0.2200	0.1554	0.2820
Water Intake (3%)	0.3549	0.2098	0.4577
Economic Performance (Life Cycle Costs($))	768.61	497.14	470.25
First Cost [3]	768.61	497.14	470.25
Future Cost (3.9%)	([4])	([4])	([4])
Functional Unit	one 55-gallon drum		

[1] Performance comparisons are valid only among products within a designated item.

[2] Numbers in parentheses indicate weighting factor. The weighting factors represent the relative importance of the 12 environmental impacts, including human health impacts, that contribute to the BEES Environmental Score. They are derived from lists of the relative importance of these impacts developed by the EPA Science Advisory Board for the purpose of advising EPA as to how best to allocate its limited resources among environmental impact areas. Note that a lower Environmental Performance score is better than a higher score.

[3] Costs are per functional unit.

[4] Future costs are discounted to present value using the OMB discount rate of 3.9 percent. For this item, no significant/quantifiable performance or durability differences were identified among competing alternative products. Therefore, future costs were not calculated.

The life cycle costs of the submitted mobile equipment hydraulic fluids range from $470 to $769 (present value dollars) per 55 gallon drum of fluid. Present value dollars represent the sum of all costs associated with a product over a fixed period of time, including any applicable costs for purchase, installation, replacement, operation, maintenance and repair, and disposal. Present value dollars presented here reflect 2004 dollars. Dollars are expressed in present value terms to adjust for the effects of inflation. The complete results of the BEES analysis, extrapolated to the item level, can be found at *http://www.biobased.oce.usda.gov.*

2. Urethane Roof Coatings

Urethane roof coatings represent that group of coating products formulated for use in commercial roof deck systems to provide a single coat monolith roof coating system. These products are typically applied as a spray coating and can be incorporated with mesh substrates to provide a reinforced surface. Urethane roof coatings can be applied over traditional roof systems, polyurethane foams, and expanded polystyrene insulation materials to provide a tough resilient protective system.

For urethane roof coatings, USDA has identified one manufacturer producing a single biobased product. This manufacturer may not be the only manufacturer of biobased urethane roof coatings; it is merely the only one identified during USDA's information gathering activities. This product has been tested against six ASTM performance standards and is being used commercially. As discussed in the section on mobile equipment hydraulic fluids, USDA attempted to gather data on the potential market for biobased products within the Federal government. These attempts were unsuccessful. However, Federal agencies routinely procure building construction, renovation, and repair services and materials, including roof coatings. Requiring Federal agencies to give preference to the use of biobased roof coatings will advance the goals and objectives of section 9002.

An analysis of the environmental and human health benefits and the life cycle costs of biobased urethane roof coatings was performed using the BEES analytical tool (see Table 2). As seen in Table 2, the environmental performance score, which includes human health, was 0.0067 points per square foot of application (at 100 mils thickness) for 50 years. The environmental performance score indicates the share of U.S. environmental impacts attributable to 1 square foot of application (at 100 mils thickness) for 50 years, expressed in 100ths of 1 percent.

TABLE 2.—SUMMARY OF BEES RESULTS FOR URETHANE ROOF COATINGS

Parameters	Urethane roof coating
BEES Environmental Performance—Total Score [1] [2]	0.0067
Acidification (5%)	0.0000
Criteria Air Pollutants (6%)	0.0000
Ecological Toxicity (11%)	0.0017
Eutrophication (5%)	0.0010
Fossil Fuel Depletion (5%)	0.0014
Global Warming (16%)	0.0004
Habitat Alteration (16%)	0.0000
Human Health (11%)	0.0008
Indoor Air (11%)	0.0000
Ozone Depletion (5%)	0.0000
Smog (6%)	0.0002
Water Intake (3%)	0.0012
Economic Performance (Life Cycle Costs ($))	[3] 2.50 (1.25)
First Cost [4]	2.50 (1.25)
Future Cost (3.9%)	[5] 0.00
Functional Unit	([6])

[1] Performance comparisons are valid only among products within a designated item.

[2] Numbers in parentheses indicate weighting factor. The weighting factors represent the relative importance of the 12 environmental impacts, including human health impacts, that contribute to the BEES Environmental Score. They are derived from lists of the relative importance of these impacts developed by the EPA Science Advisory Board for the purpose of advising EPA as to how best to allocate its limited resources among environmental impact areas. Note that a lower Environmental Performance score is better than a higher score.

[3] Higher values associated with standard prices. Values in parentheses reflect discounted price for volume purchase.

[4] Costs are per functional unit.

[5] There are no operation, maintenance, or repair costs beyond total replacement costs. Because the projected life of the coating is 50 years, the cost of replacement, when discounted to present value using the OMB discount rate of 3.9 percent, is less than one penny. Thus, a value of zero was reported.

[6] One square foot of application for 50 years.

The life cycle cost of the submitted urethane roof coating was $2.50 (present value dollars) per square foot of application (at 100 mils thickness) for 50 years. The manufacturer also indicated that it offers high volume purchase discounts. Using the discounted price, a life cycle cost of $1.25 was calculated. Present value dollars represent the sum of all costs associated with a product over a fixed period of time, including any applicable costs for purchase, installation, replacement, operation, maintenance and repair, and disposal. Present value dollars presented here reflect 2004 dollars. Dollars are expressed in present value terms to adjust for the effects of inflation. The complete results of the BEES analysis, extrapolated to the item level, can be found at *http://www.biobased.oce.usda.gov.*

3. Water Tank Coatings

Water tank coatings represent that group of coating products formulated for use in potable water storage systems. These products are typically applied as a sprayed on thick film coating to provide a durable, maintenance-free, protective liner. Water tank coatings can be applied over both concrete and steel water tanks and reservoirs providing extended life cycle protection.

For water tank coatings, USDA identified one manufacturer producing a single biobased product. This manufacturer may not be the only manufacturer of biobased water tank coatings; it is merely the only one identified during USDA information gathering activities. This product has been tested against six ASTM performance standards and the Underwriters Laboratory Testing for Potable Water Approval standard, and is being used commercially. As discussed in the section on mobile equipment hydraulic fluids, USDA attempted to gather data on the potential market for biobased products within the Federal government. These attempts were unsuccessful. However, many Federal agencies have potable water storage tanks and reservoirs. Requiring Federal agencies to give preference to the use of biobased water tank coatings will advance the goals and objectives of section 9002.

An analysis of the environmental and human health benefits and the life cycle costs of biobased water tank coatings was performed using the BEES analytical tool (see Table 3). As seen in Table 3, the environmental performance score, which includes human health, was 0.0083 points and indicates the share of U.S. environmental impacts attributable to 1 square foot of application (at 125 mils thickness) for 30 years, expressed in 100ths of 1 percent.

TABLE 3.—SUMMARY OF BEES RESULTS FOR WATER TANK COATINGS

Parameters	Water tank coating
BEES Environmental Performance—Total Score [1] [2]	0.0083
Acidification (5%)	0.0000
Criteria Air Pollutants (6%)	0.0000
Ecological Toxicity (11%)	0.0021
Eutrophication (5%)	0.0012
Fossil Fuel Depletion (5%)	0.0017
Global Warming (16%)	0.0005

TABLE 3.—SUMMARY OF BEES RESULTS FOR WATER TANK COATINGS—Continued

Parameters	Water tank coating
Habitat Alteration (16%)	0.0000
Human Health (11%)	0.0010
Indoor Air (11%)	0.0000
Ozone Depletion (5%)	0.0000
Smog (6%)	0.0003
Water Intake (3%)	0.0015
Economic Performance (Life Cycle Costs ($))	[3] 3.12 (1.56)
First Cost [4]	3.12 (1.56)
Future Cost (3.9%)	[5] 0.00
Functional Unit	([6])

[1] Performance comparisons are valid only among products within a designated item.

[2] Numbers in parentheses indicate weighting factor. The weighting factors represent the relative importance of the 12 environmental impacts, including human health impacts, that contribute to the BEES Environmental Score. They are derived from lists of the relative importance of these impacts developed by the EPA Science Advisory Board for the purpose of advising EPA as to how best to allocate its limited resources among environmental impact areas. Note that a lower Environmental Performance score is better than a higher score.

[3] Higher values associated with standard prices. Values in parentheses reflect discounted price for volume purchase.

[4] Costs are per functional unit.

[5] There are no operation, maintenance, or repair costs beyond total replacement costs. Because the projected life of the coating is 30 years, the cost of replacement, when discounted to present value using the OMB discount rate of 3.9 percent, is less than one penny. Thus, a value of zero was reported.

[6] One square foot of application for 30 years.

The life cycle cost of the submitted water tank coating was $3.12 (present value dollars) per square foot of application (at 125 mils thickness) for 30 years. The manufacturer also indicated that it offers high volume purchase discounts. Using the discounted price, a life cycle cost of $1.56 was calculated. Present value dollars represent the sum of all costs associated with a product over a fixed period of time, including any applicable costs for purchase, installation, replacement, operation, maintenance and repair, and disposal. Present value dollars presented here reflect 2004 dollars. Dollars are expressed in present value terms to adjust for the effects of inflation. The complete results of the BEES analysis, extrapolated to the item level, can be found at *http://www.biobased.oce.usda.gov.*

4. Diesel Fuel Additives

Commercially available biobased diesel fuel additives are formulated as the mono alkyl esters of long chain fatty acids derived from renewable lipid sources. They are produced through the reaction of a vegetable oil or animal fat with methanol or ethanol in the presence of a catalyst to yield glycerin (as a byproduct) and the methyl or ethyl esters used as diesel fuel additives. Biobased diesel fuel additives are blended with petroleum diesel for use in compression ignition (diesel) engines. Its physical and chemical properties as it relates to operation of diesel engines are similar to petroleum-based diesel fuel.

For biobased diesel fuel additives, USDA identified 31 different manufacturers producing 42 individual products. These 31 manufacturers do not necessarily include all manufacturers of biobased diesel fuel additives, merely those identified during USDA information gathering activities. Information supplied by these manufacturers indicates that these products have been tested using ASTM D6751, Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, and are being used commercially.

The sulfur that is present in conventional diesel fuel is one of the compounds that provides necessary lubrication to certain engine components such as fuel injection pumps. Biobased diesel fuel additives provide similar lubricating properties to those provided by sulfur. As the use of low-sulfur diesel fuel is mandated by regulations implemented to reduce emissions of particulate matter and sulfur oxides, the use of diesel fuel additives to replace the lubricating properties of sulfur will be essential. According to Department of Energy (DOE) estimates of diesel fuel purchases for Federal fleet usage, there is a significant market opportunity for biobased diesel fuel additives. Therefore, designation of diesel fuel additives will promote the use of biobased products, furthering the objectives of this program.

An analysis of the environmental and human health benefits and the life cycle costs of biobased diesel fuel additives was performed for one of the products using the BEES analytical tool. In addition, a second BEES analysis was conducted on industry average data supplied by the National Biodiesel Board. Table 4 summarizes the BEES results. As seen in Table 4, the environmental performance scores, which includes human health, were 0.023 and 0.029 points per gallon of product. The environmental performance score indicates the share of annual per capita U.S. environmental impacts that is attributable to 1 gallon of the product, expressed in 100ths of 1 percent.

TABLE 4.—SUMMARY OF BEES RESULTS FOR DIESEL FUEL ADDITIVES

Parameters	Diesel fuel additives	
	Industry average data	Additive A
BEES Environmental Performance—Total Score [1] [2]	0.0231	0.0287
Acidification (5%)	0.0000	0.0000
Criteria Air Pollutants (6%)	0.0002	0.0003
Ecological Toxicity (11%)	0.0047	0.0014
Eutrophication (5%)	0.0035	0.0026
Fossil Fuel Depletion (5%)	0.0072	0.0145
Global Warming (16%)	0.0035	0.0038
Habitat Alteration (16%)	0.0000	0.0000
Human Health (11%)	0.0023	0.0048
Indoor Air (11%)	0.0000	0.0000
Ozone Depletion (5%)	0.0000	0.0000
Smog (6%)	0.0008	0.0006
Water Intake (3%)	0.0009	0.0007
Economic Performance (Life Cycle Costs ($))	2.15	2.25
First Cost [3]	2.15	2.25
Future Cost (3.9%)	([4])	([4])

TABLE 4.—SUMMARY OF BEES RESULTS FOR DIESEL FUEL ADDITIVES—Continued

Parameters	Diesel fuel additives	
	Industry average data	Additive A
Functional Unit	one gallon	

[1] Performance comparisons are valid only among products within a designated item.
[2] Numbers in parentheses indicate weighting factor. The weighting factors represent the relative importance of the 12 environmental impacts, including human health impacts, that contribute to the BEES Environmental Score. They are derived from lists of the relative importance of these impacts developed by the EPA Science Advisory Board for the purpose of advising EPA as to how best to allocate its limited resources among environmental impact areas. Note that a lower Environmental Performance score is better than a higher score.
[3] Costs are per functional unit.
[4] Future costs are discounted to present value using the OMB discount rate of 3.9 percent. For this item, no significant/quantifiable performance or durability differences were identified among competing alternative products. Therefore, future costs were not calculated.

The life cycle costs for the industry average data and the one submitted diesel fuel additive were $2.15 and $2.25 (present value dollars) per gallon of product, respectively. Present value dollars represent the sum of all costs associated with a product over a fixed period of time, including any applicable costs for purchase, installation, replacement, operation, maintenance and repair, and disposal. Present value dollars presented here reflect 2004 dollars. Dollars are expressed in present value terms to adjust for the effects of inflation. The complete results of the BEES analysis, extrapolated to the item level, can be found at *http://www.biobased.oce.usda.gov.*

5. Penetrating Lubricants

Penetrating lubricants represent that group of products formulated to provide light lubrication and corrosion resistance in close tolerant internal and external applications including frozen nuts and bolts, power tools, gears, valves, chains, and cables.

For biobased penetrating lubricants, USDA identified 9 different manufacturers producing 9 individual products. These 9 manufacturers do not necessarily include all manufacturers of biobased penetrating lubricants, merely those identified during USDA information gathering activities. Information supplied by these manufacturers indicate that each of these products has been tested against one or more industry performance standards and is being used commercially. As discussed in the section on mobile equipment hydraulic fluids, USDA attempted to gather data on the potential market for biobased products within the Federal government. These attempts were unsuccessful. However, various Federal agencies, including USDA, operate or contract for the operation of overhaul facilities. Such facilities would use penetrating lubricants. Thus Federal agencies have a need for penetrating lubricants or for services which require the use of penetrating lubricants. Therefore, designation of penetrating lubricants will promote the use of biobased products, furthering the objectives of this program.

An analysis of the environmental and human health benefits and the life cycle costs of biobased penetrating lubricants was performed for two of the products using the BEES analytical tool. Table 5 summarizes the BEES results. As seen in Table 5, the environmental performance scores, which includes human health, were 16.64 and 20.82 points per 55 gallon drum of product. The environmental performance score indicates the share of annual per capita U.S. environmental impacts that is attributable to 1 drum (55 gallons) of the product, expressed in 100ths of 1 percent.

TABLE 5.—SUMMARY OF BEES RESULTS FOR PENETRATING LUBRICANTS

Parameters	Penetrating lubricants	
	Lubricant A	Lubricant B
BEES Environmental Performance—Total Score[1] [2]	16.6355	20.8208
Acidification (5%)	0.0008	0.0014
Criteria Air Pollutants (6%)	0.1325	0.0754
Ecological Toxicity (11%)	4.6811	3.1058
Eutrophication (5%)	0.7865	5.1291
Fossil Fuel Depletion (5%)	6.4847	5.4267
Global Warming (16%)	1.6861	1.9323
Habitat Alteration (16%)	0.0000	0.0000
Human Health (11%)	2.1279	1.6275
Indoor Air (11%)	0.0000	0.0000
Ozone Depletion (5%)	0.0001	0.0000
Smog (6%)	0.2843	1.4366
Water Intake (3%)	0.4515	2.0860
Economic Performance (Life Cycle Costs ($))	7,868.18	6,774.53
First Cost[3]	929.02	799.89
Future Cost (3.9%)[4]	6,939.16	5,974.64
Functional Unit	one 55-gallon drum over 10 years of use	

[1] Performance comparisons are valid only among products within a designated item.
[2] Numbers in parentheses indicate weighting factor. The weighting factors represent the relative importance of the 12 environmental impacts, including human health impacts, that contribute to the BEES Environmental Score. They are derived from lists of the relative importance of these impacts developed by the EPA Science Advisory Board for the purpose of advising EPA as to how best to allocate its limited resources among environmental impact areas. Note that a lower Environmental Performance score is better than a higher score.
[3] Costs are per functional unit.

[4] Future costs are discounted to present value using the OMB discount rate of 3.9 percent.

The life cycle costs of the two submitted penetrating lubricants were $6,775 and $7,868 (present value dollars) per 55 gallon drum of the product over 10 years of use. Present value dollars represent the sum of all costs associated with a product over a fixed period of time, including any applicable costs for purchase, installation, replacement, operation, maintenance and repair, and disposal. Present value dollars presented here reflect 2004 dollars. Dollars are expressed in present value terms to adjust for the effects of inflation. The complete results of the BEES analysis, extrapolated to the item level, can be found at *http://www.biobased.oce.usda.gov*.

6. Bedding, Bed Linens, and Towels

Bedding, bed linens, and towels represent a group of cloth products produced by weaving fibers made from qualifying biobased feedstock or by weaving fibers made from qualifying biobased feedstock in combination with other fibers. Other types of fibers with which biobased fibers may be blended include natural fibers (such as wool and cotton) and man-made textile fibers derived from petroleum-based resins. This item includes: bed coverings such as blankets, bedspreads, and comforters; sheets and pillowcases; and towels.

For bedding, bed linens, and towels, USDA identified one manufacturer producing biobased products. This manufacturer may not be the only manufacturer of biobased bedding, bed linens, and towels; it is merely the only one identified during USDA information gathering activities. The one identified manufacturer of biobased bedding, bed linens, and towels produces biobased blankets (in 12 different sizes, weights, and blends) that are commercially available on the market. These products have been tested against three ASTM performance standards and four American Association of Textile Chemists and Colorists' standards. As discussed in the section on mobile equipment hydraulic fluids, USDA attempted to gather data on the potential market for biobased products within the Federal government. These attempts were unsuccessful. However, several Federal agencies routinely procure bedding materials and towels. Requiring Federal agencies to give preference to the use of biobased bedding, bed linens, and towels will advance the goals and objectives of section 9002.

An analysis of the environmental and human health benefits and the life cycle costs of one biobased blanket was performed using the BEES analytical tool (see Table 6). As seen in Table 6, the environmental performance score, which includes human health, was 0.19 points and indicates the share of U.S. environmental impacts attributable to one blanket (average weighted size 90 inches by 96 inches, 4 pounds), expressed in 100ths of 1 percent.

TABLE 6.—SUMMARY OF BEES RESULTS FOR BEDDING, BED LINENS, AND TOWELS

Parameters	Bedding, bed linens, and towels
BEES Environmental Performance—Total Score [1] [2]	0.1901
Acidification (5%)	0.0000
Criteria Air Pollutants (6%)	0.0013
Ecological Toxicity (11%)	0.0087
Eutrophication (5%)	0.0521
Fossil Fuel Depletion (5%)	0.0747
Global Warming (16%)	0.0195
Habitat Alteration (16%)	0.0000
Human Health (11%)	0.0238
Indoor Air (11%)	0.0000
Ozone Depletion (5%)	0.0000
Smog (6%)	0.0043
Water Intake (3%)	0.0057
Economic Performance (Life Cycle Costs ($))	139.99
First Cost [3]	139.99
Future Cost (3.9%)	([4])
Functional Unit	([5])

[1] Performance comparisons are valid only among products within a designated item.

[2] Numbers in parentheses indicate weighting factor. The weighting factors represent the relative importance of the 12 environmental impacts, including human health impacts, that contribute to the BEES Environmental Score. They are derived from lists of the relative importance of these impacts developed by the EPA Science Advisory Board for the purpose of advising EPA as to how best to allocate its limited resources among environmental impact areas. Note that a lower Environmental Performance score is better than a higher score.

[3] Costs are per functional unit.

[4] Future costs are discounted to present value using the OMB discount rate of 3.9 percent. For this item, no significant/quantifiable performance or durability differences were identified among competing alternative products. Therefore, future costs were not calculated.

[5] One blanket (average size 90 inches x 96 inches, 4 pounds).

The life cycle cost of the submitted blanket was $139.99 (present value dollars) for one blanket (average weighted size 90 by 96, 4 pounds). Present value dollars represent the sum of all costs associated with a product over a fixed period of time, including any applicable costs for purchase, installation, replacement, operation, maintenance and repair, and disposal. Present value dollars presented here reflect 2004 dollars. Dollars are expressed in present value terms to adjust for the effects of inflation. The complete results of the BEES analysis, extrapolated to the item level, can be found at *http://www.biobased.oce.usda.gov.*

C. Minimum Biobased Contents

Section 9002(e)(1)(C) directs USDA to recommend minimum biobased content levels where appropriate. In today's proposed rulemaking, USDA is proposing a minimum biobased product content for each of the six items proposed for designation based on information currently available to USDA. As discussed in Section IV.A of this preamble, USDA relied entirely on manufacturers' voluntary submission of data to support the proposed designation of these six items. The data presented in the following paragraphs are the results from all of the product samples that were submitted for analysis. Based on information supplied by the manufacturers, USDA has confirmed that the qualifying biobased content in each of the samples tested is derived, in whole or in significant part, from renewable domestic agricultural or forestry material.

USDA has identified only one product each in two of the items (urethane roof coatings and water tank coatings) proposed for designation in today's notice. USDA has determined that setting a minimum biobased content for an item, even on the basis of a single product, is appropriate. Establishing a minimum biobased content will encourage competition among manufacturers to develop products with higher biobased contents and will prevent products with de minimus biobased content from being purchased as a means of satisfying the requirements of section 9002. While USDA is proposing the minimum acceptable biobased content for each designated item, Federal agencies are encouraged to seek products with the highest biobased content that is practicable.

The following paragraphs summarize the information that USDA used to propose minimum biobased contents within each proposed designated item.

1. Mobile Equipment Hydraulic Fluids

Fourteen of the 32 mobile equipment hydraulic fluids identified have been tested for biobased content using ASTM

D6866.[1] The biobased content of these 14 fluids ranged from 24 percent to 99 percent. Thirteen of the 14 fluids tested had biobased contents higher than 47 percent.

USDA is proposing to set the minimum biobased content for this item at 24 percent, the lowest biobased content of the tested fluids. USDA is proposing this minimum content for three reasons. First, not all hydraulic fluids serve the same markets and meet the same industry standards; that is, not all fluids are interchangeable in their applications. The product containing 24 percent biobased content was formulated for use in high performance, low pour-point markets where many other biobased hydraulic fluids would not be suitable. It is in the best interests of the program for minimum biobased content to be set at levels that will realistically allow products to possess the necessary performance attributes and allow them to compete with fossil energy based products in performance and economics. Second, the highest biobased content that is economically and technologically feasible for some markets might be substantially less than 100 percent. The designation of items should encourage the development of more biobased products for all applications that could be served by an item. The third reason for setting the minimum biobased content at the lowest level found among the sampled products is the desire to encourage the most widespread usage of biobased mobile equipment hydraulic fluid by Federal agencies. The performance characteristics found in the product with 24 percent biobased content are expected to result in its purchase and use by agencies who would not be able to use any of the competing, higher biobased content, products because those products do not meet their specific performance requirements.

2. Urethane Roof Coatings

USDA tested one sample of the one available urethane roof coating using ASTM D6866. The biobased content of this coating was 62 percent, which USDA is proposing as the minimum biobased content for this item.

As discussed earlier, USDA must establish the minimum biobased content for each item based on the information received from manufacturers of the item even when the only information available is on a single product within an item. Also as discussed earlier, this should not preclude the development of products with higher biobased contents.

3. Water Tank Coatings

USDA tested one sample of the one available water tank coating using ASTM D6866. The biobased content of this coating was 62 percent, which USDA is proposing as the minimum biobased content for this item. As discussed above, USDA is establishing the minimum biobased content based on the analysis of the only product for which information was provided.

4. Diesel Fuel Additives

Four of the 42 diesel fuel additives identified have been tested for biobased content using ASTM D6866. The biobased content of all four of the diesel fuel additives tested was from 93 percent to 95 percent. USDA has no information to indicate that other biobased diesel fuel additives would have a significantly lower biobased content. Because the range of the results is so small, USDA is proposing to set the minimum biobased content for this item at 93 percent.

5. Penetrating Lubricants

Five of the 9 penetrating lubricants identified have been tested for biobased content using ASTM D6866. The biobased content of these 5 penetrating lubricants ranged from 26 percent to 99 percent. Four of the 5 penetrating lubricants tested had biobased contents of 71 percent or higher.

USDA evaluated the information submitted by the manufacturer to determine if there was anything unique about the product that contained 26 percent biobased content, as it had done for the mobile equipment hydraulic fluid with the lowest reported biobased content. Based on the information currently available, USDA does not think that this product possesses qualities that are significantly different from the other four tested products or that enable it to be the only biobased option for a significant market segment. As indicated above, 4 of the 5 samples tested had biobased contents at or above 71 percent. Therefore, USDA is proposing to set the minimum biobased content for this item at 71 percent.

6. Bedding, Bed Linens, and Towels

USDA tested one sample of a biobased blanket using ASTM D6866. The biobased content of this blanket was 100 percent. However, the manufacturer of the blanket sampled also manufactures blankets using blends of biobased synthetic fibers and wool. One of the key objectives of section 9002 is to encourage the development of new and emerging products manufactured with biobased materials. For example, because USDA considers wool and cotton products such as blankets to be mature products, the wool and cotton portion of these blankets is not considered to be a qualifying biobased feedstock. While ASTM D6866 can be used to distinguish the fossil-based carbon content in a product from the biobased carbon content, it cannot be used to distinguish among biobased materials. Thus, the method cannot be used to determine what percentage of the biobased content of a product is a non-qualifying feedstock such as wool or cotton. In cases where the biobased portion of a product is a combination of qualifying and non-qualifying biobased feedstocks, USDA must rely on manufacturer's product formulation data to determine the qualifying portion of the total biobased content of the product. According to information provided by the manufacturer, the minimum amount of biobased synthetic fibers used in any of their blends is 50 percent.

USDA also has received information on another synthetic fiber, made with 37 percent qualifying biobased feedstock, that can be used in the manufacture of bedding, bed linens, and towels. Combining the 37 percent qualifying biobased fibers with wool or cotton fibers in a 50/50 blend would result in a finished product with a qualifying biobased content of about 18 percent. Based on product information on these two biobased synthetic fibers, USDA is proposing that the minimum biobased content for this designated item be 18 percent (based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the product). The biobased content of this designated item would be based on ASTM D6866 to determine the total biobased content of the product and, when the product is a blend of qualifying and non-qualifying biobased feedstocks, the manufacturer's formulation data to determine the percentage of the total biobased content that is qualifying biobased materials.

D. Effective Date for Procurement Preference and Incorporation Into Specifications

USDA intends for the final rule to take effect thirty (30) days after publication. The changes to sections 2902.2 and 2902.8 would take effect at that time. However, under the terms of

[1] ASTM D6866 (Standard Test Methods for Determining the Biobased Content of Natural Range Materials Using Radiocarbon and Isotope Ratio Mass Spectrometry Analysis) is used to distinguish betwen carbon from fossil resources (non-biobased carbon) and carbon from renewable sources (biobased carbon). The biobased content is expressed as the percentage of total carbon that is biobased carbon.

the proposed rule, Federal agencies would have a one-year transition period, from the date of publication of the final rule, before the procurement preference for biobased products within a designated item would take effect.

USDA proposes a one-year period before the preferences would take effect based on an understanding that Federal agencies will need time to incorporate the preferences into procurement documents and to revise existing standardized specifications. Section 9002(d) and section 2902(c) explicitly acknowledge the latter need for Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items to be procured by Federal agencies to have sufficient time to complete the necessary processes to revise the affected specifications to give preference to biobased products when purchasing the designated items. Federal agencies will need time to evaluate the economic and technological feasibility of the available biobased products for their agency-specific uses and for compliance with agency-specific requirements, including manufacturers' warranties for machinery in which the biobased products would be used. For these reasons, USDA proposes that the mandatory preference for biobased products under the designated items take effect one year after promulgation of the final rule. The one-year period provides these agencies with ample time to evaluate the economic and technological feasibility of biobased products for a specific use and to revise the specifications accordingly. However, some agencies may be able to complete these processes more expeditiously, and not all uses will require extensive analysis or revision of existing specifications. Although allowing up to one year, USDA encourages Federal agencies to implement the procurement preferences as early as practicable for procurement actions involving one or more of the designated items.

V. Where Can Agencies Get More Information on These USDA-Designated Items?

Once the item designations in today's proposal become final, manufacturers and vendors voluntarily may post information on specific products, including product and contact information, on the USDA biobased products Web site *http://www.biobased.oce.usda.gov.* USDA will periodically audit the information displayed on the Web site and, where questions arise, contact the manufacturer or vendor to verify, correct, or remove incorrect or out-of-date information. Federal agencies should contact the manufacturers and vendors directly to discuss specific needs and to obtain detailed information on the availability and prices of biobased products meeting those needs.

By accessing the new Web site, agencies will also be able to obtain the voluntarily-posted information on each product concerning: Relative price; life cycle costs; hot links directly to a manufacturer's or vendor's Web site (if available); performance standards (industry, government, military, ASTM/ISO) that the product has been tested against; and detailed environmental and public health information from the BEES analysis or the alternative analysis embedded in the ASTM Standard D7075, ''Standard Practice for Evaluating and Reporting Environmental Performance of Biobased Products.''

VI. Regulatory Information

A. Executive Order 12866: Regulatory Planning and Review

Executive Order 12866 requires agencies to determine whether a regulatory action is ''significant.'' The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may: ''(1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866. The annual economic effect associated with today's proposed rule has not been quantified because the information necessary to estimate the effect does not exist. As was discussed earlier in this preamble, USDA made extensive efforts to obtain information on the Federal agencies' usage of the six items proposed for designation. These efforts were unsuccessful. Therefore, attempts to determine the economic impacts of today's proposed rule would necessitate estimating the anticipated market penetration of biobased products, which would entail many assumptions and, thus, be of questionable value. Also, the proposed program allows Federal agencies the option of not purchasing biobased products if the costs are deemed ''unreasonable.'' Because USDA has no information on how the various agencies will determine what is ''unreasonable,'' it is impossible to quantify the impact this option would have on the economic effect of the rule. Therefore, USDA relied on a qualitative assessment to reach the judgment that the annual economic effect of the designation of these six items is less than $100 million, and likely to be substantially less than $100 million. This judgment was based primarily on the offsetting nature of the program (an increase in biobased products purchased with a corresponding decrease in petroleum products purchased) and, secondarily, on the ability of Federal agencies not to purchase these items if costs are judged unreasonable, which would reduce the economic effect.

1. Summary of Impacts

Today's proposed rulemaking is expected to have both positive and negative impacts to individual businesses, including small businesses. USDA anticipates that the biobased preferred procurement program will provide additional opportunities for businesses to begin supplying biobased materials to manufacturers of mobile equipment hydraulic fluids, urethane roof coatings, water tank coatings, diesel fuel additives, penetrating lubricants, and bedding, bed linens, and towels and to begin supplying these products made with biobased materials to Federal agencies. In addition, other businesses, including small businesses, that do not directly contract with Federal agencies may be affected positively by the increased demand for these biobased materials and products. However, other businesses that manufacture and supply only non-qualifying products and do not offer a biobased alternative product may experience a decrease in demand for their products. Thus, today's proposed rule will likely increase the demand for biobased products, while decreasing the demand for non-qualifying products. It is anticipated that this will create a largely ''offsetting'' economic impact.

USDA is unable to determine the number of businesses, including small businesses, that may be adversely affected by today's proposed rule. If a business currently supplies mobile equipment hydraulic fluids, urethane roof coatings, water tank coatings, diesel

fuel additives, penetrating lubricants, and bedding, bed linens, and towels to a procuring agency and those products do not qualify as biobased products, the proposed rule may reduce that company's ability to compete for future contracts. However, the proposed rule will not affect existing purchase orders, nor will it preclude businesses from modifying their product lines to meet new specifications or solicitation requirements for these products containing biobased materials. Thus, many businesses, including small businesses, that market to Federal agencies have the option to modify their product lines to meet the new biobased specifications.

2. Summary of Benefits

The designation of these six items provides the benefits outlined in the objectives of section 9002: To increase domestic demand for many agricultural commodities that can serve as feedstocks for production of biobased products; to spur development of the industrial base through value-added agricultural processing and manufacturing in rural communities; to enhance the Nation's energy security by substituting biobased products for fossil energy-based products derived from imported oil and natural gas; and to substitute products with a possibly more benign or beneficial environmental impact, as compared to the use of fossil energy-based products. By purchasing these biobased products, Federal agencies can increase opportunities for all of these benefits. On a national and regional level, today's proposed rule can result in expanding and strengthening markets for biobased materials used in these six items. However, because the extent to which Federal agencies will find the performance and costs of biobased products acceptable is unknown, it is impossible to quantify the actual economic effect of today's proposed rule. USDA, however, anticipates the annual economic effect of the designation of these six items to be substantially below the $100 million threshold. In addition, today's proposed rule does not: Create serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

B. Regulatory Flexibility Act (RFA)

The RFA, 5 U.S.C. 601–602, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

USDA evaluated the potential impacts of its proposed designations to determine whether its actions would have a significant impact on a substantial number of small entities. Because the Federal Biobased Products Preferred Procurement Program in section 9002 of FSRIA applies only to Federal agencies, small governmental (city, county, etc.) agencies are not affected. Thus, the proposal, if promulgated, will not have a significant economic impact on small governmental jurisdictions. USDA anticipates that this program will affect entities, both large and small, that manufacture or sell biobased products. For example, the designation of items for preferred procurement will provide additional opportunities for businesses to manufacture and sell biobased products to Federal agencies. Similar opportunities will be provided for entities that supply biobased materials to manufacturers. Conversely, the biobased procurement program may decrease opportunities for businesses that manufacture or sell non-biobased products or provide components for the manufacturing of such products. However, the proposed rule will not affect existing purchase orders and it will not preclude Federal agencies from continuing to purchase non-biobased items under certain conditions relating to the availability, performance, or cost of biobased items. Today's proposed rule will also not preclude businesses from modifying their product lines to meet new specifications or solicitation requirements for these products containing biobased materials. Thus, the economic impacts of today's proposed rule are not expected to be significant.

The intent of section 9002 is largely to stimulate the production of new biobased products and to energize emerging markets for those products. Because the program is still in its infancy, however, it is unknown how many businesses will ultimately be affected. While USDA has no data on the number of small businesses that may choose to develop and market products within the six items proposed for designation by today's proposed rulemaking, the number is expected to be small. Because biobased products represent a small emerging market, only a small percentage of all manufacturers, large or small, are expected to develop and market biobased products. Thus, the number of small businesses affected by today's proposed rulemaking is not expected to be substantial.

After considering the economic impacts of today's proposed rule on small entities, USDA certifies that this action will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

While not a factor relevant to determining whether the proposed rule will have a significant impact for RFA purposes, USDA has concluded that the effect of today's proposed rule would be to provide positive opportunities to businesses engaged in the manufacture of these biobased products. Purchase and use of these biobased products by Federal agencies increase demand for these products and result in private sector development of new technologies, creating business and employment opportunities that enhance local, regional, and national economies. Technological innovation associated with the use of biobased materials can translate into economic growth and increased industry competitiveness worldwide, thereby, creating opportunities for small entities.

C. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

This proposed rule has been reviewed in accordance with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and does not contain policies that would have implications for these rights.

D. Executive Order 12988: Civil Justice Reform

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This proposed rule does not preempt State or local laws, is not intended to have retroactive effect, and does not involve administrative appeals.

E. Executive Order 13132: Federalism

This proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Provisions of this proposed rule will not have a substantial direct

effect on States or their political subdivisions or on the distribution of power and responsibilities among the various government levels.

F. Unfunded Mandates Reform Act of 1995

This proposed rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, for State, local, and tribal governments, or the private sector. Therefore, a statement under section 202 of UMRA is not required.

G. Executive Order 12372: Intergovernmental Review of Federal Programs

For the reasons set forth in the Final Rule Related Notice for 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of the Executive Order 12372, which requires intergovernmental consultation with State and local officials. This program does not directly affect State and local governments.

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

Today's proposed rule does not significantly or uniquely affect ''one or more Indian tribes, * * * the relationship between the Federal Government and Indian tribes, or * * * the distribution of power and responsibilities between the Federal Government and Indian tribes.'' Thus, no further action is required under Executive Order 13175.

I. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 through 3520), the information collection under this proposed rule is currently approved under OMB control number 0503–0011.

J. Government Paperwork Elimination Act Compliance

The Office of Energy Policy and New Uses is committed to compliance with the Government Paperwork Elimination Act (GPEA) (44 U.S.C. 3504 note), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. USDA is implementing an electronic information system for posting information voluntarily submitted by manufacturers or vendors on the products they intend to offer for preferred procurement under each item designated. For information pertinent to GPEA compliance related to this rule, please contact Marvin Duncan at (202) 401–0461.

List of Subjects in 7 CFR Part 2902

Biobased products, Procurement.

For the reasons stated in the preamble, the Department of Agriculture proposes to amend 7 CFR chapter XXIX as follows:

CHAPTER XXIX—OFFICE OF ENERGY POLICY AND NEW USES, DEPARTMENT OF AGRICULTURE

PART 2902—GUIDELINES FOR DESIGNATING BIOBASED PRODUCTS FOR FEDERAL PROCUREMENT

1. The authority citation for part 2902 continues to read as follows:

Authority: 7 U.S.C. 8102.

2. Add in alphabetical order definitions for ''biodegradability'' and ''functional unit'' to § 2902.2 to read as follows:

§ 2902.2 Definitions.

* * * * *

Biodegradability. A quantitative measure of the extent to which a material is capable of being decomposed by biological agents, especially bacteria.

* * * * *

Functional unit. A measure of product technical performance that provides a common reference to which all environmental and economic impacts of the product are scaled. This reference is necessary to ensure comparability of performance results across competing products. Comparability of results is critical when competing product alternatives are being assessed to ensure that such comparisons are made on a common basis. For example, the functional unit for competing interior paint products may be defined as ''protecting one square foot of interior wall surface for 50 years.''

* * * * *

3. Add paragraph (c) to § 2902.8 to read as follows:

§ 2902.8 Determining life cycle costs, environmental and health benefits, and performance.

(c) *Biodegradability information.* If biodegradability is claimed by the manufacturer of a qualifying biobased product as a characteristic of that product, USDA requires that, if requested by Federal agencies, these claims be verified using the appropriate, product-specific ASTM biodegradability standard(s). ASTM biodegradability standards include: D5864 ''Standard Test Method for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components''; D6139 ''Standard Test Method for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components Using the Gledhill Shake Flask''; D6006 ''Standard Guide for Assessing Biodegradability of Hydraulic Fluids''; D6400 ''Standard Specification for Compostable Plastics'' and the standards cited therein; and D6868 ''Standard Specification for Biodegradable Plastics Used as Coatings on Paper and Other Compostable Substrates.'' Such testing must be conducted by an ASTM/ISO compliant laboratory. The procuring official will decide whether biodegradability data must be brand-name specific in the case of products that are essentially of the same formulation.

4. Add §§ 2902.10 through 2902.15 to subpart B to read as follows:

§ 2902.10 Mobile equipment hydraulic fluids.

(a) *Definition.* Hydraulic fluids formulated for use in non-stationary equipment such as tractors, end loaders, or backhoes.

(b) *Minimum biobased content.* The minimum biobased content is 24 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the product.

(c) *Preference effective date.* No later than [date one year after the date of publication of the final rule], Federal agencies, in accordance with this part, will give a procurement preference for qualifying biobased mobile equipment hydraulic fluids. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items to be procured by Federal agencies shall ensure that the relevant specifications require the use of biobased mobile equipment hydraulic fluids.

§ 2902.11 Urethane roof coatings.

(a) *Definition.* Coatings formulated for use in commercial roof deck systems to provide a single coat monolith coating system.

(b) *Minimum biobased content.* The minimum biobased content is 62 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the product.

(c) *Preference effective date.* No later than [date one year after the date of publication of the final rule], Federal agencies, in accordance with this part, will give a procurement preference for qualifying biobased urethane roof coatings. By that date, Federal agencies

that have the responsibility for drafting or reviewing specifications for procurement items to be procured by Federal agencies shall ensure that the relevant specifications require the use of biobased urethane roof coatings.

§ 2902.12 Water tank coatings.

(a) *Definition.* Coatings formulated for use in potable water storage systems.

(b) *Minimum biobased content.* The minimum biobased content is 62 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the product.

(c) *Preference effective date.* No later than [date one year after the date of publication of the final rule], Federal agencies, in accordance with this part, will give a procurement preference for qualifying biobased water tank coatings. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items to be procured by Federal agencies shall ensure that the relevant specifications require the use of biobased water tank coatings.

§ 2902.13 Diesel fuel additives.

(a) *Definition.* A group of products, formulated as the mono alkyl esters of long chain fatty acids derived from renewable lipid sources. They are produced through the reaction of a vegetable oil or animal fat with methanol or ethanol in the presence of a catalyst to yield glycerin (as a byproduct) and the methyl or ethyl esters used as diesel fuel additives. Biobased diesel fuel additives are blended with petroleum diesel for use in compression ignition (diesel) engines.

(b) *Minimum biobased content.* The minimum biobased content is 93 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the product.

(c) *Preference effective date.* No later than [date one year after the date of publication of the final rule], Federal agencies, in accordance with this part, will give a procurement preference for qualifying biobased diesel fuel additives. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items to be procured by Federal agencies shall ensure that the relevant specifications require the use of biobased diesel fuel additives.

§ 2902.14 Penetrating lubricants.

(a) *Definition.* Products formulated to provide light lubrication and corrosion resistance in close tolerant internal and external applications including frozen nuts and bolts, power tools, gears, valves, chains, and cables.

(b) *Minimum biobased content.* The minimum biobased content is 71 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the product.

(c) *Preference effective date.* No later than [date one year after the date of publication of the final rule], Federal agencies, in accordance with this part, will give a procurement preference for qualifying biobased penetrating lubricants. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items to be procured by Federal agencies shall ensure that the relevant specifications require the use of biobased penetrating lubricants.

§ 2902.15 Bedding, bed linens, and towels.

(a) *Definition.* (1) Bedding is that group of woven cloth products used as coverings on a bed. Bedding includes products such as blankets, bedspreads, comforters, and quilts.

(2) Bed linens are woven cloth sheets and pillowcases used in bedding.

(3) Towels are woven cloth products used primarily for drying and wiping.

(b) *Minimum biobased content.* The minimum biobased content is 18 percent and shall be based on the amount of qualifying biobased carbon in the product as a percent of the weight (mass) of the total organic carbon in the product. The 18 percent biobased content must be of a qualifying biobased feedstock. Cotton and wool are not qualifying biobased feedstocks for the purpose of determining the biobased content of bedding, bed linens, and towels.

(c) *Preference effective date.* No later than [date one year after the date of publication of the final rule], Federal agencies, in accordance with this part, will give a procurement preference for qualifying biobased bedding, bed linens, and towels. By that date, Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items to be procured by Federal agencies shall ensure that the relevant specifications require the use of biobased bedding, bed linens, and towels.

Dated: June 27, 2005.

Keith Collins,

Chief Economist, U.S. Department of Agriculture.

[FR Doc. 05–12978 Filed 7–1–05; 8:45 am]

BILLING CODE 3410–GL–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21719; Directorate Identifier 2005–NE–19–AD]

RIN 2120–AA64

Airworthiness Directives; Hamilton Sundstrand Power Systems (formerly Sundstrand Power Systems) Auxiliary Power Units Models T–62T–46C2, T–62T–46C2A, T–62T–46C3, T–62T–46C7, and T–62T–46C7A

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD). The new AD is for Hamilton Sundstrand Power Systems (formerly Sundstrand Power Systems) auxiliary power units (APUs) models T–62T–46C2, T–62T–46C2A, T–62T–46C3, T–62T–46C7, and T–62T–46C7A, with compressor impeller assembly, part number (P/N) 4502020 or 4502020A, installed. This proposed AD would require removal from service of those compressor impeller assemblies at reduced service life limits. This proposed AD results from two reports of uncontained failures of compressor impeller assemblies. We are proposing this AD to prevent an uncontained APU failure and damage to the airplane.

DATES: We must receive any comments on this proposed AD by September 6, 2005.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- 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.

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Roger Pesuit, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (562) 627–5251, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21719; Directorate Identifier 2005–NE–19–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Docket Management System (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 proposal, any comments received and, any final disposition in person at the DMS Docket Office 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.

Discussion

We received two reports of uncontained failures of compressor impeller assemblies installed in Hamilton Sundstrand Power Systems model T–62T–46C3 APUs. One report was of a compressor impeller failing in the field, at 17,680 cycles-since-new (CSN). The other report was of a compressor impeller failing at the manufacturer's site. Hamilton Sundstrand has determined that these failures were caused by low-cycle-fatigue (LCF) cracking. The LCF cracking starts on the compressor impeller back face radius, and grows circumferentially to failure, over a high number of cycles. This condition, if not corrected, could result in uncontained APU failure and damage to the airplane.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which, for Hamilton Sundstrand Power Systems model T–62T APUs with compressor impeller assembly P/N 4502020 or 4502020A installed, would require:

- For APUs with compressor impeller assemblies that have 12,000 or more CSN on the effective date of the proposed AD, removal from service before accumulating 500 additional cycles; and
- For APUs with compressor impeller assemblies that have fewer than 12,000 CSN on the effective date of the proposed AD, removal from service at or before accumulating 12,500 CSN.

Costs of Compliance

There are about 50 Hamilton Sundstrand Power Systems model T–62T APUs of the affected design in the worldwide fleet. We estimate that eight APUs installed on airplanes of U.S. registry would be affected by this proposed AD. We also estimate that it would take about 8 work hours to remove and install an APU, and that the average labor rate is $65 per work hour. A new or serviceable compressor impeller assembly, P/N 4502020 or 4502020A, may be installed provided it meets the cycles-since-new criteria in the compliance section of this proposed AD. It would take about 55.5 hours to remove and replace affected compressor impeller assembly parts. New configuration replacement parts for each APU would cost approximately $36,587. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators, to remove, upgrade, and install the APUs to be $325,716.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Hamilton Sundstrand: Docket No. FAA–2005–21719; Directorate Identifier 2005–NE–19–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by September 6, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Hamilton Sundstrand Power Systems (formerly Sundstrand Power Systems) auxiliary power units (APUs) models T–62T–46C2, T–62T–46C2A, T–62T–46C3, T–62T–46C7, and T–62T–46C7A, with compressor impeller assembly, part number (P/N) 4502020 or 4502020A installed. These APUs are installed on, but not limited to, BAE Systems AVRO 146, Fokker 50, Saab 2000, and Saab 340 airplanes.

Unsafe Condition

(d) This AD results from two reports of uncontained failures of compressor impeller assemblies. We are issuing this AD to prevent an uncontained APU failure and damage to 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.

(f) For APUs with compressor impeller assemblies that have 12,000 or more cycles-since-new (CSN) accumulated on the effective date of this AD, remove compressor impeller assemblies from service before accumulating 500 additional cycles.

(g) For APUs with compressor impeller assemblies that have fewer than 12,000 CSN on the effective date of this AD, remove compressor impeller assemblies from service at or before accumulating 12,500 CSN.

Alternative Methods of Compliance

(h) The Manager, Los Angeles Aircraft 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) Hamilton Sundstrand Service Bulletins No. 4500090–49–33, dated January 6, 2005, No. 4500482–49–33, dated January 6, 2005, No. 4501578–49–22, dated January 13, 2005, No. 4501690–49–47, dated November 19, 2004, and No. 4501909–49–16, dated January 13, 2005, pertain to the subject of this AD.

Issued in Burlington, Massachusetts, on June 28, 2005.

Diane S. Romanosky,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 05–13134 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–48–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH) Models BR700–710A1–10 and BR700–710A2–20 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Rolls-Royce Deutschland Ltd & Co KG (RRD) (formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH) models BR700–710A1–10 and BR700–710A2–20 turbofan engines. That AD currently requires initial and repetitive visual and ultrasonic inspections of fan discs, part numbers (P/Ns) BRR18803, BRR19248, and BRR20791 for cracks, and if necessary, replacement with serviceable parts. This proposed AD would require the same inspections of these fan discs, with certain old design P/N fan blades installed. This proposed AD would extend the inspection interval for certain fan discs having new design P/N fan blades installed. Also, this proposed AD would add as optional terminating action to the repetitive inspections, installation of certain P/N new fan discs, certain P/N new fan blades, and engine fan speed (N1) Keep Out Zone software. This proposed AD results from a revised RRD service bulletin (SB) that introduces relaxed inspection intervals for certain P/N combinations of fan discs and fan blades, and introduces improved design fan discs and fan blades. We are proposing this AD to detect and prevent cracks in the fan disc that could result in an uncontained engine failure and damage to the airplane.

DATES: We must receive any comments on this proposed AD by September 6, 2005.

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

- By mail: Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–48–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov.*

You can get the service information identified in this proposed AD from Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, 15827 Blankenfelde-Mahlow, Germany, telephone: International Access Code 011, Country Code 49, (0) 33–7086–1768, fax: International Access Code 011, Country Code 49, (0) 33–7086–3356.

You may examine the AD docket, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7747, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES.** Include ''AD Docket No. 2000–NE–48–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us verbally, and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

Discussion

On April 1, 2003, the FAA issued AD 2003–07–11, Amendment 39–13107 (68 FR 17727, April 11, 2003). That AD requires initial and repetitive visual and ultrasonic inspections of fan discs, P/Ns BRR18803, BRR19248, and BRR20791,

for cracks, and if necessary, replacement with serviceable parts.

Actions Since AD 2003–07–11 Was Issued

Since AD 2003–07–11 was issued, RRD has reevaluated the existing repetitive inspection interval requirements, and has introduced new design fan discs and fan blades.

Relevant Service Information

We have reviewed and approved the technical contents of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005, that describes procedures for removing any dry film lubricant coating from the front face of the fan disc to improve visual inspections, and initial and repetitive inspections for cracks in fan discs. That SB also introduces the installation of a new design fan disc and new design fan blades. The Luftfahrt-Bundesamt (LBA), which is the aviation authority for Germany, classified this service bulletin as mandatory and issued AD 2000–348, Revision 6, dated March 31, 2005, in order to ensure the airworthiness of these RRD models BR700–710A1–10 turbofan engines and BR700–710A2–20 turbofan engines in Germany.

Differences Between the Proposed AD and the Service Information

Although the visual inspection requirements of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005, do not specifically define the pass or fail criteria for fan discs, this proposed AD would specifically instruct the rejection of fan discs that have visual cracks. We communicated with RRD and confirmed that the intent of the service bulletin is to require the owner or operator to default to appropriate maintenance manuals for pass or fail criteria. We subsequently reviewed the maintenance manuals and confirmed that no cracks are allowed in the fan discs.

Bilateral Agreement Information

This engine model is manufactured in Germany and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. In keeping with this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. We have examined the findings of the LBA, 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 the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing this AD, which would require:

- For fan disc P/N BRR18803, BRR19248, BRR20791, BRR24829, BRR24829, or FW33929 installed, initial and repetitive inspections for cracks.
- As optional terminating action to the repetitive inspection requirements of the proposed AD, installation of a new fan disc P/N FW33927, new fan blades P/N FW33513 or P/N FW33980, and N1 Keep Out Zone software.

The proposed AD would require that you do the inspections using the service information described previously.

Costs of Compliance

There are about 500 RRD models BR700–710A1–10 and BR700–710A2–20 turbofan engines of the affected design in the worldwide fleet. We estimate that 400 engines installed on airplanes of U.S. registry would be affected by this proposed AD. We also estimate that it would take about 7 work hours per engine to perform the inspections, and that the average labor rate is $65 per work hour. We estimate the total labor cost for performing one inspection of the U.S. fleet to be $182,000. New design fan discs and fan blades would cost about $150,000 per engine. Based on these figures, the total cost of the proposed AD on U.S. operators is estimated to be $60,182,000. The manufacturer has stated that it may provide the new fan disc and new fan blades at no cost to operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Would 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 proposal 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**. Include ''AD Docket No. 2000–NE–48–AD'' in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–13107 (68 FR 17727, April 11, 2003) and by adding a new airworthiness directive, to read as follows:

Rolls-Royce Deutschland Ltd & Co KG (formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH): Docket No. 2000–NE–48–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by September 6, 2005.

Affected ADs

(b) This AD supersedes AD 2003–07–11, Amendment 39–13107.

Applicability

(c) This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) (formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH) models BR700–710A1–10 and BR700–710A2–20 turbofan engines. These engines are installed on, but not limited to, Bombardier Inc. BD–700–1A10, BD–700–1A11, and Gulfstream Aerospace Corp. G–V series airplanes.

Unsafe Condition

(d) This AD results from a revised RRD service bulletin (SB) that introduces relaxed inspection intervals for certain P/N combinations of fan discs and fan blades, and introduces improved design fan discs and fan blades. The actions specified in this AD are intended to detect and prevent cracks in the fan disc that could result in an uncontained engine failure and damage to 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.

Initial Inspection

Engines With Fan Disc P/N BRR18803 or BRR19248 Installed and Fan Blades P/N BRR20677 or BRR23178 Installed

(f) For engines with fan disc P/N BRR18803 or BRR19248 installed, and fan blades P/N BRR20677 or BRR23178 installed, do the following:

(1) If the last fan disc inspection was a visual inspection performed using RRD SB No. SB–BR700–72–900229, Revision 3, dated July 12, 2001; Revision 4, dated December 20, 2001; Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005, visually or ultrasonically inspect fan disc within 25 flight cycles-since-last inspection (CSLI). Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(2) If the last fan disc inspection was an ultrasonic inspection performed using RRD SB No. SB–BR700–72–900229, Revision 3, dated July 12, 2001; Revision 4, dated December 20, 2001; Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005, visually or ultrasonically inspect fan disc within 75 CSLI. Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(3) For engines that have not yet been inspected, visually or ultrasonically inspect fan disc within 25 flight cycles after the effective date of this AD. Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(4) If any cracks are found, remove the disc from service and replace with a serviceable disc.

Engines With Fan Disc P/N BRR20791 Installed, and Fan Blades P/N BRR20677 or BRR23178 Installed

(g) For BR700–710A1–10 engines with serial numbers (SNs) 11452 and lower, and BR700–710A2–20 engines with SNs 12352 and lower, with fan disc P/N BRR20791 installed, and fan blades P/N BRR20677 or BRR23178 installed, do the following:

(1) If the last fan disc inspection was a visual inspection performed using RRD SB No. SB–BR700–72–900229, Revision 3, dated July 12, 2001; Revision 4, dated December 20, 2001; Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005, visually or ultrasonically inspect fan disc within 25 CSLI. Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(2) If the last fan disc inspection was an ultrasonic inspection performed using RRD SB No. SB–BR700–72–900229, Revision 3, dated July 12, 2001; Revision 4, dated December 20, 2001; Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005, visually or ultrasonically inspect fan disc within 150 CSLI. Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(3) For engines that have not yet been inspected, visually or ultrasonically inspect fan disc within 25 flight cycles after the effective date of this AD. Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(4) If any cracks are found, remove the disc from service and replace with a serviceable disc.

(h) For BR700–710A1–10 engines with SNs 11453 and higher, and BR700–710A2–20 engines with SNs 12353 and higher with fan discs P/N BRR20791 installed, do the following:

(1) Visually or ultrasonically inspect fan discs within 150 flight cycles-since-new (CSN). Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005 to do the inspection.

(2) If any cracks are found, remove the disc from service and replace with a serviceable disc.

Repetitive Inspections

(i) Except for engines listed in paragraph (j) of this AD, perform repetitive inspections using the criteria in paragraphs (f) through (g)(4), and (k) of this AD.

(j) For BR700–710A1–10 engines with SNs 11453 and higher, and BR700–710A2–20 engines with SNs 12353 and higher with fan discs P/N BRR20791 installed, perform repetitive inspections using the criteria in paragraphs (g)(1), (g)(2), (g)(4), and (k) of this AD.

(k) For fan discs P/Ns BRR18803, BRR19248, and BRR20791, with fan blades P/N BRR20677 or BRR23178 installed, do the following:

(1) Perform a visual and ultrasonic inspection before accumulating 500 hours-since-new. Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 5, dated January 8, 2003, or Revision 6, dated February 23, 2005 to do the inspection.

(2) Thereafter, perform a visual and an ultrasonic inspection before accumulating 500 hours since the last visual or ultrasonic inspection.

Engines With Fan Disc P/N BRR20791 Installed, and Fan Blades P/N FW33513, FW33980, FW33925, FW34114, or FW34776 Installed

(1) For engines with fan disc P/N BRR20791, BRR24829, or FW33929 installed, and fan blades P/N FW33513, FW33980, FW33925, FW34114, or FW34776 installed, do the following:

Initial Inspection

(1) Perform a visual and ultrasonic inspection of the fan disc at time of installation of new fan blades P/N FW33513, FW33980, FW33925, FW34114, or FW34776. Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(2) If any cracks are found, remove the disc from service and replace with a serviceable disc.

Repetitive Inspections

(3) Perform a visual and ultrasonic inspection of the fan disc within 375 flight CSLI or 600 flight hours since-last-inspection, whichever occurs first. Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection; and

(4) Repeat the fan disc visual and ultrasonic inspection within 750 flight CSLI or 1,100 flight hours since-last-inspection, whichever occurs first. Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection; and

(5) Thereafter, perform repetitive visual and ultrasonic inspections of the fan disc within every 1,500 flight CSLI or 2,200 flight hours since-last-inspection, whichever occurs first. Use paragraphs A through F of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(6) If any cracks are found, remove disc from service and replace with a serviceable disc.

Optional Terminating Action

(m) Installation of a new fan disc P/N FW33927, new fan blades, P/N FW33513, or P/N FW33980, and N1 Keep Out Zone software with EEC P/Ns 1501KDC02–010, or 1501KDC03–010, or 1501KDC05–010, or 1520KDC05–010, or 1520KDC05R–010, or 1520KDC07–010, or

1520KDC08–010, is optional terminating action to the repetitive inspections required by this AD.

Inspection Reporting Requirements

(n) Report defects in accordance with the applicable Part 1 or Part 2 of RRD SB No. SB–BR700–900229, Revision 5, dated January 8, 2003. Reporting requirements have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 2120–0056.

Alternative Methods of Compliance

(o) 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

(p) LBA airworthiness directive 2000–348, Revision 6, dated March 31, 2005, also addresses the subject of this AD.

Issued in Burlington, Massachusetts, on June 28, 2005.

Diane S. Romanosky,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 05–13135 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21712; Directorate Identifier 2005–NM–070–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737 airplanes. This proposed AD would require modifying the elevator input torque tube assembly. This proposed AD is prompted by a report of a restriction in the pilots' elevator input control system. We are proposing this AD to prevent loss of elevator control and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by August 19, 2005.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, PO Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21712; the directorate identifier for this docket is 2005–NM–070–AD.

FOR FURTHER INFORMATION CONTACT: Douglas Tsuji, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6487; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21712; Directorate Identifier 2005–NM–070–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have received a report of a restriction in the pilots' elevator input control system on a Boeing Model 737–700 series airplane. As part of the incident investigation, a design review of the input torque tube assembly for the power control unit (PCU) showed that, in several locations, a single broken bolt or backed-off nut, and subsequent migration of the fastener, could jam the torque tube. This condition, if not corrected, could result in loss of elevator control and consequent reduced controllability of the airplane.

Similar Models

The torque tube assembly on Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes is similar to that on the affected Boeing Model 737–700 series airplane; and the torque tube assembly on certain Boeing Model 737–600, –700C, –800 and –900 series airplanes is similar or identical to that on the affected Boeing Model 737–700 series airplanes. Therefore, all of these models may be subject to the same unsafe condition.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 737–27A1271, including Appendix A, dated December 16, 2004 (for Boeing Model 737–600, –700, –700C, –800 and –900 series airplanes); and Boeing Alert Service Bulletin 737–27A1274, including Appendix A, dated February 17, 2005 (for Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes). These service bulletins describe procedures for modifying the elevator input torque tube assembly. For all airplanes, the modification includes installing a new blind bolt in both the left and right horizontal cable quadrants; and installing a new shroud to cover the PCU reaction link ground

bolt on both the left and right sides of the elevator input torque tube. For airplanes identified in Boeing Alert Service Bulletin 737–27A1271 as Group 2, the modification also includes installing a new dual load path bolt for both the left and right PCU mounting brackets. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 2,971 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 1,573 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Modification	Work hours	Average labor rate per hour	Parts	Cost per airplane	U.S. registered airplanes	Fleet cost
For airplanes identified in Boeing Alert Service Bulletin 737–27A1271 as Group 1	5	$65	$701	$1,026	249	$255,474
For airplanes identified in Boeing Alert Service Bulletin 737–27A1271 as Group 2	7	65	1,290	1,745	311	542,695
For all airplanes identified in Boeing Alert Service Bulletin 737–27A1274	3	65	50	245	1,013	248,185

In addition, a special tool is necessary to do the modification required by this proposed AD. Boeing will provide one tool at no charge to each customer regardless of warranty status.

Based on these figures, the estimated total cost of the proposed AD for U.S. operators is about $1,046,354.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2005–21712; Directorate Identifier 2005–NM–070–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by August 19, 2005.

Affected ADs

(b) None.

Applicability

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

TABLE 1.—AIRPLANES AFFECTED BY THIS AD

Boeing airplane models—	As identified in Boeing Alert Service Bulletin—
737–100, –200, –200C, –300, –400, and –500 series airplanes	737–27A1274, including Appendix A, dated February 17, 2005.
737–600, –700, –700C, –800 and –900 series airplanes	737–27A1271, including Appendix A, dated December 16, 2004.

Unsafe Condition

(d) This AD was prompted by a report of a restriction in the pilots' elevator input control system. We are issuing this AD to prevent loss of elevator control and consequent reduced controllability of the airplane.

Compliance

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

Modification

(f) Within 60 months after the effective date of this AD: Modify the elevator input torque tube assembly by doing all the actions in accordance with the Accomplishment Instructions of the applicable service bulletin in Table 1 of this AD.

Alternative Methods of Compliance (AMOCs)

(g) 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.

Issued in Renton, Washington, on June 17, 2005.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–13136 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21713; Directorate Identifier 2005–NM–085–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–400ER Series Airplanes; and Model 777–200 and –300 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Model 767–400ER series airplanes; and Model 777–200 and –300 series airplanes. This proposed AD would require, for certain airplanes, repetitive testing of the fill and safety fittings of the fire extinguishing bottles in the forward cargo compartment for leaks; and repetitive application of a corrosion inhibiting compound (CIC) or replacement of the fire extinguishing bottles with reworked fire extinguishing bottles, as necessary. For all airplanes, this proposed AD would require replacement of the fire extinguishing bottles with reworked fire extinguishing bottles, which would end the repetitive tests and CIC applications if applicable. This proposed AD is prompted by failure of the safety fittings for the fire extinguishing bottles. We are proposing this AD to prevent failure of the safety fittings for the fire extinguishing bottles due to corrosion, which could result in leakage of extinguishing agent. If a fire occurs in the cargo bay, the fire extinguishing bottles could have less than enough extinguishing agent to control a fire.

DATES: We must receive comments on this proposed AD by August 19, 2005.

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

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

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21713; the directorate identifier for this docket is 2005–NM–085–AD.

FOR FURTHER INFORMATION CONTACT: Barbara Mudrovich, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6477; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21713; Directorate Identifier 2005–NM–085–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have received a report indicating that failed safety fittings of the fire extinguishing bottles for the forward cargo compartment were found during fleet inspection of Model 777 series airplanes. Investigation revealed that corrosion of the burst disc inside the safety fitting caused failure of the safety fittings. This condition, if not corrected, could result in leakage of fire extinguishing agent. If a fire occurs in the cargo bay, the fire extinguishing bottles could have less than enough extinguishing agent to control a fire.

Fire extinguishing bottles having a certain part number on certain Model 767–400ER series airplanes are identical to those on the affected 777–200 and –300 series airplanes. Therefore, all of

these models may be subject to the same unsafe condition.

Relevant Service Information

We have reviewed the following service bulletins:

Boeing model–	Service bulletin	Date
767–400ER series airplanes	Boeing Special Attention Service Bulletin 767–26–0124	December 5, 2002.
	Boeing Special Attention Service Bulletin 767–26–0125.	January 22, 2004.
777–200 and –300 series airplanes	Boeing Special Attention Service Bulletin 777–26–0033	December 5, 2002.
	Boeing Service Bulletin 777–26–0034, Revision 1	July 1, 2004.

For certain airplanes, Boeing Special Attention Service Bulletin 767–26–0124 and 777–26–0033 describe the following procedures:

- Repetitively testing the fill and safety fittings of the fire extinguishing bottles in the forward cargo compartment for leaks.
- If no leak is found or if the leak rate is below the calibrated rate specified in the service bulletin, applying a corrosion inhibiting compound (CIC) to the burst disc of the safety fitting and reidentifying the fire extinguishing bottle.
- If any leak above the calibrated rate specified in the service bulletin is found, replacing and reidentifying the fire extinguishing bottle.

Boeing Special Attention Service Bulletin 767–26–0125 and Boeing Service Bulletin 777–26–0034 describe procedures for replacing the existing fire extinguishing bottles with reworked fire extinguishing bottles. Accomplishing the replacement would end the repetitive tests and CIC applications if necessary.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

Additional Sources of Service Information

Boeing Special Attention Service Bulletin 767–26–0124 refers to Kidde Aerospace Service Bulletin 473876–26–454 as an additional source of service information for testing and reidentifying the fire extinguishing bottles.

Operators should note that Revision 1, dated March 12, 2003, is the latest version of Kidde Aerospace Service Bulletin 473876–26–454.

Boeing Special Attention Service Bulletin 767–26–0125 refers to Kidde Aerospace Service Bulletin 473876–26–453, dated January 22, 2004, as an additional source of service information for reworking the fire extinguishing bottles.

Boeing Special Attention Service Bulletin 777–26–0033 refers to the following service bulletins as additional sources of service information for testing and reidentifying the fire extinguishing bottles: Kidde Aerospace Service Bulletin 473474–26–442, 473475–26–443, 473854–26–444, and 473876–26–445.

Operators should note that the latest version of these Kidde Aerospace service bulletins are all Revision 1, all dated March 12, 2003.

Boeing Special Attention Service Bulletin 777–26–0034 refers to the following service bulletins as additional sources of service information for reworking the fire extinguishing bottles: Kidde Aerospace Service 473474–26–450; 473475–26–451; 473854–26–452; 473876–26–453; all dated January 22, 2004.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and Service Bulletins.''

Differences Between the Proposed AD and Service Bulletins

Boeing Special Attention Service Bulletins 767–26–0124 and 777–26–0033 specify that operators may replace the fire extinguishing bottles in accordance with the applicable Boeing Airplane Maintenance Manual (AMM), or an ''operator's equivalent procedure.'' However, this proposed AD only would allow an ''operator's equivalent procedure'' if approved as an alternative method of compliance according to paragraph (k) of this AD. Operators should also note that Boeing Special Attention Service Bulletin 767–26–0124 references the incorrect chapter of the Boeing 767 AMM for the proposed replacement. This proposed AD specifies that operators may use chapter 26–23–02/401 of the Boeing 767 AMM as one approved method for the proposed replacement.

Although Boeing Special Attention Service Bulletin 767–26–0125 and Boeing Service Bulletin 777–26–0034, Revision 1, recommend accomplishing the replacement ''at the next required hydrostatic test for the fire extinguishing bottles,'' we have determined that this imprecise compliance time would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, we considered not only the manufacturer's recommendation, but also the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the replacement. In light of all of these factors, we find a compliance time of 60 months for completing the required actions to be warranted, in that it represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety.

Clarification of Inspection Terminology

The ''inspection'' specified in Boeing Special Attention Service Bulletin 767–26–0124 and 777–26–0033 is referred to as a leak test in this proposed AD. These Boeing service bulletins refer to certain Kidde Aerospace service bulletins as additional sources of service information for performing the leak test.

Costs of Compliance

There are about 322 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs, at an average labor rate of $65 per hour, for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Airplanes	Action	Work hours	Parts	Cost per airplane	Number of U.S.–registered airplanes	Fleet cost
Model 767–400 series airplanes (for all 4 fire extinguishing bottles).	Leak test, per testing cycle.	4	None	$260, per testing cycle	36	$9,360, per testing cycle.
	Replacement	8	$2,800	3,320	36	119,520.
Model 777–200 and –300 series airplanes (for all 5 fire extinguishing bottles).	Leak test, per testing cycle.	5	None	325, per testing cycle	130	42,250, per testing cycle.
	Replacement	10	3,400	4,050	131	530,550.

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2005–21713; Directorate Identifier 2005–NM–085–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by August 19, 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

Boeing model—	As identified in—
767–400ER series airplanes	Special Attention Service Bulletin 767–26–0125, dated January 22, 2004.
777–200 and –300 series airplanes	Boeing Service Bulletin 777–26–0034, Revision 1, dated July 1, 2004.

Unsafe Condition

(d) This AD was prompted by failure of the safety fittings for the fire extinguishing bottle. We are issuing this AD to prevent failure of the safety fittings for the fire extinguishing bottles due to corrosion, which could result in leakage of extinguishing agent. If a fire occurs in the cargo bay, the fire extinguishing bottles could have less than enough extinguishing agent to control a fire.

Compliance

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

Service Bulletin References

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the service bulletins identified in Table 2 of this AD, as applicable:

TABLE 2.—SERVICE BULLETIN REFERENCES

For model—	Boeing—	For the—
767–400ER series airplanes	Special Attention Service Bulletin 767–26–0124, dated December 5, 2002.	Test specified in paragraph (g) of this AD
	Special Attention Service Bulletin 767–26–0125, dated January 22, 2004.	Replacement specified in paragraph (h) of this AD.
777–200 and –300 series airplanes.	Special Attention Service Bulletin 777–26–0033, dated December 5, 2002.	Test specified in paragraph (g) of this AD.
	Service Bulletin 777–26–0034, Revision 1, dated July 1, 2004.	Replacement specified in paragraph (h) of this AD.

Repetitive Testing of Fire Extinguishing Bottles

(g) For Model 767–400ER series airplanes; and Model 777–200 and –300 series airplanes identified in Boeing Special Attention Service Bulletin 777–26–0033, dated December 5, 2002: Within 18 months or 6,000 flight hours after the effective date of this AD, whichever is first, test the fill and safety fittings of the fire extinguishing bottles in the forward cargo compartment for leaks, in accordance with the service bulletin. Repeat the test thereafter at intervals not to exceed 18 months or 6,000 flight hours, whichever is first, in accordance with the service bulletin, until the replacement required by paragraph (h) of this AD is accomplished.

(1) If no leak is found or if the leak rate is below the calibrated rate specified in the service bulletin, before further flight, apply the corrosion inhibiting compound (CIC) to the burst disc of the safety fitting and reidentify the fire extinguishing bottle, in accordance with the service bulletin.

(2) If any leak above the calibrated rate specified in the service bulletin is found, before further flight, replace and reidentify the fire extinguishing bottle with new or reworked fire extinguishing bottles, in accordance with the service bulletin; except where the service bulletin specifies that the replacement may be accomplished according to an operator's ''equivalent procedure,'' replace in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO). Chapter 26–23–02/401 of Boeing 767 Airplane Maintenance Manual (AMM) or Chapter 26–23–01/401 of Boeing 777 AMM, as applicable, is one approved method.

Note 1: The Boeing service bulletins listed in Table 3 of this AD refer to certain Kidde Aerospace service bulletins, as applicable, as additional sources of service information for testing and reidentifying the fire extinguishing bottles.

TABLE 3.—ADDITIONAL SERVICE INFORMATION FOR TESTING

For model—	Boeing Special Attention Service Bulletin—	Refers to Kidde Aerospace Service Bulletin—
767–400ER series airplanes	767–26–0124, dated December 5, 2002.	473876–26–454. Revision 1, dated March 12, 2003, is the latest version of this service bulletin.
777–200 and –300 series airplanes	777–26–0033, dated December 5, 2002.	473474–26–442. Revision 1, dated March 12, 2003, is the latest version of this service bulletin.
		473475–26–443. Revision 1, dated March 12, 2003, is the latest version of this service bulletin.
		473854–26–444. Revision 1, dated March 12, 2003, is the latest version of this service bulletin.
		473876–26–445. Revision 1, dated March 12, 2003, is the latest version of this service bulletin.

Replacement of Fire Extinguishing Bottles

(h) For all airplanes: Within 60 months after the effective date of this AD, replace the existing fire extinguishing bottles with reworked fire extinguishing bottles, in accordance with the service bulletin. Replacement of a fire extinguishing bottle with a reworked fire extinguishing bottle terminates the repetitive tests and CIC applications required by paragraph (g) of this AD for that fire extinguishing bottle only.

Note 2: The Boeing service bulletins listed in Table 4 of this AD refer to certain Kidde Aerospace service bulletins, as applicable, as additional sources of service information for reworking the fire extinguishing bottles.

TABLE 4.—ADDITIONAL SERVICE INFORMATION FOR REPLACEMENT

For model—	Boeing Special Attention Service Bulletin—	Refers to Kidde Aerospace Service Bulletin–
767–400ER series airplanes	767–26–0125, dated January 22, 2004	473876–26–453, dated January 22, 2004.
777–200 and –300 series airplanes	777–26–0034, dated January 22, 2004	473474–26–450, dated January 22, 2004.
		473475–26–451, dated January 22, 2004.
		473854–26–452, dated January 22, 2004.
		473876–26–453, dated January 22, 2004.

Parts Installation

(i) For all airplanes: As of the effective date of this AD, no person may install a fire extinguishing bottle, part number (P/Ns) 473474–1 and –2, P/Ns 473475–1 and –2, P/Ns 473854–1 and –2, and P/Ns 473876–1 and –2, on any airplane, unless the initial test required by paragraph (g) of this AD is accomplished.

Credit for Previous Service Bulletin

(j) For Model 777–200 series airplanes: Actions done before the effective date of this AD in accordance with Boeing Service Bulletin 777–26–0034, dated January 22, 2004, are acceptable for compliance with the corresponding requirements of this AD.

Alternative Methods of Compliance (AMOCs)

(k) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD,

if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on June 17, 2005.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–13139 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21714; Directorate Identifier 2005–NM–065–AD]

RIN 2120–AA64

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

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. This proposed AD would require modification of certain wire bundles located above the center fuel tank. This proposed AD is prompted by the results of fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent chafed wire bundles near the center fuel tank, which could cause electrical arcing through the tank wall and ignition of fuel vapor in the fuel tank, and result in a fuel tank explosion.

DATES: We must receive comments on this proposed AD by August 19, 2005.

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

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

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21714; the directorate identifier for this docket is 2005–NM–065–AD.

FOR FURTHER INFORMATION CONTACT: Binh Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6485; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21714; Directorate Identifier 2005–NM–065–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have examined the underlying safety issues involved in recent fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (67 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with another latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

Based on this process, we have determined that the actions identified in this proposed AD are necessary to

reduce the potential of ignition sources near fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

A Boeing and FAA team inspected several 737 airplanes as part of the SFAR 88 system safety analysis. The team identified wire bundles in close proximity of the center fuel tank. The wire bundles were located below the passenger compartment, above the center fuel tank, aft of station (STA) 540 at right buttock line (RBL) and left buttock line (LBL) 24.82. Although no chafing was found on these wire bundles, if these wire bundles chafe, they could arc through the center fuel tank wall, ignite fuel vapor in the fuel tank, and result in a fuel tank explosion.

Relevant Service Information

We have reviewed Boeing Service Bulletin 737–28–1209, dated February 17, 2005. The service bulletin describes procedures for modifying the wire bundles located below the passenger compartment, above the center fuel tank, aft of station (STA) 540 through STA 601 inclusive, at RBL and LBL 24.82. The modification includes, among other actions, replacing the nutplate standoffs with support brackets. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 1,636 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 650 airplanes of U.S. registry. The proposed modification would take about 4 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would cost about $1,446 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $1,108,900, or $1,706 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2005–21714; Directorate Identifier 2005–NM–065–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by August 19, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes; certificated in any category; as identified in Boeing Service Bulletin 737–28–1209, dated February 17, 2005.

Unsafe Condition

(d) This AD was prompted by the results of fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent chafed wire bundles near the center fuel tank, which could cause electrical arcing through the tank wall and ignition of fuel vapor in the fuel tank, and result in a fuel tank 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.

Modification

(f) Within 60 months after the effective date of this AD: Modify the wire bundles located below the passenger compartment, above the center fuel tank, aft of station (STA) 540 through STA 601 inclusive, at right buttock line and left buttock line 24.82 in accordance with Boeing Service Bulletin 737–28–1209, dated February 17, 2005.

Alternative Methods of Compliance (AMOCs)

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

Issued in Renton, Washington, on June 24, 2005.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–13141 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

19 CFR Parts 101 and 122

Establishing a New Port of Entry at New River Valley, VA, and Terminating the User-Fee Status of New River Valley Airport

AGENCY: Customs and Border Protection; Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Department of Homeland Security's Regulations pertaining to the Bureau of Customs and Border Protection's field organization by conditionally establishing a new port of entry at New River Valley, Virginia, and terminating the user-fee status of New River Valley Airport. The new port of entry would consist of all the area surrounded by the continuous outer boundaries of the Montgomery, Pulaski and Roanoke counties in the state of Virginia, including New River Valley Airport, which is currently operated as a user-fee airport. These changes will assist the Bureau of Customs and Border Protection in its continuing efforts to provide better service to carriers, importers and the general public.

DATES: Comments must be received on or before September 6, 2005.

ADDRESSES: You may submit comments, identified by the title of this document, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229.

Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dennis Dore, Office of Field Operations, 202–344–2776.

SUPPLEMENTARY INFORMATION:

Background

As part of its continuing efforts to provide better service to carriers, importers, and the general public, the Department of Homeland Security (DHS), Bureau of Customs and Border Protection (CBP), is proposing to amend 19 CFR 101.3(b)(1) by conditionally establishing a new port of entry at New River Valley, Virginia. The new port of entry would include the area surrounded by the continuous outer boundaries of the Montgomery, Pulaski and Roanoke counties in the Commonwealth of Virginia. This area includes New River Valley Airport, located in the town of Dublin, Virginia, which currently operates and is listed as a user-fee airport at 19 CFR 122.15(b). This proposed change of status for New River Valley Airport from a user-fee airport to inclusion within the boundaries of a port of entry would subject the airport to the passenger processing fee provided for at 19 U.S.C. 58c(a)(5)(B).

Port of Entry Criteria

The criteria considered by CBP in determining whether to establish a port of entry are found in Treasury Decision (T.D.) 82–37 (Revision of Customs Criteria for Establishing Ports of Entry and Stations, 47 FR 10137), as revised by T.D. 86–14 (51 FR 4559) and T.D. 87–65 (52 FR 16328). Under these criteria, CBP will evaluate whether there is a sufficient volume of import business (actual or potential) to justify the expense of maintaining a new office or expanding service at an existing location. Specifically, CBP will consider whether the proposed port of entry location can:

(1) Demonstrate that the benefits to be derived justify the Federal Government expense involved;

(2) Except in the case of land border ports, be serviced by at least two major modes of transportation (rail, air, water, or highway); and

(3) Except in the case of land border ports, have a minimum population of 300,000 within the immediate service area (approximately a 70-mile radius).

In addition, one of the following actual or potential workload criteria (minimum number of transactions per year), or an appropriate combination thereof, must be met in the area to be serviced by the proposed port of entry:

(1) 15,000 international air passengers;

(2) 2,500 formal entries for consumption in United States commerce (each valued over $2,000), with the applicant location committing to optimal use of electronic data input means to permit integration with any CBP system for electronic processing of entries, with no more than half of the 2,500 entries being attributed to one private party;

(3) For land border ports, 150,000 vehicles;

(4) 2,000 scheduled international aircraft arrivals (passengers and/or crew); or

(5) 350 cargo vessel arrivals.

Finally, facilities at the proposed port of entry must include, where appropriate, wharfage and anchorage adequate for oceangoing vessels, cargo and passenger facilities; warehouse space for the secure storage of imported cargo pending final CBP inspection and release; and administrative office space, inspection areas, storage areas, and other space as necessary for regular CBP operations.

In certain cases, where the potential workload at a given location shows pronounced growth, CBP will consider granting conditional port-of-entry status to the location, pending further review of the actual workload generated within the new port of entry. See T.D. 96–3 and 97–64.

New River Valley's Workload Statistics

The proposal in this document to conditionally establish New River Valley, Virginia, as a port of entry is based on CBP's analysis of the following information:

1. New River Valley is serviced by three modes of transportation:

(a) rail (The Norfolk Southern Railway and the CSX Corporation);

(b) air (Roanoke Regional Airport (US Airways, United Express, Northwest, Delta), New River Valley User-Fee Airport, and Virginia Tech/Montgomery Executive Airport);

(c) highway (three U.S. interstate highways, I–81, I–64 and I–77).

2. The area within the immediate service area (approximately a 70-mile radius) of the New River Valley airport had a population, as of the 2000 census, of over 702,000.

3. Regarding the five actual or potential workload criteria:

(a) the number of consumption entries valued at over $2,000 each and filed in the port of New River Valley, Virginia, increased from 1,257 in FY 2001 to 1,817 in FY 2003, a rate of increase of forty-five percent;

(b) the projected number of such entries to be filed in FY 2004 is 1,776, an increase of forty-one percent over the number filed in FY 2001; and

(c) CBP's projection is that, according to the data, over 2,500 consumption entries, each valued at over $2,000, will be filed per year by FY 2007, and possibly by FY 2006, in the area to be included in the port of New River Valley, Virginia, with no more than half of those entries being made by one private party.

CBP facilities are already in place at the New River Valley User Fee Airport and will continue to be provided at no cost to the Federal Government, as discussed below. CBP believes that the establishment of this port will provide significant benefits to the New River Valley community, further enhancing the economic growth that is already being experienced in this area, by providing enhanced business competitiveness for existing enterprises and enabling the retention and expansion of the number of jobs in the area.

(d) The New River Valley User Fee Airport in Dublin, Virginia, has, for over

three years, provided and maintained administrative office space for a CBP office. Roanoke Regional Airport and Virginia Tech/Montgomery Executive Airport have also provided adequate facilities for regular CBP operations, including passenger and cargo inspection areas, and storage areas as necessary.

CBP believes that the New River Valley community is committed to making optimal use of electronic data transfer capability to permit integration with the CBP Automated Commercial System for processing entries. The New River Valley User Fee Airport has, for over three years, provided and maintained electronic data equipment software necessary to conduct regular CBP business. CBP has been informed that the airport is committed to upgrade equipment as necessary and, in fact, is currently in the process of installing a frame relay computer system, at no expense to the Federal Government, in order that adequate integration may be maintained with the Department of Homeland Security and the CBP systems.

Conditional Status

Based on the information above and the level and pace of development in New River Valley and the surrounding area, CBP believes that there is sufficient justification for the establishment of New River Valley, Virginia, as a port of entry on a conditional basis. If, after reviewing the public comments, CBP decides to create a port of entry at New River Valley and terminate New River Valley Airport's designation as a user-fee airport, then CBP will notify the airport of that determination in accordance with the provisions of 19 CFR 122.15(c). However, it is noted that this proposal relies on potential (within approximately 3 years), rather than actual, workload figures. Therefore, even if the proposed port of entry designation is adopted as a final rule, CBP will, in 3 years, review the actual workload generated within the new port of entry. If that review indicates that the actual workload is below the T.D. 82–37 (as amended) standards, procedures may be instituted to revoke the port of entry status. In such case, the airport may reapply to become a user-fee airport under the provisions of 19 U.S.C. 58b.

Description of Proposed Port of Entry Limits

The geographical limits of the proposed New River Valley port of entry would be as follows: The continuous outer boundaries of the Montgomery, Pulaski and Roanoke counties in the Commonwealth of Virginia.

Proposed Amendments to Regulations

If the proposed port of entry designation is adopted, the list of CBP ports of entry at 19 CFR 101.3(b)(1) will be amended to add New River Valley as a port of entry in Virginia, and New River Valley Airport will be deleted from the list of user-fee airports at 19 CFR 122.15(b).

Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to CBP, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and 19 CFR 103.11(b), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624.

Executive Order 12866 and the Regulatory Flexibility Act

With DHS approval, CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. The Office of Management and Budget has determined that this regulatory proposal is not a significant regulatory action as defined under Executive Order 12866. This proposed rule also will not have significant economic impact on a substantial number of small entities. Accordingly, it is certified that this document is not subject to the additional requirements of the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because the establishment of a new port of entry and the termination of the user-fee status of an airport are not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, the notice of proposed rulemaking may be signed by the Secretary of Homeland Security (or his or her delegate).

Drafting Information

The principal author of this document was Steven Bratcher, Regulations Branch, Office of Regulations and Rulings, CBP. However, personnel from other offices participated in its development.

Dated: April 29, 2005.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

Dated: June 23, 2005.

Michael Chertoff,

Secretary.

[FR Doc. 05–13120 Filed 7–1–05; 8:45 am]

BILLING CODE 4820–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SATS No. ND–048, North Dakota Amendment No. XXXV]

North Dakota Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the North Dakota regulatory program (hereinafter, the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). North Dakota proposes revisions to rules which reduce notice requirements associated with bond release applications. North Dakota intends to revise its program to improve operational efficiency.

This document gives the times and locations that the North Dakota program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., m.d.t. August 4, 2005. If requested, we will hold a public hearing on the amendment on August 1, 2005. We will accept requests to speak until 4 p.m., m.d.t. on July 20, 2005.

ADDRESSES: You may submit comments, identified by ''SATS No. ND–048, North Dakota Amendment XXXV'', by any of the following methods:

- E-mail: *fatencio@osmre.gov.*
- Mail/Hand Delivery/Courier: Frank Atencio, Acting Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 100 East B Street, Room 1018, Casper, WY 82601–1018, (307) 261–6550.
- Fax: (307) 261–6552.
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and SATS No. ND–048–FOR. For instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the North Dakota program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document you must go to the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting the Office of Surface Mining Reclamation and Enforcement's (OSM) Casper Field Office. In addition, you may review a copy of the amendment during regular business hours at the following locations:

Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 100 East B Street, Room 1018, Casper, WY 82601–1018, (307) 261–6550, *fatencio@osmre.gov.*

James R. Deutsch, Director, Reclamation Division, Public Service Commission, 600 E. Boulevard Ave. Dept. 408, Bismarck, North Dakota 58505–0480, (701) 328–2400. *ndpsc@state.us.nd.us.*

FOR FURTHER INFORMATION CONTACT: Frank Atencio, Telephone: (307) 261–6550. Internet: *fatencio@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the North Dakota Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the North Dakota program on December 15, 1980. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program in the December 15, 1980, **Federal Register** (45 FR 82214). You can also find later actions concerning North Dakota's program and program amendments at 30 CFR 934.10, 934.12, 934.15, 934.16, and 934.30.

II. Description of the Proposed Amendment

By letter dated April 20, 2005, North Dakota sent us a proposed amendment to its program ([Amendment number XXXV], administrative record No. ND–JJ–01) under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota sent the amendment to include the changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES.**

Specifically, North Dakota proposes to make two changes to reduce some of the notice requirements associated with bond release applications.

The first change deletes the requirement that the permittee publish newspaper notices in daily newspapers of general circulation in the mine's locality. However, the permittee is still required to publish bond release notices, once a week for four consecutive weeks, in the official county newspaper where the bond release tract is located.

The second change deletes language that requires the permittee to send bond release notices to subsurface owners of tracts proposed for bond release. Mining companies will still be required to send bond release notices to the surface owners of the bond release tracts and the adjoining property owners.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the North Dakota program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see Dates). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Casper Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SATS No. ND–048–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Casper Field Office at (307) 261–6555.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t. on July 20, 2005. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian Tribes and have determined that the rule does not have substantial direct effects 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. The rule does not involve or affect Indian Tribes in any way.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2) of the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 1, 2005.

Allen D. Klein,

Director, Western Region.

[FR Doc. 05–13124 Filed 7–1–05; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–7931–5]

Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From the Hanford Site for Disposal at the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments for 30 days on, Department of Energy (DOE) documents applicable to characterization of transuranic (TRU) radioactive waste at the Hanford site proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents are available for review in the public dockets listed in **SUPPLEMENTARY INFORMATION**. EPA's inspection of waste characterization systems and processes at Hanford is conducted to verify that the site can characterize transuranic waste in accordance with EPA's WIPP compliance criteria. EPA performed this inspection the week of June 20, 2005.

DATES: EPA is requesting public comment on the documents. Comments must be received by EPA's official Air Docket on or before August 4, 2005.

ADDRESSES: Comments may be submitted by mail to: EPA Docket Center (EPA/DC), Air and Radiation Docket, Environmental Protection Agency, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. OAR–2005–0143. Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.B of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Ms. Rajani D. Joglekar, Office of Radiation and Indoor Air, (202) 343–9462. You can also call EPA's toll-free WIPP Information Line, 1–800–331–WIPP or visit our Web site at *http://www.epa/gov/radiation/wipp.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. 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 No. OAR–2005–0143. 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 Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742. These documents are also available for review in paper form at the official EPA Air Docket in Washington, DC, Docket No. A–98–49, Category II–A2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10 a.m.–9 p.m., Friday–Saturday, 10 a.m.–6 p.m., and Sunday, 1 p.m.–5 p.m.; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: vary by semester; and in Santa Fe at the New Mexico State Library, Hours: Monday–Friday, 9 a.m.–5 p.m. As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

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 identification 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. 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.

For additional information about EPA's electronic public docket visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification 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. However, late comments may be considered if time permits.

1. Electronically. If you submit an electronic comment as prescribed below, 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. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. OAR–2005–0143. 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 electronic mail (e-mail) to *a-and-r-docket@epa.gov,* Attention Docket ID No. OAR–2005–0143. 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.

2. By Mail. Send your comments to: EPA Docket Center (EPA/DC), Air and Radiation Docket, Environmental Protection Agency, EPA West, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. OAR–2005–0143.

3. By Hand Delivery or Courier. Deliver your comments to: Air and Radiation Docket, EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OAR–2005–0143. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I.A.1.

4. By Facsimile. Fax your comments to: (202) 566–1741, Attention Docket ID. No. OAR–2005–0143.

C. 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 identification 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.

Background

DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Pub. L. 102–579), as amended (Pub. L. 104–201), TRU waste consists of materials containing elements having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C.

The final WIPP certification decision includes conditions that (1) prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratory (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of Appendix A to 40 CFR Part 194); and (2) prohibit shipment of TRU waste for disposal at WIPP from any site other than LANL until the EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of Appendix A to 40 CFR Part 194). The EPA's approval process for waste generator sites is described in § 194.8. As part of EPA's decision-making process, the DOE is required to submit to EPA appropriate documentation of quality assurance and waste characterization programs at each DOE waste generator site seeking approval for shipment of TRU radioactive waste to WIPP. In accordance with § 194.8, EPA will place such documentation in the official Air Docket in Washington, DC, and informational dockets in the State of New Mexico for public review and comment.

EPA performed an inspection of Hanford's technical program for waste characterization in accordance with Condition 3 of the WIPP certification the week of June 20, 2005. The inspection is used to evaluate the adequacy, implementation, and

effectiveness of the applicable technical activities related to the Hanford TRU waste characterization program. EPA's intent is to confirm the continued adequacy of waste characterization equipment and processes at Hanford for retrievably-stored, contact-handled (CH) debris waste. More specifically, EPA inspected new equipment (*e.g.*, the Super HENC Box Counter System) used for non-destructive assay (NDA) purposes.

EPA has placed DOE documents pertinent to the inspection in the public docket described in **ADDRESSES**. These include: (1) Hanford Site Transuranic Waste Certification Plan, HNF–2600, Rev. 15, May 2005, and (2) Hanford Site Transuranic Waste Characterization Quality Assurance Project Plan, HNF–2599, Draft Rev. 13, May 2005. The documents are included in Air Docket A–98–49, category II–A2, as well as online at the EDOCKET Web site (*http://www.epa.gov/edocket*) in Docket ID No. OAR–2005–0143. In accordance with 40 CFR 194.8, as amended by the final certification decision, EPA is providing the public 30 days to comment on these documents.

If EPA determines as a result of the inspection that the proposed processes and programs at Hanford adequately control the characterization of transuranic waste, we will notify DOE by letter and place the letter in the official Air Docket in Washington, DC, as well as in the informational docket locations in New Mexico. A letter of approval will allow DOE to dispose of transuranic waste characterized by the approved equipment and processes from Hanford to the WIPP. The EPA will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed. Information on the certification decision is filed in the official EPA Air Docket, Docket No. A–93–02 and is available for review in Washington, DC, and at three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: June 24, 2005.

Jeffrey R. Holmstead,

Assistant Administrator for Air and Radiation.

[FR Doc. 05–13166 Filed 7–1–05; 8:45 am]

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Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

Animal and Plant Health Inspection Service

Title: Foot-and-Mouth Disease Payment of Indemnity; Update of Provisions.

OMB Control Number: 0579–0199

Summary of Collection: The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture administers regulations at 9 CFR part 53 that provides for the payment of indemnity to owners of animals that are required to be destroyed because of food-and-mouth disease (FMD), and any other communicable disease of livestock or poultry that in the opinion of the Secretary of Agriculture constitutes an emergency and threatens the U.S. livestock or poultry population. The regulations authorize payments based on the fair market value of the animals destroyed, as well as payments for their destruction and disposal.

Need and Use of the Information: Providing affected herd owners with appropriate compensation for the loss of their animals would entail the use of VS Form 1–23, All Species Appraisal & Indemnity Claim Form. APHIS will use the information provided on the form along with supporting documents to assist in verifying the quantity and value of animals or materials destroyed and the costs of their disposition, and the cost of cleaning and disinfecting. Collecting this information less frequently or failing to collect would make it difficult for APHIS to operate an FMD indemnity program.

Description of Respondents: Farms; Individuals or households; Federal Government; State, local or tribal government.

Number of Respondents: 1.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–13104 Filed 7–1–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Information Collection for the Special Milk Program for Children

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service announces its intention to request the Office of Management and Budget (OMB) to extend approval of the information collection for the Special Milk Program for Children.

DATES: To be assured of consideration, comments must be received by September 6, 2005.

ADDRESSES: Send comments and requests for copies of this information collection to Mr. Terry Hallberg, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302. Comments will also be accepted via e-mail submission if sent to *CNDPROPOSAL@FNS.USDA.GOV.* When submitting comments via e-mail you must include ''Special Milk Program for Children'' on the subject line. 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 quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of 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. All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public records.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Hallberg Chief, Program Analysis

and Monitoring Branch at (703) 305–2590.

SUPPLEMENTARY INFORMATION:

Title: Special Milk Program.

OMB Numbers: 0584–0005.

Expiration Date: 1/31/06.

Type of Request: Extension of a currently approved collection.

Abstract: Section 3 of the Child Nutrition Act (CNA) of 1966 (Pub. L. 89–642, as amended; 42 U.S.C. 1772) authorizes the Special Milk Program (SMP). It provides for the appropriation of such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as the Secretary may deem in the public interest, to encourage the consumption of fluid milk by children in the United States in (A) nonprofit schools of high school grade and under, and (B) nonprofit nursery schools, child care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. Schools and institutions which participate in SMP may not participate in a meal service program authorized under the CNA or the Richard B. Russell National School Lunch Act.

Section 10 of the CNA requires the Secretary of Agriculture to ''prescribe such regulations as the Secretary may deem necessary to carry out this Act and the Richard B. Russell National School Lunch Act * * *'' Pursuant to that provision, the Secretary has issued 7 CFR part 215, which sets forth policies and procedures for the administration and operation of the SMP. State and local operators of the SMP are required to meet Federal reporting and accountability requirements. The vast majority of reporting relates to information regarding eligibility determinations of the children, the number of milk servings, and revenues received from milk sales. State and local operators are also required to maintain records regarding eligibility to operate the program, review results, and accounts of revenues and expenditures.

Authority: 42 U.S.C. 1772.

Respondents: 55 State agencies, 4,150 School food authorities/Sponsors, 5,667 schools, 593 child care institutions and 963 camps.

Number of Respondents: 11,428.

Estimated Total Annual Responses: 506,318.

Average Number of Responses per Respondent: 13.

Estimated Time per Response: .30.

Estimated Total Reporting Annual Burden Hours: 151,537.

Number of Respondents: 11,428.

Estimated Total Annual Responses: 2,443,768.

Average Number of Responses per Respondent: 36.

Estimated Time per Response: .17.

Estimated Total Annual Recordkeeping Burden Hours: 413,994.

Total Request Annual Reporting and Recordkeeping Burden Hours: 565,531.

Dated: June 15, 2005.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 05–13113 Filed 7–1–05; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Nonprofit Organization Annual Report of Operations and Aid

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service, as lead agency, in cooperation with the U.S. Army Corps of Engineers, U.S. Department of Defense, the Bureau of Land Management, U.S. Fish and Wildlife Service and National Park Service, U.S. Department of the Interior; and the U.S. Geological Survey, propose to consolidate several existing, annual, agency-specific, cooperating and interpretive financial report forms for several Federal land management agencies. The purpose of consolidating the Federal financial forms from the cooperating agencies into one form is to provide a standard format and consistent reporting requirements for non-profit cooperators that may have agreements with several Federal agencies.

DATES: Comments must be received in writing on or before September 6, 2005, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Kristen Nelson, Recreation and Heritage Resources Staff, Mail Stop 1125, Forest Service, USDA, 1400 Independence Avenue, SW., Washington, DC 20250–1125.

Due to potential delays in the Forest Service receiving and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

Comments also may be submitted via facsimile to (202) 205–1145 or by e-mail to *IAComments@fs.fed.us.*

The public may inspect comments received at the Office of the Director, Recreation and Heritage Resources Staff, Yates Building, Forest Service, USDA, 201 14th Street, SW., 4th Floor Central, Washington, DC 20250, during normal business hours. Visitors are encouraged to call ahead to (202) 205–1706 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Kristen Nelson, Recreation and Heritage Resources Staff, at (202) 205–1406. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Nonprofit Organization Annual Report of Operations and Aid.

OMB Number: 0596-New.

Expiration Date of Approval: N/A.

Type of Request: New.

Abstract: For over 25 years, Federal agencies, such as the Forest Service, Bureau of Land Management, and the National Park Service, have entered into agreements with non-profit organizations to serve visitors and meet their needs for quality guides, maps, and other education or interpretive literature. These non-profit organizations are frequently referred to as cooperating or interpretive associations and are mission-driven, private, non-profit organizations established under state law and adhering to applicable laws governing Federal tax-exempt 501(1)(3)(c) organizations. They assist Federal agencies primarily through selling educational and interpretive materials, providing information services, conducting educational programs and field institutes, and raising contributions to support the educational mission of these Federal land management agencies.

This notice addresses issues raised by the associations and some of those noted in the 2002 GAO audit of the National Park Service. The Executive Directors of the associations identified the need for improving and streamlining the annual operational, aid and financial reporting requirements of the Federal agencies. They also noted that the use of a single form by all of the agencies would increase consistency in reporting by the associations and would alleviate duplicative efforts and the time burden for filing independent agency-specific financial reports.

The Internal Revenue Service tax form (Form 990–OMB 1545–0047) was analyzed and compared to annual reporting forms of the Forest Service (OMB 0596–0097) and the National Park Service to determine the data elements common to the multiple forms and the data elements unique to any single form. Consolidation of these data elements is intended to reduce the reporting burden placed on the associations and to streamline the data collection process.

The immediate use of this proposed form will be in paper format. However, the data elements included in the paper form are intended for electronic submission sometime in the near future. We welcome comments on aspects of the proposed new Nonprofit Organization Annual Report of Operations and Aid. Questions you may wish to address include:

1. Is the format of the form easy to understand and complete?

2. Do you have suggestions for improvements in the appearance of the form?

3. Are the line items instructions understandable?

4. Have we sufficiently defined the terms?

5. Are there any data elements that could be eliminated from the form? (If you recommend eliminating a line, please explain your recommendation.)

6. Is there any additional information that would be useful to the users of the form?

Estimate of Annual Burden: 1 hour.

Type of Respondents: Executive Directors of Cooperating or Interpretive Associations and/or their accountants.

Estimated Annual Number of Respondents: 500.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 500 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: June 24, 2005.

Gloria Manning,

Associate Deputy Chief, National Forest System.

BILLING CODE 3410–11–P

INSTRUCTIONS FOR COMPLETING NONPROFIT ORGANIZATION ANNUAL REPORT OF OPERATIONS AND AID TO FEDERAL LAND MANAGEMENT AGENCY(IES)

INTRODUCTION

The following instructions have been developed to assist in preparing the Annual Report of Operations and Aid ("Annual Report") to a Federal Land Management Agency ("FLMA"). The Annual Report of Operations relates to information as reported on Internal Revenue Service ("IRS") Form 990 for the most recently completed fiscal year. The Report of Aid represents amounts the association donated during the fiscal year. This does not include moneys set aside for aid projected but not yet delivered. All figures on the report must be rounded to the nearest dollar.

The Annual Report is due annually on March 31 and should be based on the association's most recently completed fiscal year. Each nonprofit should submit a completed Annual Report, along with a copy of the organization's IRS Form 990 or 990EZ (990PF or 990T if applicable), and a copy of the audited financial statements (for those associations with revenue of $1,000,000 or more), reviewed financial statements (for those associations with gross revenue of $250,000 to $1,000,000), or compiled financial statements (for those association's with gross revenue under $250,000). Organizations would also submit a separate brief narrative of the year's major accomplishments for each federal agency with which they partner.

GENERAL:

In the spaces indicated provide the Organization Name, Fiscal Year Ending Date for which the *Reports of Operations and Aid* are being submitted and a description of the organization's basic activity (pursuant to its exempt status). Standard names for the Organization's basic activity have been provided. The nonprofit should check the name, or names that apply to its operations.

STATEMENT OF PROGRAM SERVICES – OPERATIONS INSTRUCTIONS

The Nonprofit Organization reports all Revenues and Expenses that the Organization incurs pursuing its non-exempt purpose in service to a particular Federal Land Management Agency (FLMA) on the Statement of Program Services – Operations (Statement-Ops). The statement-ops has six columns. Four columns have been provided to report revenue and expenses for each FLMA served, a fifth column is provided to report revenue and expenses for any Non-Federal Agency(ies), (State, Local, or Municipal, e.g.) served; and the sixth column is the total of all revenue and expenses for all agencies served. The Total Column should agree with the appropriate revenue and expenses reported on Parts I and II of the Organization's Internal Revenue Service ("IRS") Form 990. The nonprofit completing the report should label each column for the FLMA served.

REVENUE:

1a. SALES OF INTERPRETIVE MATERIALS: Gross revenue from the sales of interpretive materials including print and non-print items such as books, posters, postcards, audio and video tapes, theme-related sales items and products of interpretive demonstrations should be reported on line 1a.

1b. SALES OF VISITOR CONVENIENCE ITEMS: Gross revenue from visitor convenience items sold under concession permits should be reported on line 1b.

1c. SALES-OTHER: All other revenue from the sale of inventory that is not from the Sale of Interpretive Items or from the Sale of Visitor Convenience items should be reported as "Other" on line 1c.

2. COST OF GOODS SOLD: The costs of all merchandise sold for all interpretive material, visitor convenience or other items held in inventory pursuant to the organizations tax-exempt purpose.

3. GROSS PROFIT: Subtract the cost of goods sold, line 2, from the Total Revenue, line 1 and report the difference as Gross Profit on line 3.

4. PROGRAM SERVICE REVENUE: This is revenue that is related to the organization's tax-exempt purpose that is not related to the sale of inventory.

OTHER INCOME:

5a. DONATIONS FROM OUTSIDE SOURCES: Report contributed funds, equipment and services from individuals, foundations, corporations and other sources. Include honor system trail guide donations in this category. These should be reported on line 5a.

5b. MEMBERSHIP: Report revenues received from memberships in cooperating associations on line 5b.

5c. INTERPRETIVE/COOPERATIVE PROGRAMS: Revenue derived from interpretive/cooperative programs operated by the association is included in this category. This includes programs such as audio tours; interpretive tours/excursions, field seminar programs etc. are reported on line 5c.

5d. OTHER: Revenues not covered in other categories such as interest income or royalties are reported on line 5d.

6. TOTAL NET REVENUE: Add lines 3, 4 and 5a, b, c, and d. The Organization completing the report should use its best judgment in posting revenue and or expenses to lines 1 through 5 after taking into account the instructions provided for those lines. **Total Net Revenue should agree with Part I, Line 12 of the Organization's IRS Form 990.**

EXPENSES:

7. PROGRAM SERVICES OPERATING ACTIVITIES: Costs related to activities conducted which form the basis of the organization's tax exempt purpose. For example, a cooperating association tax exempt purpose may be to assist with the interpretive, educational, historical and scientific mission of the National Park Service. In pursuing this mission the association may operate a retail bookstore that procures and sells educational materials. Expenses such as personnel and salary costs directly related to operating the bookstore should be considered as program services expenses. Nonprofits that service federal agencies may differ in mission, in size or in structure. This can impact on the way costs are incurred and reported. It may not be immediately obvious whether certain costs are program service or administrative. In those instances the prudent judgment of the organization's financial managers or the advice of the organization's auditors or accountants should be used. In the case of personnel and salary costs that are also considered donations to the FLMA, appropriate agency managers should be consulted. **These expenses are reported in Part II, Column B of the Organization's IRS Form 990, and are the sum of lines 23 through 43d.**

8. MANAGEMENT AND GENERAL EXPENSES: Report the organization's expenses that result from the overall function and management rather than the direct conduct of the program services (exempt activities). These are normally what are called General and Administrative, Principal Office or Headquarters expenses **however they would exclude all costs related to fundraising**. Examples of Management and General Expenses would be salaries and expenses of the chief officer of the organization, and that officer's direct staff, expenses related to the Board of Directors for the organization, office management, personnel, accounting, legal services, insurance, utility and occupancy costs. Nonprofits that service FLMAs may differ in mission, in size or in structure. This can impact on the way costs are incurred and reported. It may be appropriate for certain indirect expenses to be allocated to program services. The regulations for preparing IRS Form 990 allow for such allocations. If the IRS Form 990 is prepared with these allocations from management and general expenses to program services expenses then the **Statement** should also be prepared with the allocations consistent with the IRS Form 990. In those instances the prudent judgment of the organization's financial managers or the advice of the organizations auditors or accountants should be used. **These expenses are reported in Part II, Column C of the Organization's IRS Form 990 on line 44.**

9. FUNDRAISING EXPENSES: Report the total expenses incurred in soliciting contributions, gifts, grants, etc. Fundraising expenses would result from activities that include publicizing and conducting fundraising campaigns; soliciting bequests and grants from foundations or other organizations; participating in federated fundraising campaigns; preparing and distributing fundraising manuals, instructions or other materials; conducting special events to raise funds. **These expenses are reported in Part II, Column D of IRS Form 990 on line 44.**

10. TOTAL OPERATING EXPENSES: The total of Lines 7, 8 and 9.

11. EXCESS (DEFICIT) BEFORE DONATIONS: Subtract Line 10 from Line 6. This would represent the excess or deficit the nonprofit has generated from annual operations. (In some organizations this amount represents resources that are appropriated for the FLMA as future donations.)

12. DONATIONS AND OTHER GRANTS OR ALLOCATIONS MADE TO THE FEDERAL AGENCY: Report amounts paid or in-kind gifts contributed to the Federal Agency or payments made on behalf of the Federal Agency for goods and services

delivered to the Federal Agency. **These payments would be reported in Part II, Column B, Line 22 of the Organization's IRS Form 990.**

13. **EXCESS (DEFICIT) FOR THE YEAR:** Subtract Line 12 from Line 11. The amount reported on this Line should agree with Part 1, Line 18 of the Organizations 990.

STATEMENT OF FINANCIAL AID -- INSTRUCTIONS

The Nonprofit Organization reports as financial aid all direct payment for goods and services on behalf of the Federal Land Management Agency ("FLMA") and all operating expenses incurred in pursuing the organization's tax- exempt purpose on behalf of the FLMA. This Statement has six columns: Four columns have been provided to report financial aid for each FLMA served, a fifth column is provided to report financial aid for any NON-FEDERAL AGENCY(IES), (State, Local, or Municipal, e.g.)) served. The sixth column is the TOTAL of all financial aid for all agencies served. The TOTAL Column should agree with the appropriate expenses reported on Part II of the Organization's IRS Form 990 (the specific Parts, Columns and Lines of the 990 are given in the instructions below). The Statement is divided into three sections: I. Details of grants and allocations, II. Program services expenses, and III. Total aid.

I. DETAILS OF GRANTS AND ALLOCATIONS:

1. **INTERPRETATION.** Donations of cash or goods and services funded by the nonprofit in support of interpretive programs and projects. Examples include funds donated for special interpretive events, such as a lecture series; support of the FLMA's environmental education program (supplies); donation of reproduction uniforms to a historic site; donation of museum object(s) for an exhibit; donation of books for a FLMA's library, for visiting dignitaries, or for use in seasonal training; donations of wayside exhibits; donations of video equipment, cameras, computers, for use by the interpretive division; travel support for interpretive training (airline tickets, or other travel related payments in support of lodging and per diem costs for attendance at interpretive workshops, conferences); and similar aid.

2. **RESEARCH.** Direct grants to researchers for FLMA related project(s) or funds donated to Federal Agency in support of specific research project(s).

3. **FREE PUBLICATIONS.** Organization's publications, such as trail guides, that are published to be distributed to the public free of charge. This includes the cost of honor system trail guides. (Report the actual cost of production, including the salaries and benefits of staff directly involved.)

4. **STRUCTURES/FACILITIES OTHER THAN SALES AREAS.** This category includes capital improvements constructed at the expense of the not-for- profit organization on federal land.

The critical factor in determining how to report the cost of a capital improvement is who derives primary benefit from the completed project. If the structure is being used solely or primarily by a FLMA, (example: visitor center), the total cost (including planning, design and project management expenses) is reported as aid as funds are expended. This would include all improvement costs even if an association received some benefit from those improvements. For example, even though a nonprofit might have a sales outlet in a visitor center and therefore receive an ongoing benefit, the primary purpose of the building is for FLMA visitor contact and interpretation.

Funds spent to construct or renovate structures used primarily by the organization in its operations (examples: employee housing; warehouse; offices) are not reportable as aid except in instances where portions of these improvements achieve a FLMA goal such as building stabilization, historic preservation, operating efficiencies for the FLMA, or resource protection (e.g. relocation of facilities away from crowded areas or sensitive resources).
In these instances, the portion of expenditures relating to FLMA goals is reportable as aid.

Expenses for capital improvements that qualify as aid may be reported during the course of construction or when the facility is completed. *[Further guidance for donations for recognizing capital improvements may be found in FLMA policy documents and agreements.]*

5. **SALES AREA CONSTRUCTION AND REDESIGN.** A nonprofit's sales areas may serve a dual purpose: selling interpretive materials and providing visitors with interpretive information. In recognition of this dual purpose, 50% of an association's direct cost for the construction or redesign of association sales areas is reportable as aid.

6. **PRE-PUBLICATION EXPENSES.** When the nonprofit publishes materials at the request of the FLMA, they should report as aid any pre-publication expenses that are not included as the cost of the book carried in inventory. Costs such as writing, editing,

photography, and other pre-production costs are reported as aid unless these costs are included in the book's inventory value on the balance sheet.

7. **OTHER.** Report any other aid that is not appropriately reported in other categories. When "other" category exceeds 10% of gross aid for a given fiscal year, provide explanatory notes on back of annual report.

8. **TOTAL.** Totals of lines 1 through 7. This total should agree with the amount reported on the organization's IRS Form 990, Part II, Column B, Line 22.

II. PROGRAM SERVICE EXPENSES:

9. **FROM OPERATING ACTIVITIES.** This is defined as those costs such as personnel and salary costs that the organization incurs as a result of conducting its primary activity or tax-exempt purpose. These expenses are recorded on the organizations IRS Form 990, Part II, Column B, including Lines 23 to 43e. These expenses are also reported on Line 7 of the *Nonprofit Organization Annual Report--Program Services Statement of Operations.*

III. TOTAL AID:

10. **Total.** The sum of Lines 8 and 9. This total should agree with Part II, Line 44, Column B of the organization's IRS Form 990.

11. **TOTAL NET REVENUE.** This would be the amount reported on the Organization's Statement of Program Services - Operations – Program Services Line 6 and should agree with the amount reported on Part I, Line 12 of the organizations IRS Form 990.

12. **% OF AID TO NET REVENUE.** Line 11 divided by Line 12.

STATEMENT OF NON-FINANCIAL -- [IN-KIND] AID INSTRUCTIONS

In addition to operating a program on behalf of a Federal Land Management Agency ("FLMA") or paying directly for goods or services on behalf of FLMA, the Non-Profit organization might also provide certain non-financial services (also referred to as "in-kind" service) to or on behalf of a FLMA. The nonprofit would report its "non-financial" aid on the Statement of Non-Financial Aid). This report has six columns. Four columns have been provided to report those items of non-financial support for FLMAs served, a fifth column is provided to report non-financial aid for any Non-Federal Agency(ies), (State, Local, or Municipal, e.g.) served; and the sixth column is the TOTAL of all non-financial aid for all agencies served.

Suggested categories for certain items of non-financial aid are provided below. However, because there are services that can be unique to the nonprofit there is provision to report for those "unique services".

REPORTING OF IN-KIND AID:

1. **EDUCATIONAL CONTACT HOURS:** These statistics would be based on one (1) program hour times the number of program participants.

2. **VISITOR CONTACT HOURS:** Based as much as possible on payroll hours of staff provided at visitor contact locations (i.e., visitor centers.)

3. **PIECES OF FREE LITERATURE DISPENSED:** Actual counts of all items of free literature produced that are made available to the public.

4. **# ITEMS SOLD:** Per unit counts of interpretive and educational products sold for the benefit of the FLMA.

5. **# VOLUNTEER HOURS:** Actual volunteer hours spent in service to the FLMA by volunteers for the fiscal year and also hours spent soliciting the aid of volunteers. [The organization or FLMA with which the volunteer has a signed volunteer agreement is the entity that should record and report these hours.]

6. **OTHER SERVICES:** Other statistical information that the organization would deem as contributing to the mission and objectives of the FLMA. Each item in this category should be briefly described.

STATEMENT OF FUNDS RECEIVED AND AID DISBURSED AS AN AGENT FOR OTHER ENTITIES -- INSTRUCTIONS

There are instances where the Nonprofit Organization receives and disburses funds as an agent, trustee or intermediary on behalf of a Federal Land Management Agency in support of a program of the Agency. The distinguishing feature of these transactions is the extent of discretion that the nonprofit has over the use of the assets that it holds on behalf of the Agency. If it has little or no discretion, Generally Accepted Accounting Principles require that these types of transactions be treated as increases to assets and liabilities when received and decreases to assets and liabilities when disbursed. These funds represent aid that should be reported on the" Statement of Funds Received and Aid Disbursed as an Agent for Other Entities".

This Statement has six columns. Four columns have been provided to report financial aid for each FLMA served by the organization s, a fifth column is provided to report financial aid for any NON-FEDERAL AGENCY(IES), (State, Local, or Municipal, e.g.)) served. The sixth column is the TOTAL of all financial aid for all agencies served.

The statement is divided in o two sections, Section I - Funds that were received in the year, and Section II for aid that has been disbursed in the year to the FLMA.

I. FUNDS RECEIVED DURING THE YEAR:

Any funds received in the year that meet the criteria of Financial Accounting Standards Statement 136 - (FAS 136) requiring that the funds received be accounted for as increases to assets and liabilities on the association's balance sheet should be reported here. The amounts reported here represent new funds received and not previously reported.

II. AID DISBURSED DURING THE YEAR:

Any disbursements made from funds received and recorded under the criteria of FAS 136 as decreases to assets and liabilities to the Nonprofit Organization's assets and liabilities would be reported here. The amounts reported here represent disbursements that were actually made in the current year and not previously reported.

Nonprofit Organization
Report to Federal Land Management Agency

STATEMENT OF PROGRAM SERVICES—OPERATIONS

Organization:

- ☐ Cooperating Association/Interpretive Association Selling Educational Materials
- ☐ Friends Group-Fundraising
- ☐ Membership Organization
- ☐ Institute/Field School
- ☐ Other_____

Fiscal Year End:
Program Services:

FEDERAL AGENCY SERVED:					Other Agencies	Total Agencies
Line # REVENUE						
1. Sales						
a. Interpretive Materials						
b. Visitor Convenience Items						
c. Other						
TOTAL						
2. Cost of Goods Sold						
3. Gross Profit						
4. Program Service revenue						
5. Other income						
a. Donations from Outside Sources						
b. Membership Income						
c. Interpretive/Cooperative Programs						
d. Other						
TOTAL						
6. **TOTAL NET REVENUE**						
EXPENSES						
7. Program Services Operating Activities						
8. Management and General						
9. Fundraising						
10. **TOTAL OPERATING EXPENSES**						
11. **EXCESS (DEFICIT) BEFORE DONATIONS**						
12. Donations/grants/allocations made to Federal						
13. **EXCESS (DEFICIT) FOR THE YEAR**						

STATEMENT OF FINANCIAL AID

FEDERAL AGENCY SERVED: **Line #**					Other Agencies	Total Agencies
I. Detail of grants and allocations (Col. B, Line 22 Form 990)						
1. Interpretation						
2. Research						
3. Free publications						
4. Structures and/or facilities other than sales areas						
5. Sales area construction and redesign						
6. Pre-publication expenses						
7. Other						
a.						
b.						
c.						
d.						
Total						
8. **Total Financial Aid (Column B, Line 22, Form 990)**						
II. Program services expenses						
9. Program service-operating activities-Part II, Column B-sum of lines 23-43e, Form 990						
III. Total aid as a % of net revenue						
10. **TOTAL AID (Total Lines 8&9)**						
11. **TOTAL NET REVENUE (Program Services-Statement of Operations Line 6)**						
12. **% AID to NET REVENUE (Line 10 divided by Line 11)**						

STATEMENT OF NON-FINANCIAL AID

FEDERAL AGENCY SERVED: Line #					Other Agencies	Total Agencies
1. Educational contact hours						
2. Visitor contact hours						
3. Number of pieces of free literature produced						
4. Number of items sold						
5. Number of volunteer hours managed						
6. Other unique services						
a.						
b.						
c.						
d.						
e.						

FUNDS RECEIVED AND AID DISBURSED AS AND AGENT FOR OTHER ENTITIES

FEDERAL AGENCY SERVED: Line #					Other Agencies	Total Agencies
I. Funds received during the year						
II. Aid disbursed during the year						

[FR Doc. 05–12998 Filed 7–1–05; 8:45 am]
BILLING CODE 3410–11–C

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Hatch Valley Arroyos Site 6 (Garfield Dam), Doña Ana County, NM

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Rules (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the rehabilitation of Hatch Valley Arroyos Site 6 (Garfield Dam) in Doña Ana County, New Mexico.

FOR FURTHER INFORMATION CONTACT: Rosendo Treviño III; State Conservationist; Natural Resources Conservation Service; 6200 Jefferson, NE; Albuquerque, NM 87109–3734; telephone (505) 761–4400.

SUPPLEMENTARY INFORMATION: The environmental assessment (EA) of this federally assisted action indicates that the project will not cause significant local, regional, or national effects on the human environment. As a result of these findings, Rosendo Treviño III, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is flood damage reduction. The action includes the rehabilitation of a floodwater retarding dam. The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency; various Federal, State, and local agencies; and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address. Basic data developed during the EA are on file and may be reviewed by contacting Rosendo Treviño III. No administrative action on implementation of the proposed action will be taken until 30 days after the date

of this publication in the **Federal Register**.

Rosendo Treviño III,

State Conservationist.

[FR Doc. 05–13112 Filed 7–1–05; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of New Shipper Reviews

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

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of new shipper reviews of the antidumping duty order on fresh garlic from the People's Republic of China until October 25, 2005, pursuant to Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act). This extension applies to the new shipper reviews of Shanghai LJ International Trading Co., Ltd. and Zhangqiu Qingyuan Vegetable Co., Ltd., covering the period of November 1, 2003, through October 31, 2004.

EFFECTIVE DATE: July 5, 2005.

FOR FURTHER INFORMATION CONTACT: Coleen Schoch or Brian Ledgerwood, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–45541 and (202) 482–3836, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 5, 2005, the Department of Commerce (the Department) announced the initiation of the new shipper reviews of Shanghai LJ International Trading Co., Ltd. (Shanghai LJ), Zhangqiu Qingyuan Vegetable Co., Ltd. (Qingyuan) and Huaiyang Huamei Foodstuff Co., Ltd. (Huamei). *See Notice of Initiation of New Shipper Antidumping Duty Reviews: Fresh Garlic from the People's Republic of China*, 70 FR 779. The new shipper review of Huamei was rescinded by the Department on May 25, 2005. *See Notice of Initiation of New Shipper Antidumping Duty Reviews: Fresh Garlic from the People's Republic of China*, 70 FR 30081.

Section 751(a)(2)(B)(iv) of the Act provides that the Department will issue the preliminary results of a new shipper review of an antidumping duty order within 180 days after the date on which the new shipper review was initiated. The Act also provides that the Department may extend that 180-day period to 300 days if it concludes that the new shipper review is extraordinarily complicated. *See* also 19 CFR 351.214(i).

The Department has determined that these reviews are extraordinarily complicated and it is not practicable to complete the preliminary results by the current deadline of June 27, 2005. There are a number of complex factual, methodological, and legal issues related to the calculation of the antidumping margins for these new shipper reviews that are currently before the Department. Therefore, in accordance with 19 CFR 351.214(i)(2), the Department is extending the time limit for the preliminary results until no later than October 25, 2005. We are issuing and publishing this notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214(I).

Dated: June 27, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–3488 Filed 7–1–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

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

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared its quarterly update to the annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty during the period January 1, 2005, through March 31, 2005. We are publishing the current listing of those subsidies that we have determined exist.

DATES: Effective July 5, 2005.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl or Eric Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, telephone: (202) 482–1767 or 6071, respectively.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) (''the Act'') requires the Department of Commerce (''the Department'') to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the period January 1, 2005, through March 31, 2005.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: June 28, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

APPENDIX.—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY [1]

Country	Program(s)	Gross [2] Subsidy ($/lb)	Net [3] Subsidy ($/lb)
Austria	European Union Restitution Payments	$0.00	$0.00
Belgium	EU Restitution Payments	0.00	0.00
Canada	Export Assistance on Certain Types of Cheese	0.28	0.28
Cyprus	EU Restitution Payments	0.00	0.00
Denmark	EU Restitution Payments	0.00	0.00
Finland	EU Restitution Payments	0.00	0.00
France	EU Restitution Payments	0.00	0.00
Germany	EU Restitution Payments	0.00	0.00
Greece	EU Restitution Payments	0.00	0.00
Hungary	EU Restitution Payments	0.00	0.00
Ireland	EU Restitution Payments	0.00	0.00
Italy	EU Restitution Payments	0.00	0.00
Lithuania	EU Restitution Payments	0.00	0.00
Luxembourg	EU Restitution Payments	0.00	0.00
Netherlands	EU Restitution Payments	0.00	0.00
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	0.00	0.00
	Total	0.00	0.00
Poland	EU Restitution Payments	0.00	0.00
Portugal	EU Restitution Payments	0.00	0.00
Slovenia	EU Restitution Payments	0.00	0.00
Spain	EU Restitution Payments	0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00
U.K.	EU Restitution Payments	0.00	0.00

[1] This chart includes only those countries which exported articles of cheese to the United States during 1st Quarter, 2005.
[2] Defined in 19 U.S.C. 1677(5).
[3] Defined in 19 U.S.C. 1677(6).

[FR Doc. 05–13179 Filed 7–1–05; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Allocation of Increased Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics for Calendar Year 2005

June 28, 2005.

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Notice of allocation of 2005 increase in worsted wool fabric tariff rate quota.

SUMMARY: The Department of Commerce has completed the allocation of the increase in the 2005 worsted wool fabric tariff rate quota (TRQ) mandated by the ''Wool Suit and Textile Trade Extension Act of 2004'' (included in the Miscellaneous Trade and Technical Corrections Act of 2004, H.R. 1047). These actions were taken in accordance with Department of Commerce regulations (15 CFR 335) (70 FR 25774).

The increases in the 2005 TRQs are: 1 million square meters for Harmonized Tariff Schedule (HTS) 9902.51.11 to an annual total level of 5.5 million square meters (worsted wool fabrics with average fiber diameters greater than 18.5 microns) and 1.5 million square meters for HTS 9902.51.15 to an annual total level of 5 million square meters (worsted wool fabrics with average fiber diameters of 18.5 microns or less).

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Background:

Title V of the Trade and Development Act of 2000 (The Act) as amended by the Trade Act of 2002 and the Miscellaneous Trade and Technical Corrections Act of 2004, H.R. 1047 creates two tariff rate quotas, providing for temporary reductions in the import duties on two categories of worsted wool fabrics suitable for use in making suits or suit-type jackets or trousers. The ''Wool Suit and Textile Trade Extension Act of 2004'' (included in the Miscellaneous Trade and Technical Corrections Act of 2004, H.R. 1047) increases in the 2005 TRQs by 1 million square meters for Harmonized Tariff Schedule (HTS) 9902.51.11 to an annual total level of 5.5 million square meters (worsted wool fabrics with average fiber diameters greater than 18.5 microns) and 1.5 million square meters for HTS 9902.51.15 to an annual total level of 5 million square meters (worsted wool fabrics with average fiber diameters of 18.5 microns or less).

The Act requires the President to ensure that such fabrics are fairly allocated to persons (including firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers in the United States and who apply for an allocation based on the amount of such suits cut and sewn during the prior calendar year. Presidential Proclamation 7383, of December 1, 2000, authorized the Secretary of Commerce to allocate the quantity of worsted wool fabric imports under the TRQs.

On December 14, 2004, the Department published a notice of the initial allocation for Calendar Year 2005 of TRQs based on applications received for HTS 9902.51.11 TRQ from 11 firms, and for HTS 9902.51.15 TRQ from 14 firms (69 FR 74500). All applicants were determined eligible for an allocation. Most applicants submitted data on a business confidential basis. On June 8, 2005, the Department allocated the increases for the 2005 worsted wool fabric TRQ mandated by the ''Wool Suit and Textile Trade Extension Act of 2004'' based on the same data received on the applications for the initial allocation 2005 TRQs. As allocations to

firms were determined on the basis of this data, the Department considers individual firm allocations to be business confidential.

Firms That Received Additional Allocations:

HTS 9902.51.11, fabrics, of worsted wool, with average fiber diameter greater than 18.5 micron, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (provided for in subheading 5112.11.60 and 5112.19.95). Amount allocated: 1,000,000 square meters.

Companies Receiving Allocation:

Hartmarx Corporation--Chicago, IL
Hartz & Company, Inc.--Frederick, MD
Hugo Boss Cleveland, Inc-Brooklyn, OH
JA Apparel Corp.--New York, NY
John H. Daniel Co.--Knoxville, TN
Majer Brands Company, Inc.-Hanover, PA
Saint Laurie Ltd--New York, NY
Sewell Clothing Company, Inc.--Bremen, GA
Southwick Clothing L.L.C.--Lawrence, MA
Toluca Garment Company-Toluca, IL
The Tom James Co.--Franklin, TN

HTS 9902.51.15, fabrics, of worsted wool, with average fiber diameter of 18.5 micron or less, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (provided for in subheading 5112.11.30 and 5112.19.60). Amount allocated: 1,500,000 square meters.

Companies Receiving Allocation:

Elevee Custom Clothing-Van Nuys, CA
Retail Brand Alliance, Inc. d/b/a Brooks Brothers--New York, NY
Hartmarx Corporation--Chicago, IL≤
Hartz & Company, Inc.--Frederick, MD
Hugo Boss Cleveland, Inc.-Brooklyn, OH
JA Apparel Corp.--New York, NY
John H. Daniel Co.--Knoxville, TN
Majer Brands Company, Inc.-Hanover, PA
Martin Greenfield--Brooklyn, NY
Saint Laurie Ltd--New York, NY
Sewell Clothing Company, Inc.--Bremen, GA
Southwick Clothing L.L.C.--Lawrence, MA
Toluca Garment Compan-Toluca, IL
The Tom James Co.--Franklin, TN

Dated: June 28, 2005.

James C. Leonard III,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc.E5–3489 Filed 7–1–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062805C]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; committee meeting.

SUMMARY: The New England Fishery Management Council's (Council) Scallop Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, July 19, 2005 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn Boston, 225 McClellan Highway, Boston, MA 02128.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

Agenda for Tuesday, July 19, 2005

1. Develop and consider alternatives for Framework Adjustment 18 to the Scallop Fishery Management Plan. These alternatives include the following issues identified and approved by the Council at the initial framework meeting in June: Input controls for the general category fishery to slow the growth in landings and to discourage new entry into the fishery; Alternatives which raise the crew limit to 8 or 9 persons for controlled access trips; Alternatives and procedures that would allow vessels with unused 2005 Hudson Canyon Area trips to fish them elsewhere in 2006; Alternatives for exchanging between vessels the 2006 Georges Bank access area trip allocations, including exchanges with 2007 Elephant Trunk Area trips; Alternatives to adjust the order and annual fishing mortality targets for the Georges Bank access areas; An alternative to allocate individual vessel allocations in pounds rather than trips; A triggered adjustment mechanism to change the 2007 specifications for the Elephant Trunk Area and open fishing areas based on 2005 or 2006 survey and other data.

2. Other Framework 18 alternatives and measures will be addressed during a future meeting, along with any of the above items that may be postponed due to a lack of time or information.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see ADDRESSES) at least 5 days prior to the meeting date.

Dated: June 29, 2005.

Emily Menashes,

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

[FR Doc. E5–3487 Filed 7–1–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062805B]

Marine Mammals; File No. 1078–1796

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that the Georgia Aquarium, 2451 Cumberland Parkway, Suite 3639, Atlanta, Georgia 30339–6157, has applied in due form for a permit to import two beluga whales (*Delphinapterus leucas*) for the purposes of public display.

DATES: Written or telefaxed comments must be received on or before August 4, 2005.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; *http://www.nmfs.noaa.gov/pr/permits/review.htm*; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727)824–5312; fax (727)824–5309.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room

13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1078–1796.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan, (301/713–2289).

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant requests authorization to import two male, adult beluga whales from Grupo Empresarial Chapultepec, S.A. DE C.V., Mexico City, Mexico to the Georgia Aquarium in Atlanta, Georgia, or alternatively the Mystic Aquarium, Mystic, Connecticut. The applicant requests this import for the purpose of public display. The receiving facility, the Georgia Aquarium located at 225 Baker Street, Atlanta, Georgia 30313, is scheduled to open November 23, 2005, and aquaria contacts are aware of the public display criteria for holding marine mammals for public display and their obligation to demonstrate said criteria prior to acquiring these animals. Alternatively, these animals may be transported to the Mystic Aquarium and Institute for Exploration, 55 Coogan Blvd., Mystic, Connecticut 06355, for temporary holding while the Georgia Aquarium completes its facility. Mystic Aquarium is: (1) open to the public on regularly scheduled basis with access that is not limited or restricted other than by charging for an admission fee; (2) offers an educational program based on professionally accepted standards of the AZA and the Alliance for Marine Mammal Parks and Aquariums; and (3) holds an Exhibitor's License, number 16–C–0025, issued by the U.S. Department of Agriculture under the Animal Welfare Act (7 U.S.C. 2131–59).

In addition to determining whether the applicant meets the three public display criteria, NMFS must determine whether the applicant has demonstrated that the proposed activity is humane and does not represent any unnecessary risks to the health and welfare of marine mammals; that the proposed activity by itself, or in combination with other activities, will not likely have a significant adverse impact on the species or stock; and that the applicant's expertise, facilities and resources are adequate to accomplish successfully the objectives and activities stated in the application.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 29, 2005.

Patrick Opay,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–13181 Filed 7–1–05; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Cancellation of Visa, ELVIS, Guaranteed Access Level (GAL) Certification, and Exempt Certification Requirements for Member Countries of the World Trade Organization (WTO)

June 29, 2005.

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

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection canceling visa, quota reporting, and staged entry requirements for WTO member countries for goods exported prior to January 1, 2005.

EFFECTIVE DATE: July 1, 2005.

FOR FURTHER INFORMATION CONTACT: Philip J. Martello, Director, Trade and Data Division, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a notice and letter published in the **Federal Register** on December 17, 2004 (see 69 FR 75516), the United States terminated all visas, ELVIS transmissions, GAL certifications, and exempt certification requirement with trading partners who are members of the WTO and stated that such visa arrangements would not apply to goods exported from the country of origin on and after January 1, 2005.

Effective on July 1, 2005, the United States is terminating the requirements for textile visas, ELVIS transmissions, exempt certifications, guaranteed access level certifications, quota reporting, and staged entry (see 69 FR 72181, published on December 13, 2004.) for entry of goods subject to the WTO Agreement on Textiles and Clothing quotas that were exported prior to January 1, 2005. For countries that are not WTO members, that have continuing textile quotas and visa (and ELVIS) arrangements under bilateral agreements, visas will continue to be required for entry of goods exported prior to January 1, 2005. The termination of textile visa requirements and quota reporting also applies to the quotas which expired prior to January 1, 2005 for China, and staged entry for overshipments of quotas which expired prior to January 1, 2005. However, the quota for socks in categories 332/432/632part, exported from China during the October 29, 2004 - October 28, 2005 period, remains in effect.

In the letter below, CITA instructs the Bureau of Customs and Border Protection to cancel all requirements for visas, ELVIS transmissions, GAL certifications, exempt certifications, quota reporting, and staged entry for goods exported from the country of origin prior to January 1, 2005. For goods that are the product of countries that are not members of the WTO, applicable requirements for quotas, visas, ELVIS transmissions, GAL certifications, and exempt certifications will remain in effect.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 29, 2005.

Commissioner,
Bureau of Customs and Border Protection, Washington, D.C. 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 14, 2004. That directive canceled all previous directives concerning requirements for visa, ELVIS transmissions, Guaranteed Access Level (GAL) Certifications, and Exempt Certifications, issued to you by the Chairman, Committee for the Implementation of Textile Agreements, for the following countries,

covering cotton, wool, man-made fiber, silk blend and non-cotton vegetable fiber textile and textile products subject to the Agreement on Textiles and Clothing, effective for goods exported from those countries on and after January 1, 2005 from Bahrain, Bangladesh, Brazil, Cambodia, China, Colombia, Costa Rica, Dominican Republic, Egypt, El Salvador, Fiji, Guatemala, Haiti, Hong Kong, Hungary, India, Indonesia, Jamaica, Japan, Korea, Kuwait, Lebanon, Macau, Malaysia, Maldives, Mauritius, Macedonia, Nepal, Oman, Pakistan, Panama, Peru, Poland, Philippines, Qatar, Romania, Singapore, Slovak Republic, Sri Lanka, Taiwan, Thailand, Trinidad, Turkey, UAE, and Uruguay. It also amends, but does not cancel, the directive issued to you on December 9, 2004 concerning staged entry.

Effective on July 1, 2005, you are directed to cancel all requirements for visa, ELVIS, exempt certification, guaranteed access level certification, quota reporting, and staged entry for entry of goods exported prior to January 1, 2005. It will cover all textile and apparel exports from the aforementioned list of WTO member countries, except for the quota for socks from China exported from the country of origin prior to January 1, 2005. Visa and ELVIS transmissions will no longer be required for cotton socks from China in Category 332, exported prior to January 1, 2005.

The Committee for the Implementation of Textile Agreement has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.E5–3490 Filed 7–1–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed collection; Comment Request.

AGENCY: Defense Finance and Accounting Service.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Finance and Accounting Service announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 6, 2005.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Defense Finance and Accounting Service—Cleveland, ATTN: Ms. Addie El-Amin, DFAS–PD/CL, 1240 E. 9th Street, Cleveland, OH 44199.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Ms. Addie El-Amin, (216) 204–3736.

Title, Associated Form, and OMB Number: Custodianship Certification to Support Claim on Behalf of Minor Children of Deceased Members of the Armed Forces, DD Form 2790, OMB License Number 0730–0010.

Needs and Uses: Per DoD Financial Management Regulation, 7000.14–R Volume 7B, Chapter 46, paragraph 460103A(1), an annuity for a minor child is paid to the legal guardian, or, if there is no legal guardian, to the natural parent who has care, custody, and control of the child as custodian, or to a representative payee of the child. An annuity may be paid directly to the child when the child is considered to be of majority age under the law in the state of residence. The child then is considered an adult for annuity purposes and a custodian or legal fiduciary is not required.

Affected Public: Individuals.

Annual Burden Hours: 120 hours.

Number of Respondents: 300.

Responses per Respondent: 1.

Average Burden per Response: 24 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The form is used by the Directorate of Annuity Pay, Defense Finance and Accounting Service—Cleveland, (DFAS–CL) in order to pay the annuity to the correct person on behalf of a child under the age of majority. If the form with the completed certification is not received, the annuity payments are suspended. Since the funds for annuity are paid by members there are no consequences to the Federal Government.

Dated: June 27, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 05–13099 Filed 7–1–05; 8:45 am]

BILLING CODE 8001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Finance and Accounting Service announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 6, 2005.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Defense Finance and Accounting Service—Denver, (POSA) ATTN: Ms. Donna Carpentier, 6760 East Irvington Place, Denver, CO 80279–3000.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Ms. Donna Carpentier, 303–676–3375.

Title, Associated Form, and OMB Number: Waiver/Remission of Indebtedness Application, DD Form 2789; OMB License Number 0730–0009.

Needs and Uses: Used by current or former DoD civilian employees or military members to request waiver or remission of an indebtedness owed to the Department of Defense. Under 5 U.S.C. 5584, 10 U.S.C. 2774, and 32 U.S.C. 716, certain debts arising out of

erroneous payments may be waived. Under 10 U.S.C. 4837, 10 U.S.C. 6161, and 10 U.S.C. 9837, certain debts may be remitted. Information obtained through this form is used in adjudicating the request for waiver or remission. Remissions apply only to active duty military members, and thus are not covered under the Paperwork Reducation Act of 1995.

Affected Public: Individuals.

Annual Burden Hours: 10,550 hours.

Number of Respondents: 8400.

Response Per Respondent: 1.

Average Burden Per Response: 2 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The referenced United States Code sections on waivers provide for an avenue of relief for individuals who owe debts to the United States which resulted from erroneous payments. criteria for waiver of a debt includes a determination that there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the individual owing the debt or any other person interested in obtaining a waiver. Information obtained through the proposed collection is needed in order to adjudicate the waiver request under the law.

Dated: June 27, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 05–13100 Filed 7–1–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Finance and Accounting Service announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 6, 2005.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Defense Finance and Accounting Service—Cleveland, ATTN: Ms. Addie El-Amin, DFAS–PD/CL, 1240 E. 9th Street, Cleveland, OH 44199.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Ms. Addie El-Amin, (216) 204–3736.

Title, Associated Form, and OMB Number: Child Annuitant's School Certification, DD Form 2788; OMB License Number 0730–0001.

Needs and Uses: In accordance with 10 U.S.C. 1447 and DoD Financial Management Regulation, 7000.14–R, Volume 7B, a child annuitant between the age of 18 and 22 years of age must provide evidence of intent to continue study or training at a recognized educational institution. The certificate is required for the school semester or other period in which the school year is divided.

Affected Public: Individuals.

Annual Burden Hours: 720 hours.

Number of Respondents: 3,600.

Responses Per Respondent: 1 each semester.

Average Burden Per Response: 12 minutes.

Frequency: Once each semester of full time school, ages 18 to 22.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Child Annuitant's School Certification form is submitted to the child for completion and returned to this agency. The child will certify as to his or her intent for future enrollment and a school official must certify on the past or present school enrollment of the child. By not obtaining school certification, overpayment of annuities to children would exist. This information may be collected from some schools which are non-profit institutions such as religious institutions. If information is not received after the end of each school enrollment, over-disbursements of an annuity would be made to a child who elected not to continue further training or study.

Dated: June 27, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 05–13101 Filed 7–1–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB review; Comment Request

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 August 4, 2005.

Title, Form, and OMB Number: TRICARE Plus Enrollment Application, DD Form 2853 and TRICARE Plus Disenrollment Request, DD Form 2854; OMB Number 0720–0028.

Type of Request: Extension.

Number of Respondents: 14,289.

Responses per Respondent: 1.

Annual Responses: 14,289.

Average Burden per Response: 7 minutes for DD Form 2853 and 5 minutes for DD Form 2854.

Annual Burden Hours: 1,536.

Needs and Uses: These forms serve as an application for enrollment and disenrollment in the Department of Defense's TRICARE Plus Health Plan established in accordance with title 10 U.S.C. 1099 (which calls for a health care enrollment system) and 1086 (which authorizes TRICARE eligibility of Medicare Eligible Persons and has resulted in the development of a new enrollment option called TRICARE Plus). The information collected provides the TRICARE contractors with necessary data to determine beneficiary eligibility and to identify the selection of a health care option.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. John Kramer. 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 27, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–13102 Filed 7–1–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

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 August 4, 2005.

Title and OMB Number: Department of Defense Education Activity (DoDEA) Customer Satisfaction Surveys; OMB Number 0704–0421.

Type of Request: Revision.

Number of Respondents: 7,283.

Responses Per Respondent: 1.

Annual Responses: 7,283.

Average Burden Per Response: 16.7 minutes (average).

Annual Burden Hours: 2,025.

Needs and Uses: The DoDEA Customer Satisfaction Surveys are needed to measure the satisfaction level with the programs and services provided by DoDEA, as required by the DoDEA Community Strategic Plan. Some of the topics included are curriculum, communication, and technology. The information derived from these surveys will be used to improve planning efforts at all levels throughout DoDEA.

Affected Public: Individuals or households.

Frequency: Biennially.

Respondent's Obligation: Voluntary.

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/ESD/Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202–4326.

Dated: June 27, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–13103 Filed 7–1–05; 8:45 am]

BILLING CODE 5001–06–M

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, July 20, 2005. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's office building, 25 State Police Drive, West Trenton, New Jersey.

The conference among the commissioners and staff will begin at 10 a.m. Topics of discussion will include: a status report on implementation of the pollutant minimization plan (PMP) regulation approved by the Commission on May 18, 2005, and formation of a peer review advisory committee to evaluate the PMP effort; a report and discussion on post-flood activities; a proposal to rename the Flow Management Technical Advisory Committee and modify its membership; a proposed amendment to the *Basin Regulations—Water Supply* Charges, relating to entitlements; a status report on re-evaluation of administrative agreements and project review procedures; an update on the Pennsylvania Act 220 State water planning process, including regional priorities; and a presentation on DRBC's water monitoring and assessment program, an EPA ''Ten Elements Plan''.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed below:

1. *City of New Castle, Municipal Services Commission D–78–71 CP–3.* An application for renewal of a ground water withdrawal project to continue to supply up to 48.0 million gallons per thirty days (mg/30 days) to the applicant's public water supply distribution system from existing Wells Nos. 1 through 4, in the Potomac Formation. The project is located in the Army Creek Watershed in the City of New Castle, New Castle County, Delaware.

2. *Wells Farms, Inc. D–99–67.* An application for approval of a ground water withdrawal project to supply up to 80 mg/30 days of water from Wells Nos. Wells Farm No. 1, Wells Farm No. 2, Parold Davis and Shepard Prettyman, for irrigation of the applicant's farm crops near the Town of Milton, Sussex County, Delaware. The water will be used to irrigate approximately 370 acres of grains and vegetables.

3. *Lazy Boy Farm, Inc. D–2000–50.* An application for approval of a ground water withdrawal project to supply up to 45.240 mg/30 days of water to the applicant's agricultural irrigation system from existing Wells Nos. 1 and 2 in the Rancocas Aquifer, and up to 43.4464 mg/30 days from Pond No. 1, and to limit the withdrawal from all sources to 86.8928 mg/30 days. The project is located near the Town of Middletown, New Castle County, Delaware.

4. *Richard M. Morgan D–2000–62.* A combined surface water and ground water withdrawal project to supply a maximum of 137.562164 mg/30 days of water to irrigate approximately 585 acres of the applicant's farm crops. Approximately 74.293344 mg/30 days will be provided by the applicant's five existing and wells and approximately 63.268820 mg/30 days of surface water will be withdrawn from a Hudson Pond tributary and Three Bridge Branch. The project is located near the Town of Lincoln, Sussex County, Delaware.

5. *Howard A. Webb D–2005–11–1.* An application for approval of a ground and surface water withdrawal project to supply up to 19 mg/30 days of water to the applicant's agricultural irrigation system from new Wells Nos. 1, 2, 3 and 4 in the Columbia Formation and up to 54 mg/30 days from Intakes Nos. 1 and 2 in the farm pond and to limit the withdrawal from all sources to 73 mg/30 days. The project is located in the Mispillion River and Cedar Creek watersheds in the Town of Milford, Sussex County, Delaware.

6. *Theodore Bobola D–2005–15–1.* A ground water withdrawal project to supply a maximum of 35 mg/30 days of water from Wells Nos. 1, 2, 3 and 4 to irrigate the applicant's farm crops in the City of Dover, Kent County, Delaware. The water will be used to irrigate approximately 217 acres in the St. Jones River Watershed.

7. *Borough of Haddonfield D–75–84 CP–2.* An application for the renewal of a ground water withdrawal project and decrease in withdrawal from 97.5 mg/30 days to 61.9 mg/30 days to supply the applicant's public supply distribution

system from existing Wells Nos. 1A, 5, 6 and 7. The project is located in the Cooper River Watershed in Haddonfield Borough, Camden County, New Jersey.

8. *Borough of Pennington D–84–33 CP–3.* An application for a renewal of a ground water withdrawal project to continue to supply up to 6.48 mg/30 days of water to the applicant's public water supply distribution system from existing Well No. 7 in the Brunswick Formation, without a change in allocation. The applicant's distribution system is also supplied by four wells located outside of the Delaware River Basin. The project is located in the Jacobs Creek Watershed in Pennington Borough, Mercer County, New Jersey.

9. *Sunoco, Inc. (R&M) D–86–15–3.* An application for approval of a surface water and ground water withdrawal project to revise and consolidate the allocations included in Dockets D–86–5 and D–86–15 REN. The applicant requests an increase in its surface water withdrawal from the Delaware River from 175.104 mg/30 days to 265.0 mg/30 days. The draft docket proposes a corresponding decrease in the existing ground water allocation from 232 mg/30 days to 142 mg/30 days from Wells Nos. 1, 3, 5 and 6A in the Potomac-Raritan-Magothy Aquifer. Surface water withdrawals provide industrial cooling and process water. Ground water withdrawals are used to provide industrial cooling, process water, and potable water as well as to maintain hydraulic control and meet ground water remediation goals. The project is located in the Delaware River Watershed in West Deptford Township, Gloucester County, New Jersey.

10. *Polyone Corporation D–89–74–2.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 44.64 mg/30 days of water to supply the applicant's industrial manufacturing facility from existing Wells Nos. 4, 6 and 10 and new replacement Well No. 9A in the Potomac-Raritan-Magothy Aquifer. The project is located in Oldmans Township, Salem County, New Jersey. (This was NAR'd as D–89–74 Renewal.)

11. *Pennsgrove Water Supply Company—Bridgeport Division D–93–28 CP–2.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 4.7 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 2 and 3. The project is located in the Raccoon Creek Watershed in Logan Township, Gloucester County, New Jersey.

12. *Township of Greenwich D–94–51 CP–2.* An application for renewal of a ground water withdrawal project to continue to supply up to 46.8 mg/30 days to the applicant's public water supply distribution system from existing Wells Nos. 4A, 5 and 6, located in the Potomac-Raritan-Magothy Formation within the Delaware River Watershed in Greenwich Township, Gloucester County, New Jersey.

13. *Estaugh Corporation T/A Medford Leas D–94–56 CP–2.* An application for a renewal of a surface water and ground water withdrawal project to continue to supply up to 4.9 mg/30 days of water to the applicant's public water supply distribution system from existing surface water Intake No. 1 on the Southwest Branch Rancocas Creek and existing Wells Nos. 1 and 2 in the Potomac-Raritan-Magothy Formation, without a change in allocation. The project is located in the Sharps Run Watershed in Medford Township, Burlington County, New Jersey.

14. *Washington Township Municipal Utilities Authority D–99–43 CP.* An application for approval of a ground water withdrawal project to supply up to 24.81 mg/30 days of water to the applicant's distribution system from new ASR Well No. ASR 20, and to increase the total withdrawal from all wells to 273.01 mg/30 days. The project is located in Washington Township, Gloucester County, New Jersey.

15. *South Jersey Water Supply Company D–99–57 CP.* An application for approval of a ground water withdrawal project to supply up to 42 mg/30 days of water to the applicant's distribution system from new Wells Nos. 5 and 7 and existing Wells Nos. 2, 3 and 6, and to retain the withdrawal limit from all wells of 42 mg/30 days. Wells Nos. 2, 3 and 6 are located in the NJDEP's Water Supply Critical Area No. 2. The project withdrawal is from the Potomac-Raritan-Magothy Aquifer and is located in Harrison Township, Gloucester County, New Jersey.

16. *Salem City Water Department D–2002–46 CP.* An application for approval of a ground water withdrawal project to supply up to 36 mg/30 days of water to the applicant's public water supply from new Wells Nos. 6 and 7 and existing Well No. 2 in the Wenonah-Mt. Laurel Formation and up to 93 mg/30 days from the Laurel Lake and Elkinton Pond intakes, and to limit the total system withdrawal to 93 mg/30 days. The project is located in the Salem River watershed in the City of Salem, Salem County, New Jersey.

17. *The Lawrenceville School D–2005–13–1.* An application for approval of a ground water withdrawal project to supply up to 5.98 mg/30 days for the applicant's potable water supply and for irrigation of athletic fields from Wells Nos. 1, 2, 3 and 4 in the Stockton Formation. The allocation from all wells will be limited to 5.98 mg/30 days. The project is located in the Assunpink Creek Watershed in Lawrence Township, Mercer County, New Jersey.

18. *United Mobile Homes D–2005–3–1.* An application to expand an existing sewage treatment plant (STP) from 54,000 gallons per day (gpd) to 79,500 gpd to serve 48 additional units in the Kinnebrook Mobile Home Park. The project is located just south of Route 17B, near its intersection with Hamilton Road in the Town of Thompson, Sullivan County, New York, within the drainage area of the Special Protection Waters. Following tertiary treatment, the effluent will be discharged to an unnamed tributary of the Kinne Brook.

19. *Myerstown Water Authority D–81–67 CP–3.* An application for a renewal of a ground water withdrawal project to continue to supply up to 33.0 mg/30 days of water to the applicant's public water supply distribution system from existing Wells Nos. 3, 5, 6 and 8 in the Hamburg and Ontelaunee Formations, without a change in allocation. The project is located in the Tulpehocken Creek Watershed in Jackson Township and the Borough of Myerstown, Lebanon County, Pennsylvania.

20. *PennEngineering D–86–31 PA–3.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 1.3 mg/30 days from existing Well G to supply the applicant's manufacturing facility. The primary purposes of the withdrawal are domestic use and air conditioning during the summer months. Approximately 2% of the withdrawal is used for industrial processes. The project is located in the Lockatong Formation in Plumstead Township, Bucks County, Pennsylvania, within the Southeastern Pennsylvania Ground Water Protected Area.

21. *Grand Central Sanitary Landfill, Inc. D–88–52–2.* An application to upgrade a 0.1 million gallon per day leachate treatment plant (LTP) located on a 537.9-acre tract, just east of State Route 512 in Plainfield Township, Northampton County, Pennsylvania. The LTP serves the Grand Central Sanitary Landfill, which receives interstate, non-hazardous refuse. The existing activated sludge treatment process will be upgraded with a sequencing batch reactor system that includes powdered activated carbon and polymer addition. The existing reverse osmosis (RO) system will be replaced with an improved model that includes microfiltration. This advanced treatment is designed to meet an effluent Total Dissolved Solids (TDS) limit of 1,000

milligrams per liter (mg/l). Thus, the DRBC's TDS effluent limit of 2,400 mg/l will be reduced to 1,000 mg/l. Additional process and operational improvements will be made. No expansion of the LTP is proposed. The primary method of leachate disposal for the landfill is to discharge to the Pen Argyl Sewage Treatment Plant (STP) following partial treatment, and the secondary alternative is to discharge fully treated effluent to Little Bush Kill in the drainage area of the Lower Delaware River Management Plan Area.

22. *Delaware County Solid Waste Authority D–89–18 CP–3.* An application to modify the Rolling Hills Sanitary Landfill (RHSL) (formerly Colebrookdale Landfill) leachate treatment plant (LTP) discharge to Manatawny Creek via Outfall 001 in the Schuylkill River Watershed. The landfill and LTP are located off Schenkel Road in Earl Township, Berks County, Pennsylvania. Following advanced treatment of 0.08 million gallons per day (mgd), LTP effluent is discharged via diffuser to a point on the Manatawny Creek in Oley Township, Berks County, Pennsylvania approximately one mile downstream from RHSL. The docket holder has requested an increase in the average discharge concentration of total dissolved solids (TDS) to 30,000 milligrams per liter (mg/l) from the existing 15,000 mg/l. In support of its requested modification, the docket holder has submitted an analysis concluding that the proposed modification will cause no adverse effect on the downstream aquatic community, nor will it threaten potable water supply intakes located over 20 river miles downstream. In further support to this determination, the docket holder will demonstrate via in-stream monitoring and assessment of analytical data to be collected in at least a one-year period, that the project will not have an adverse impact. An alternatives analysis was completed by the docket holder. The LTP uses the Best Practicable Treatment (BCT) technology. A wetlands treatment system is used to remove iron from up to 0.087 mgd of on-site groundwater. No expansion of the LTP or the wetlands treatment system is proposed. PADEP has approved the discharge from the wetlands treatment system via Outfall 006 to adjacent Furnace Run.

23. *Pennsylvania Utility Company D–89–33 CP–2.* An application for the renewal of a ground water withdrawal project to continue to supply up to 6.4 mg/30 days of water to the applicant's public water distribution system from Wells Nos. 1, 2 and 3 in the Catskill Formation. The project is located in Lehman Township, Pike County, Pennsylvania. (This was NAR'd under the name of Tamiment Water Company as D–89–33 CP Renewal.)

24. *Pilgrims Pride Corporation D–89–65–2.* An application to modify an industrial wastewater treatment plant (IWTP) discharge to an unnamed, intermittent tributary of Indian Creek in the Perkiomen Creek Watershed. The project, formerly owned by Wampler-Longacre, Inc. is located at the intersection of Allentown Road and Route 113 in Franconia Township, Montgomery County, Pennsylvania. The facility formerly processed tuna and poultry but currently processes only poultry products. Because the project is located in the Southeastern Pennsylvania Ground Water Protected Area, the applicant has implemented mandatory water conservation measures. As a result, total dissolved solids (TDS) are present at an elevated concentration in the IWTP effluent. The applicant's current draft NPDES Permit limits the effluent TDS concentration to 1,000 milligrams per liter (mg/l). The applicant requests a limit of 4,700 mg/l, which is consistent with the Pennsylvania Department of Environmental Protection's draft permit limit for osmotic pressure of 100 milliosmos per kilogram. The applicant has submitted with its requested modification an analysis that addresses environmental impact. The project is located in the drainage area of the Schuylkill River, which is conditionally designated as Modified-Recreational in the Delaware River Basin Commission Comprehensive Plan.

25. *Blue Mountain Water Cooperative D–93–27–2.* An application for the renewal of a ground water withdrawal project to reduce withdrawal from 10.8 mg/30 days to 5 mg/30 days to supply the applicant's Tilden Industrial Park from existing Wells Nos. 1, 2 and 5. The project is located in the Schuylkill River Watershed in Tilden Township, Berks County, Pennsylvania.

26. *Filomina, Inc. D–93–47–2.* An application for renewal of a ground water withdrawal project to continue to supply up to 9.1 mg/30 days of water for supplemental irrigation of the applicant's golf course from existing Wells Nos. 1, 6 and 8, all in the Catskill Formation. No change in the existing allocation is proposed. The project is located in the Pohopoco Creek Watershed in Polk Township, Monroe County, Pennsylvania.

27. *Lower Makefield Township D–2002–48 CP–2.* An application for approval of a ground water withdrawal project to supply up to 1.73 mg/30 days of water for supplemental irrigation of the applicant's golf course from new Well No. PW–3 in the Stockton Formation, and to retain the maximum withdrawal from existing Wells Nos. PW–1 and PW–2 and new Well PW–3 of 8.64 mg/30 days. The project is located in the Delaware River Watershed in Lower Makefield Township, Bucks County, Pennsylvania.

In addition to the public hearing on the dockets listed above, the Commission's 1:30 p.m. business meeting will include possible action on a resolution to rename the Flow Management Technical Advisory Committee and modify its membership; a resolution authorizing the Executive Director to engage a contractor to support the Commission in the collection and assessment of information for the ''State of the Basin Report 2006''; and resolutions regarding health insurance benefits for Commission retirees.

The meeting will also include: adoption of the Minutes of the May 18, 2005 business meeting; announcements; a report on basin hydrologic conditions; a report by the executive director; a report by the Commission's general counsel; and an opportunity for public dialogue. Draft dockets and the resolutions scheduled for public hearing or action on July 20, 2005 will be posted on the Commission's Web site, *http://www.drbc.net*, where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact William Muszynski at 609–883–9500, extension 221 with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the commission secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission may accommodate your needs.

Dated: June 27, 2005.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 05–13119 Filed 7–1–05; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES05–31–000]

Aquila, Inc.; Notice of Filing

June 22, 2005.

Take notice that on June 14, 2005, Aquila, Inc. (Aquila) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue up to $300 million of long-term, secured debt.

Aquila also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on July 8, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3495 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER05–784–000, ER05–785–000 and ER05–786–000]

California Independent System Operator Corp.; Notice of Designation of Certain Commission Personnel as Non-Decisional

June 22, 2005.

The following Commission staff members have been designated as non-decisional in the above-captioned proceedings.

Office of Market Oversight and Investigations

William Hederman
Stephen Harvey
Lee Ann Watson
Harry Singh
Steven Michals
Eric Hsieh
Bernardo Piereck
Mark Higgins
Martin Ramirez

Magalie R. Salas,

Secretary.

[FR Doc. E5–3494 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–380–000]

Cheyenne Plains Gas Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

June 22, 2005.

Take notice that on June 17, 2005, Cheyenne Plains Gas Company, L.L.C. (Cheyenne Plains) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective July 18, 2005:

First Revised Sheet No. 104
First Revised Sheet No. 201
First Revised Sheet No. 270

Cheyenne Plains states that these tariff sheets remove the tariff provisions implementing the Commission's rebuttable presumption discount policy.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3480 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–383–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 22, 2005.

Take notice that on June 17, 2005, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC

Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective July 18, 2005:

Seventh Revised Sheet No. 22
Seventh Revised Sheet No. 88
Fourth Revised Sheet No. 132A.04
First Revised Sheet No. 132A.04a

CIG states that these tariff sheets remove the tariff provisions implementing the Commissions rebuttable presumption discount policy.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3503 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–43–003]

Dominion Cove Point LNG, LP; Notice of Compliance Filing

June 22, 2005.

Take notice that on June 15, 2005, Dominion Cove Point LNG, LP (Cove Point) submitted a compliance filing pursuant to the Commission's ''Order On Technical Conference And On Rehearing And Clarification'' issued May 31, 2005 in Docket No. RP05–43–000 *et al.*

Cove Point states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3476 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–384–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 22, 2005.

Take notice that on June 17, 2005, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective July 18, 2005:

Fifth Revised Sheet No. 288
Second Revised Sheet No. 288A

EPNG states that these tariff sheets remove the tariff provisions implementing the Commission's rebuttable presumption discount policy.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail

FERCOnlineSupport@ferc.gov, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3481 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–385–000]

Kern River Gas Transmission Company; Notice of Request Under Blanket Authorization

June 22, 2005.

Take notice that on June 13, 2005, Kern River Gas Transmission Company (Kern River) 2755 E. Cottonwood Parkway, Suite #300, Salt Lake City, Utah 84121, filed in Docket No. CP05–385–000, a prior notice request pursuant to sections 157.205 and 157.211of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate new delivery point facilities, the Redwood Meter Station, to serve the Chevron Texaco Products Company (Chevron Texaco) in Davis County, Utah, which is on file with the Commission and open to public inspection.

Any questions concerning this application may be directed to Billie L. Tolman, Manager, Tariffs and Certificates, Kern River Gas Transmission, P.O. Box 71400, Salt Lake City, Utah 84171–0400 at (801) 937–6176.

This filing is available for review at the Commission 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 filed to access the document. For assistance, please contact FERC Online Support at FERC *OnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or, for TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages intervenors to file electronically.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3477 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–382–000]

Mojave Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

June 22, 2005.

Take notice that on June 17, 2005, Mojave Pipeline Company (Mojave) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective July 18, 2005:

First Revised Sheet No. 240B
First Revised Sheet No. 240C

Mojave states that these tariff sheets remove the tariff provisions implementing the Commission's rebuttable presumption discount policy.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3502 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–379–000]

Northwest Pipeline Corporation; Notice of Petition for Declaratory Order

June 22, 2005.

Take notice that on June 16, 2005, Northwest Pipeline Corporation (Northwest) submitted for filing a Petition for Declaratory Order requesting that the Commission terminate a controversy arising under Section 21.3 of its tariff concerning the facilities reimbursement obligations of its shippers.

Northwest states that the subject controversy particularly involves a disagreement with shipper Duke Energy Trading and Marketing, LLC over the term ''related income taxes'' in determining facilities reimbursement under Northwest's tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the

date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on July 15, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3498 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–385–000]

Texas Gas Transmission, LLC; Notice of Proposed Changes in FERC Gas Tariff

June 22, 2005.

Take notice that on June 20, 2005, Texas Gas Transmission, LLC (Texas Gas) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Fourth Revised Sheet No. 56, to become effective June 17, 2005.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3482 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–381–000]

Wyoming Interstate Company, Ltd.; Notice of Proposed Changes in FERC Gas Tariff

June 22, 2005.

Take notice that on June 17, 2005, Wyoming Interstate Company, Ltd. (WIC) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, the following tariff sheets, to become effective July 18, 2005:

Seventh Revised Sheet No. 8
Eighth Revised Sheet No. 9

WIC states that these tariff sheets remove the tariff provisions implementing the Commission's rebuttable presumption discount policy.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3501 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

June 27, 2005.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER02–2559–004; ER01–1071–005; ER02–669–005; ER02–2018–005; ER01–2074–005; ER00–2391–00; ER98–2494–009; ER97–3359–008;

ER00–3068–005; ER03–34–004; ER98–3511–009; ER02–1903–004; ER99–2917–006; ER03–179–005; ER98–3566–012; ER02–1838–005; ER01–838–005; ER98–3563–009; ER98–3564–009; ER02–2120–003; ER01–1972–005; ER98–2076–008; ER03–155–004; ER03–623–005; ER98–4222–004; ER01–1710–006; ER02–2166–004; ER01–2139–007.

Applicants: Backbone Mountain Windpower LLC; Badger Windpower, LLC; Bayswater Peaking Facility, LLC; Blythe Energy, LLC; Calhoun Power Company I, LLC; Doswell Limited Partnership; ESI Vansycle Partners, L.P.; Florida Power & Light Company; FPL Energy Cape, LLC; FPL Energy Hancock County Wind, LLC; FPL Energy Maine Hydro LLC; FPL Energy Marcus Hook, L.P.; FPL Energy MH 50, LP; FPL Energy New Mexico Wind, LLC; FPL Energy Power Marketing, Inc.; FPL Energy Seabrook, LLC; FPL Energy Vansycle, LLC; FPL Energy Wyman, LLC; FPL Energy Wyman IV, LLC; FPLE Rhode Island State Energy, L.P.; Gray County Wind Energy, LLC; Hawkeye Power Partners, LLC; High Winds, LLC; Jamaica Bay Peaking Facility, LLC; Lake Benton Power Partners II, LLC; Mill Run Windpower, LLC; Pennsylvania Windfarms, Inc.; Somerset Windpower, LLC.

Description: Backbone Mountain Windpower LLC and the above listed companies submit revised tariff sheets in compliance with the Commission's order issued 5/26/05, 111 FERC ¶ 61,242 (2005).

Filed Date: 06/17/2005.

Accession Number: 20050623–0110.

Comment Date: 5 p.m. Eastern Time on Friday, July 8, 2005.

Docket Numbers: ER05–1136–000.

Applicants: Pacific Gas & Electric Company.

Description: Pacific Gas and Electric Company submits a partially executed Generator Special Facilities Agreement & an unexecuted Generator Interconnection Agreement with FPL Energy, LLC.

Filed Date: 06/22/2005.

Accession Number: 20050624–0016.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2005.

Docket Numbers: ER05–1137–000.

Applicants: DPL Energy Resources, Inc.

Description: DPL Energy Resources, Inc submits its notice of cancellation of its FERC Electric Rate Schedule 1 and requests waiver of 60-day prior notice requirement to be effective 6/24/05.

Filed Date: 06/22/2005.

Accession Number: 20050624–0012.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 13, 2005.

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 (18 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 and 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 protest to the Federal Energy Regulatory Commission, 888 First St., 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 for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–3471 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–364–000]

ANR Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Wisconsin 2006 Expansion Project and Request for Comments on Environmental Issues

June 22, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Wisconsin 2006 Expansion Project involving construction and operation of facilities by ANR Pipeline Company (ANR) in Rock, Outagamie, Marinette, Dane, Marathon, and Columbia Counties, Wisconsin.[1] ANR's project purpose is to create about 168,241 decatherms per day of incremental firm capacity on its pipeline system to accommodate growth in demand from all market segments in Wisconsin. In general these facilities would consist of about 6.86 miles of various diameter pipeline, addition of compression at 2 compressor stations, and minor upgrades at 5 existing meter stations. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice ANR provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's

[1] ANR's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

ANR proposes to install a total of 6.86 miles of looping[2] pipeline, add a compressor unit at an existing compressor station, construct a new compressor station, and perform minor upgrade work at 5 existing meter stations in Wisconsin. Specifically, the project includes:

- *Little Chute Loop (Outagamie County)*—About 3.08 miles of 16-inch outside diameter (OD) pipeline, looping the existing 6-inch OD pipeline;
- *Madison Lateral Loop (Rock County)*—About 3.78 miles of 30-inch OD pipeline, looping the existing 10-inch and 12-inch OD pipelines;
- *Janesville Compressor Station Upgrade (Rock County)*—A new 2,370 horsepower (hp) reciprocating compressor unit and associated equipment to be installed at an existing compressor station site;
- *Goodman Compressor Station (Marinette County)*—A new 20,620 hp compressor station comprised of two 10,310 hp units to be built at an existing meter station site; and
- *Meter Station Upgrades (Dane, Marathon, and Columbia Counties)*—Minor equipment modifications at 5 existing meter stations (McFarland, Sun Prairie, and Stoughton Meter Stations in Dane County; North Wausau Meter Station in Marathon County; and Randolph Meter Station in Columbia County).

The general locations of the project facilities are shown in Appendix 1.[3]

Land Requirements for Construction

Construction of the proposed facilities would require about 144.68 acres of land. Following construction, about 58.82 acres would be maintained as new aboveground facility sites. The remaining 85.86 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA we[4] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Land use.
- Water resources, fisheries, and wetlands.
- Cultural resources.
- Vegetation and wildlife.
- Air quality and noise.
- Endangered and threatened species.
- Hazardous waste.
- Public safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by ANR. This preliminary list of issues may be changed based on your comments and our analysis.

Project-related impact on:

- Visual aesthetics from the proposed Goodman Compressor Station;
- Outagamie County Landfill's operations;
- Karst geologic features;
- School and recreation activities at Appleton Senior High School North; and
- Air quality and noise.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and/or routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 2.
- Reference Docket No. CP05–364–000.
- Mail your comments so that they will be received in Washington, DC on or before July 22, 2006.

Please note that the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created on-line.

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

[2] A loop is a segment of pipeline installed adjacent to an existing pipeline and which connects to the existing pipeline at both ends of the loop. The loop allows more gas to be moved through the system.

[3] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies of all appendices, other than Appendix 1 (maps), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[4] ''We'', ''us'', ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see Appendix 2).[5] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3506 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

[5] Interventions may also be filed electronically via the Internet in lieu of paper. *See* the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF05–11–000]

Florida Gas Transmission Company; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Phase VII Expansion Project and Request for Comments on Environmental Issues

June 22, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of Florida Gas Transmission Company's (FGT) proposed Phase VII Expansion Project, which would involve construction in portions of Florida as discussed below. This project is directly connected to Southern Natural Gas Company's proposed Cypress Pipeline Project. Therefore, the required National Environmental Policy Act (NEPA) review of the Phase VII Expansion Project will be part of the EIS we are currently preparing on the Cypress Pipeline Project under Docket No. PF05–7–000. The Cypress Pipeline Project involves the construction and operation of natural gas pipeline and compressor facilities in various counties in Georgia and Florida.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the Phase VII Expansion Project. Your input will help determine which issues need to be evaluated in the EIS. Please note that the scoping period will close on July 25, 2005.

This notice is being sent to affected landowners; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents about this proposed project and encourage them to comment on their areas of concern.

Comments regarding this project may be submitted in written form or verbally. Further details on how to submit written or electronic comments are provided in the public participation section of this notice.

The FERC is the lead Federal agency for the preparation of the EIS. The document will satisfy the requirements of NEPA. The U.S. Army Corps of Engineers (COE) (Savannah and Jacksonville Districts) has agreed to participate as a cooperating agency in the preparation of the EIS for the Cypress Pipeline Project to satisfy its NEPA responsibilities under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act. We anticipate the COE will also participate as a cooperating agency for the FGT Phase VII Expansion Project.

With this notice,[1] are asking other Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EIS. These agencies may choose to participate once they have evaluated FGT's proposal relative to their responsibilities. Agencies that would like to request cooperating status should follow the instructions for filing comments described later in this notice.

If you are a landowner receiving this notice, you may be contacted by an FGT representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects.

to Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the FERC's proceedings.

Summary of the Proposed Project

FGT proposes to expand its existing pipeline facilities between Jacksonville and Tampa, Florida (see map in Appendix A). The expansion would consist primarily of looping[2] FGT's existing pipeline system for approximately 32 miles and modifying compression at two existing compressor stations. In addition, miscellaneous piping, regulation, and metering facilities will be constructed along FGT's system. This work is being addressed as a ''connected action'' to the Cypress Pipeline Project because the FGT expansion is being constructed to transport the new volumes of natural gas that would be delivered into Florida by the Cypress project. The Phase VII Expansion Project would be constructed in two phases, with Phase 1 beginning in 2007 and Phase 2 in 2009, contingent on the project being certificated.

Specifically, FGT seeks authority to construct and operate the following facilities:

- Pipeline—2007.

—Loop J: about 5 miles of 36-inch mainline loop in Gilchrist County, Florida.
—Loop K: about 6 miles of 36-inch mainline loop in Levy County, Florida.
—Loop G: about 6 miles of 36-inch mainline loop in Hernando County, Florida.

- Pipeline—2009.

—Loop K: about 9 miles of 36-inch mainline loop in Levy County, Florida.
—Loop G: about 6 miles of 36-inch mainline loop in Hernando County, Florida.

- Compression—2007.

—Increase the horsepower (HP) of existing gas turbine compressor at Compressor Station 24 (Trenton) by 2,000 HP in Gilchrist County, Florida.
—Install a new 7,700 HP gas turbine compressor and increase by 400 HP an existing compressor at the existing Compressor Station 26 (Lecanto) in Citrus County, Florida.

- Compression—2009.

Re-wheel existing gas turbine compressor at Compressor Station 27 (Thonotosassa) in Hillsborough County, Florida. This will not change the HP of the unit, only the performance curve of the compressor.

- Miscellaneous Facilities—2007.

—Replace regulators and install new ultrasonic meters at the existing FPC-Hines meter and regulator station in Polk County, Florida.
—Modify existing Lawtey regulator facility on the Jacksonville Lateral in Clay County, Florida.
—Revise station piping at the existing Compressor Station 16 (Brooker) in Bradford County, Florida.
—Establish workspace area at existing Central Florida Gas (CFG) Suwannee tap in Suwannee County, Florida to set up tanker trucks to provide uninterrupted service to customer during mainline outage.
—Install new regulator facility on the Jacksonville Lateral adjacent to the Cypress/Company interconnect in Duval County, Florida.
—Install side valves and miscellaneous interconnecting piping for new Cypress/Company interconnect in Duval County, Florida.

Land Requirements for Construction

Construction of the proposed pipeline facilities would require about 300 acres of land which is primarily within existing maintained rights-of-way. The typical construction right-of-way for the pipeline facilities would be 75 feet wide and primarily within an existing powerline easement (Loop G), road and railroad rights-of-way (Loop K), and FGT's existing pipeline right-of-way (Loop J). Up to 25 feet of the temporary construction right-of-way would be required outside the existing FGT pipeline right-of-way on Loop J. Temporary extra workspace would also be required outside existing rights-of-way at certain feature crossings (*e.g.*, roads, railroads, waterbodies) and in areas requiring topsoil segregation and special construction techniques.

The construction workspace at compressor stations would be within existing facility sites and the workspace for the miscellaneous facilities would be primarily within FGT's existing rights-of-way.

Following construction, no new permanent right-of-way would be required for the pipeline, compressor upgrades, or miscellaneous facilities. Temporary workspace that is used outside existing rights-of-way would be restored and allowed to revert to its current use.

The EIS Process

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues and reasonable alternatives.

Although no formal application has been filed, we have already initiated our NEPA review under the FERC's Pre-Filing Process. The purpose of the Pre-Filing Process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. We previously held interagency and public scoping meetings for the related Cypress Pipeline Project in March 2005.

As part of our Pre-Filing Process review for the Phase VII Expansion Project, representatives from the FERC participated in public open houses sponsored by FGT in the project area on June 13–14, 2005 to explain the environmental review process to interested stakeholders and take comments about the project. In addition, the FERC staff conducted an interagency scoping meeting in the project area on June 15, 2005 to solicit comments and concerns about the project from jurisdictional agencies. By this notice, we are formally announcing our preparation of the EIS and requesting additional agency and public comments to help us focus the analysis in the EIS on the potentially significant environmental issues related to the proposed action.

Our independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; affected landowners; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider all timely comments on the draft EIS and revise the document, as necessary, before issuing a final EIS.

Currently Identified Environmental Issues

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project under the general resource headings listed below. We have already identified several issues that we think deserve attention based on a preliminary review of the proposed

[2] A loop is a segment of pipeline that is usually installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the system.

facilities, the environmental information provided by FGT, and the interagency scoping meeting. This preliminary list of issues may be changed based on your comments and our additional analysis.

• Geology and Soils.

—Assessment of potential geologic hazards, including sinkholes.

—Potential impact on mineral resources and mining operations.

• Water Resources and Wetlands.

—Effect on groundwater resources.

—Potential effect on perennial streams, intermittent streams, and ponds crossed by or close to the route.

—Evaluation of temporary and permanent effects on wetlands.

• Fisheries, Wildlife, and Vegetation.

—Effect on fisheries, wildlife, and vegetation resources.

—Effect on vegetative nuisance species.

• Endangered and Threatened Species.

—Potential effect on federally and state-listed species, including the gopher tortoise, Florida scrub-jay, and southeastern kestrel.

• Cultural Resources.

—Effect on historic and prehistoric sites.

—Native American and tribal concerns.

• Land Use.

—Impact on residential areas.

—Effect on existing and future land use along the proposed right-of-way, including proposed developments and agricultural land.

—Effect on recreation and public interest areas.

—Visual effect of the aboveground facilities on surrounding areas.

• Air Quality and Noise.

—Effect on local air quality and noise environment from construction and operation of the proposed facilities.

• Reliability and Safety.

—Assessment of public safety factors associated with natural gas facilities.

• Alternatives.

—Assessment of alternative routes, facility sites, systems, and energy sources to reduce or avoid environmental impacts.

• Cumulative Impacts.

—Assessment of the effect of the proposed project when combined with other projects that have been or may be proposed in the same region and similar time frame.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the proposal. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please mail your comments so that they will be received in Washington, DC on or before July 25, 2005 and carefully follow these instructions:

• Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;

• Label one copy of the comments for the attention of the Gas Branch 1, DG2E; and

• Reference Docket No. PF05–11–000 on the original and both copies.

We will include all comments that we receive within a reasonable time frame in our environmental analysis of the project. To expedite our receipt and consideration of your comments, the Commission strongly encourages electronic submission of any comments on this project. *See* title 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can submit comments, you will need to create a free account which can be created on-line.

Once FGT formally files its application with the Commission, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''eFiling'' link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until a formal application is filed with the Commission.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding that would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

If you wish to remain on our environmental mailing list, please return the Information Request Form included in Appendix 2. If you do not return this form, you will be removed from our mailing list.

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs at 1–866–208 FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.*, PF05–11). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm.*

Magalie R. Salas,

Secretary.

[FR Doc. E5–3497 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12588–000]

Hydraco Power, Inc; Notice of Application Tendered for Filing With the Commission, and Soliciting Additional Study Requests

June 22, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Exemption from license, 5 MW or less.

b. *Project No.:* 12588–000.

c. *Date Filed:* May 3, 2005.

d. *Applicant:* Hydraco Power, Inc.

e. *Name of Project:* A.H. Smith Dam Project.

f. *Location:* On the San Marcos River near the town of Martindale, Caldwell County, Texas.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact:* Linda A. Parker, Small Hydro of Texas, Inc., 1298 FM 766, Cuero, Texas 77954. (361) 275–9395.

i. FERC Contact: Monte TerHaar (202) 502–6035 or *monte.terhaar@ferc.gov.*

j. *Cooperating Agencies:* We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item l below.

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for Filing Additional Study Requests and Requests for Cooperating Agency Status:* 30 days from date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

m. This application is not ready for environmental analysis at this time.

n. The proposed project consists of: (1) An existing 10.5-foot-high by 86.5-foot-long concrete dam with a 20-foot-wide concrete apron; (2) an existing 3-foot-wide by 4-foot-high wooden stopgate positioned in the east bank of the dam; (3) a 10.62-acre impoundment; (4) an existing 20-foot-wide by 30-foot-long powerhouse; (5) an existing generator with installed capacity of 150 kilowatts (kW); (6) an existing 150 kW turbine; and (7) an existing trashrack of unknown dimensions.

The proposed project consists of an existing dam, generating equipment, and powerhouse which ceased hydropower generation in early 1990. Hydraco proposes to restore these facilities.

o. A copy of the application is on file with the Commission and is available for 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, contact FERC online support at *ferconlinesupport@ferc.gov* or toll-free at 1–866–208–3676, or for Text Telephone (TTY) call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

p. With this notice, we are initiating consultation with the *Texas State Historic Preservation Officer (SHPO)*, as required by Section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. *Procedural Schedule and Final Amendments:* A separate notice will be posted with the Commission's proposed Hydro Licensing Schedule and a schedule for filing final amendments to the application.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3496 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1065–000]

Entergy Services, Inc.; Supplemental Notice of Technical Conference

June 22, 2005.

As announced in the Notice of Technical Conference issued on June 17, 2005, a technical conference will be held on June 30 and July 1, 2005, in New Orleans, Louisiana, to discuss Entergy Services, Inc.'s (Entergy) proposal to establish an Independent Coordinator of Transmission (ICT). The conference will be held from 9 a.m. to 4:30 p.m. (c.s.t.) on June 30, and 9 a.m. to 12 p.m. on July 1. The conference will be held in the Egyptian Ballroom of the Hotel Monaco, 333 St. Charles Avenue, New Orleans, Louisiana, 70130. Conference Attendees should call 1–866–561–0010 for room reservations. A negotiated rate is available by mentioning ICT Technical Conference.

Entergy has also made a Dial-In Facility available for those who cannot attend in person. The Dial-In number is 1–888–685–8359 and the Participant Code is 706244.

To ensure adequate space both at the hotel and for the Dial-In Facility, please contact Geri Jackson at *gjackso@entergy.com* to confirm your in-person or call-in attendance.

A Draft Agenda prepared by Entergy is attached.

For more information about the conference, please contact Sanjeev Jagtiani at (202) 502–8886; *sanjeev.jagtiani@ferc.gov* or Christy Walsh at (202) 502–6523; *christy.walsh@ferc.gov*.

Magalie R. Salas,

Secretary.

Attachment

Agenda for Technical Conference

June 30

9–9:15 Introduction

9:15–10 ICT Agreement and Attachment S

10–10:45 Planning Protocol

10:45–11 Break

11–12 Transmission Service Protocol

12–12:45 Lunch (on your own)

12:45–1:45 Attachment V

1:45–2:45 Attachment T

2:45–3 Break

3–3:45 Attachment T, cont.

3:45–4:30 Attachment T—Analysis of previously incurred costs

July 1

9–10 Interconnection Protocol, Attachment U

10–10:15 Break

10:15–12 Follow-up questions and other issues

[FR Doc. E5–3478 Filed 7–1–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OW–2004–0035, FRL–7932–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; Technical Survey: Drinking Water Treatment Facilities, EPA ICR Number 2176.01

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request for a new collection. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 6, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OW–2004–0035, to EPA online using EDOCKET (our preferred method), by email to *OW-Docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket (Mail Code 4101T), 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. M. Ahmar Siddiqui, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 566–1044; fax number: (202) 566–1053; email address: *siddiqui.ahmar@epa.gov*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number OW–2004–0035, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at http://www.epa.gov/edocket. Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket*.

Affected entities: Entities potentially affected by this action are drinking water treatment facilities that serve populations of 10,000 or greater.

Title: Technical Survey: Drinking Water Treatment Facilities (Year 2004).

Abstract: The Clean Water Act (CWA) directs EPA to develop national industrial technology-based regulations to limit the amount of pollutants that are discharged to surface waters (usually called ''effluent guidelines'') or to sewage treatment plants (called ''pretreatment standards''). Pretreatment standards ensure that pollutants do not pass through or interfere with the safe and effective operations of these treatment plants. The CWA also directs EPA to develop national industrial technology-based regulations, called ''new source performance standards,'' for new facilities. Finally, the CWA requires the EPA to identify currently unregulated industries which may be discharging more than trivial amounts of toxic or ''nonconventional'' pollutants, such as nutrients. For these newly identified industries, EPA must complete effluent guidelines within three years.

EPA is collecting information from drinking water treatment facilities to determine if effluent guidelines or pretreatment standards are required to control the discharge of toxic and non-conventional pollutants into surface waters of the United States and to publicly owned treatment works (POTWs). EPA recently published the 2004 Effluent Guidelines Program Plan (September 2, 2004; 69 FR 53705) in accordance with the provisions of section 304(m) of the CWA and identified the ''drinking water treatment point source category'' as a candidate for rulemaking on the three-year schedule referred to earlier.

In preparation for publication of a notice of proposed rulemaking, planned for August 2006 and to be followed by final rulemaking in August 2007, EPA is conducting several data collection activities. The draft technical survey announced in this **Federal Register** notice will provide EPA with preliminary, technical, and environmental data needed to quantify any adverse environmental impacts of the discharges of residuals and metals from drinking water treatment facilities, evaluate the effectiveness of treatment technologies, and determine the incremental pollutant removals and compliance costs for various residual management options that EPA might consider for the proposed rule. The collected data will include information about finished water production, current residuals generation and management techniques, and characterization information for source waters and wastewaters.

The technical survey is composed of two phases: a screener questionnaire and a detailed questionnaire. EPA is distributing the screener questionnaire in order to collect basic information from facilities that serve populations greater than 10,000. EPA will use data from the initial screener to better identify and define the target population that generates residuals as a result of water treatment. This information will then be used to select the facilities to receive a detailed questionnaire in the second phase. The detailed questionnaire will be distributed to a sample of the respondents to the screener questionnaire and will collect substantially more detailed information about the industry. The screener questionnaire will be mailed after OMB approves the ICR, with the detailed questionnaire being mailed after an analysis of the responses to the screener.

The survey will be administered under authority of section 308 of the CWA, 33 U.S.C. 1318. As a result, all recipients of either questionnaire will be required to complete and return the questionnaire to EPA. An agency may not conduct or sponsor, and a person is not required to respond to, a collection

of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. The ICR that EPA intends to submit to OMB will include a discussion of the comments on the proposed survey that EPA has received as a result of today's announcement.

The EPA would like to solicit comments on all aspects of the survey and to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The EPA burden estimate is based on the number of facilities receiving each of the two questionnaires. The Agency intends to distribute the screener to all facilities serving more than 50,000 people, plus a sample of those serving between 10,000 and 50,000 people. The EPA burden estimate is presented in Table 1.

TABLE 1.—ESTIMATED BURDEN FOR DRINKING WATER TREATMENT FACILITIES TO COMPLETE TECHNICAL SURVEY

Survey type	Number of recipients	Estimated burden hours per recipient	Total burden
Screener Questionnaire	1,253	7	8,771
Detailed Questionaire	225	48	10,800
Total Burden			19,571

Dated: June 13, 2005.

Ephraim S. King,

Director, Office of Science and Technology.

[FR Doc. 05–13167 Filed 7–1–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2004–0030; FRL–7932–6]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; NESHAP for Cellulose Products Manufacturing (Renewal), ICR Number 1974.04, OMB Number 2060–0488

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on August 31, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 4, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OECA–2004–0030, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On December 1, 2004 (69 FR 69909), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number OECA–2004–0030, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center is: (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB

within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket*.

Title: NESHAP for Cellulose Products Manufacturing (Renewal).

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP), for cellulose products manufacturing operation were proposed on August 28, 2000 (65 FR 52166), and promulgated on June 11, 2002 (67 FR 40043). These standards apply to each operation that is a major source of hazardous air pollutant (HAP), which includes both the miscellaneous viscose processes source category and the cellulose ethers productions source category. The viscose process includes the cellulose food casing, rayon, cellulosic sponge, and cellophane operations, and the cellulose ethers includes all of the cellulose ether operations.

Owners or operators must submit notification that the facility is subject to the rule; notification of performance test; notification of compliance status (including results of performance tests and other initial compliance demonstrations); and semiannual compliance reports. Records and reports will be required to be retained for a total of five years.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 141 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of cellulose products manufacturing operations.

Estimated Number of Respondents: 13.

Frequency of Response: On occasion, weekly, and semiannually.

Estimated Total Annual Hour Burden: 12,088 hours.

Estimated Total Annual Costs: $965,081, which includes $0 annualized capital/startup costs, $1,000 annual O&M costs, and $964,081 annual labor costs.

Changes in the Estimates: There is no change in the number of respondents identified in the active ICR, however there is an increase of 10,652 hours in the estimated burden as currently identified in the OMB Inventory of Approved ICR Burdens. The increase is attributed primarily to the fact that all thirteen sources are in compliance with the standard, and must now monitor data and submit semiannual reports.

Because there are no new sources with reporting requirements, no capital/startup costs are incurred. The only cost that is incurred is for the operation and maintenance (O&M) of the monitoring equipment.

Dated: June 27, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–13168 Filed 7–1–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[RCRA–2004–0020, FRL–7932–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; State Program Adequacy Determination: Municipal Solid Waste Landfills (MSWLFs) and Non-Municipal, Non-Hazardous Waste Disposal Units That Receive Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste (Renewal), EPA ICR Number 1608.04, OMB Control Number 2050–0152

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on June 30, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 4, 2005.

ADDRESSES: Submit your comments, referencing docket ID number RCRA–2004–0020, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, EPA Docket Center, Environmental Protection Agency, Mail Code 5303T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Craig Dufficy, Municipal and Industrial Solid Waste Division of the Office of Solid Waste (Mail Code 5306W), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9037; fax number: (703) 308–8686; e-mail address: *dufficy.craig @epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12.

On January 4, 2005 (70 FR 356), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. RCRA–2004–0020, which is available for public viewing at the Office of Solid Waste and Emergency Response (OSWER) Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the OSWER Docket is (202) 566–0270. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: State Program Adequacy Determination: Municipal Solid Waste Landfills (MSWLFs) and Non-Municipal, Non-Hazardous Waste Disposal Units that Receive Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste (Renewal).

Abstract: Section 4010(c) of the Resource Conservation and Recovery Act (RCRA) of 1976 requires that EPA revise the landfill criteria promulgated under paragraph (1) of section 4004(a) and section 1008(a)(3). Section 4005(c) of RCRA, as amended by the Hazardous Solid Waste Amendments (HSWA) of 1984, requires states to develop and implement permit programs to ensure that MSWLFs and non-municipal, non-hazardous waste disposal units that receive household hazardous waste or CESQG hazardous waste are in compliance with the revised criteria for the design and operation of non-municipal, non-hazardous waste disposal units under 40 CFR part 257, and MSWLFs under 40 CFR part 258. (40 CFR part 257, subpart B and 40 CFR part 258 are henceforth referred to as the ''revised federal criteria''.) Section 4005(c) of RCRA further mandates the EPA Administrator to determine the adequacy of state permit programs to ensure owner and/or operator compliance with the revised federal criteria. A state program that is deemed adequate to ensure compliance may afford flexibility to owners or operators in the approaches they use to meet federal requirements, significantly reducing the burden associated with compliance.

In response to the statutory requirement in section 4005(c), EPA developed 40 CFR part 239, commonly referred to as the State Implementation Rule (SIR). The SIR describes the state application and EPA review procedures and defines the elements of an adequate state permit program.

The collection of information from the state during the permit program adequacy determination process allows EPA to evaluate whether a program for which approval is requested is appropriate in structure and authority to ensure owner or operator compliance with the revised federal criteria. The SIR does not require the use of a particular application form. Section 239.3 of the SIR, however, requires that all state applications contain the following five components:

(1) A transmittal letter requesting permit program approval.

(2) A narrative description of the state permit program, including a demonstration that the state's standards for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste are technically comparable to the part 257, subpart B criteria and/or that its MSWLF standards are technically comparable to the part 258 criteria.

(3) A legal certification demonstrating that the state has the authority to carry out the program.

(4) Copies of state laws, regulations, and guidance that the state believes demonstrate program adequacy.

(5) Copies of relevant state-tribal agreements if the state has negotiated with a tribe for the implementation of a permit program for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste and/or MSWLFs on tribal lands.

The EPA Administrator has delegated the authority to make determinations of adequacy, as contained in the statute, to the EPA Regional Administrator. The appropriate EPA Regional Office, therefore, will use the information provided by each state to determine whether the state's permit program satisfies the statutory test reflected in the requirements of 40 CFR part 239. In all cases, the information will be analyzed to determine the adequacy of the state's permit program for ensuring compliance with the federal revised criteria.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 242 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: States and territories that seek approval of new or modified permit programs for MSWLF's and for non-municipal, non-hazardous waste disposal units that receive CESQG waste.

Estimated Number of Respondents: 12.

Frequency of Response: One-time only.

Estimated Total Annual Hour Burden: 968.

Estimated Total Annual Costs: $47,249, which includes $0 annualized Capital Expense/Startup, $0 annual O&M costs, and $47,249 in Respondent Labor costs.

Changes in the Estimates: There is a decrease of 2,221 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to several reasons. For the first ICR renewal all mention of burden estimates for tribes which were contained in the original ICR were removed. In addition, since the last clearance, additional states and territories have been moving through the approval process for their MSWLF permit program adequacy determinations has decreased from 3 to 2. Also EPA estimates the number of states and territories that will submit program approval applications for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste will decrease. And lastly, the previous ICR included the Federal Burden which is exempt from the Paperwork Reduction Act.

Dated: June 27, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–13169 Filed 7–1–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OW–2004–0023; FRL–7932–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Best Management Practices (BMP) for the Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Sulfite Subcategory of the Pulp, Paper and Paperboard Point Source Category (Renewal), EPA ICR Number 1829.03, OMB Control Number 2040–0207

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on June 30, 2005.Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 4, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OW–2004–0023, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *ow–docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lynn Stabenfeldt, Office of Wastewater Management, 4201M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–0602; fax number: (202) 501–2396; e-mail address: *stabenfeldt.lynn@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On August 30, 2004 (69 FR 52883) EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OW–2004–0023, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Best Management Practices (BMP) for the Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Sulfite Subcategory of the Pulp, Paper and Paperboard Point Source Category (Renewal).

Abstract: The EPA established BMP provisions as part of final amendments to 40 CFR part 430, the Pulp, Paper and Paperbaord Point Source Category promulgated on April 15, 1998 (*see* 63 FR 18504–18751). These provisions, promulgated under the authorities of sections 304, 307, 308, 402 and 501 of the Clean Water Act, require that owners or operators of bleached papergrade kraft, soda and sulfite mills implement site-specific BMPs to prevent or otherwise contain leaks and spills of spent pulping liquors, soap and turpentine and to control intentional diversions of these materials.

EPA has determined that these BMPs are necessary because the materials controlled by these practices, if spilled or otherwise lost, can interfere with wastewater treatment operations and lead to increased discharges of toxic, nonconventional, and conventional pollutants. For further discussion of the need for BMPs, see section VI.B.7. of the preamble to the amendments to 40 CFR part 430 (*see* 63 FR 18561–18566).

The BMP program includes information collection requirements that are intended to help accomplish the overall purposes of the program by, for example, training personnel, see 40 CFR 430.03(c)(4), analyzing spills that occur, see 40 CFR 430.03(c)(5), identifying equipment items that might need to be upgraded or repaired, see 40 CFR 430.03(c)(2), and performing

monitoring—including the operation of monitoring systems—to detect leaks, spills and intentional diversion and generally to evaluate the effectiveness of the BMPs, see 40 CFR 430.03(c)(3), (c)(10), (h), and (i). The regulations also require mills to develop and, when appropriate, amend plans specifying how the mills will implement the specified BMPs, and to certify to the permitting or pretreatment authority that they have done so in accordance with good engineering practices and the requirements of the regulation, see 40 CFR 430.03(d), (e), and (f). The purpose of those provisions is, respectively, to facilitate the implementation of BMPs on a site-specific basis and to help the regulating authorities to ensure compliance without requiring the submission of actual BMP plans. Finally, the record keeping provisions are intended to facilitate training, to signal the need for different or more vigorously implemented BMPs, and to facilitate compliance assessment, see 40 CFR 430.03(g).

EPA has structured the regulation to provide maximum flexibility to the regulated community and to minimize administrative burdens on NPDES permit and pretreatment control authorities that regulate bleached papergrade kraft and soda and papergrade sulfite mills. Although EPA does not anticipate that mills will be required to submit any confidential business information or trade secrets as part of this ICR, all data claimed as confidential business information will be handled by EPA pursuant to 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 665 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are those operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard; those operations that chemically pulp wood fiber, and/or paperboard; those operations that chemically pulp wood fiber using papergrade sulfite methods to produce pulp and/or paper; and State and local governments that regulate discharges where such operations are located.

Estimated Number of Respondents: 128.

Frequency of Response: not less than annually.

Estimated Total Annual Hour Burden: 60,262.

Estimated Total Annual Cost: $2,377,000, includes $0 annualized capital or O&M costs and $2,377,000 annual labor costs.

Changes in the Estimates: There is a decrease of 647 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease results from an adjustment to the estimated respondent universe, which decreased by two.

Dated: June 27, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–13170 Filed 7–1–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system entitled ''Account Based Disclosures in Connection with Federal Reserve Regulations E, CC and DD.''

DATES: Comments must be submitted on or before August 4, 2005.

ADDRESSES: Interested parties are invited to submit written comments. All comments should refer to ''Account Based Disclosures in Connection with Federal Reserve Regulations E, CC and DD, 3064–0084.'' Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- E-mail: *comments @FDIC.gov*. Include ''Deposit Broker Processing, 3064–0143'' in the subject line of the message.
- Mail: Leneta G. Gregorie (202) 898–3719, Counsel, Room MB–3082, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments should also be submitted to the OMB desk officer for the FDIC: Mark Menchik, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, or by electronic mail to *mmenchik@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, (202) 898–3719, or at the address above.

SUPPLEMENTARY INFORMATION:

Proposal To Revise the Following Currently Approved Collection of Information

Title: Account Based Disclosures in Connection with Federal Reserve Regulations E, CC, and DD.

OMB Number: 3064–0084.

Affected Public: State chartered banks that are not members of the Federal Reserve System.

Information About the Collection and Proposed Changes to it: This FDIC information collection provides for the application of Regulations E (Electronic Fund Transfers), CC (Availability of Funds), and DD (Truth in Savings) to State nonmember banks.

Regulations E, CC, and DD are issued by the Federal Reserve Board of Governors (FRB) to ensure, among other things, that consumers are provided adequate disclosures regarding accounts, including electronic fund transfer services, availability of funds, and fees and annual percentage yield for deposit accounts. The FDIC is providing this notice in order to keep its Office of Management and Budget (OMB)

approved information collection consistent with changes the FRB proposed to Regulation E, 12 CFR part 205, (69 FR 55996, Sept. 17, 2004). Currently, Regulation E requires respondents to provide disclosures of basic terms, costs, and rights relating to electronic fund transfer services.

If the proposed changes to Regulation E are made final, State nonmember banks will need to modify their Regulation E disclosures to provide initial disclosures that electronic check conversion transactions are a new type of transfer that can be made from a consumer's account. The FDIC estimates that it will require institutions, on average, one business day to reprogram and update systems to include the new notice concerning electronic check conversion disclosure to their ongoing Regulation E disclosure requirements. The one-time burden would be 42,400 hours (8 hours × 5,300 respondents).

If the proposed changes to Regulation E are made final, institutions involved in offering payroll card accounts will be required to ensure compliance with Regulation E and provide disclosure of basic terms, costs, and rights relating to electronic fund transfer services in connection with the payroll card account. Certain information must be disclosed to consumers, including: Initial and updated electronic fund transfer terms, transaction information, periodic statements of activity, the consumer's potential liability for unauthorized transfers, and error resolution rights and procedures. The disclosures are standardized and machine-generated and do not substantively change from one individual account to another; thus, the average time for providing the disclosure to all consumers should be minimal.

The FDIC estimates that five State nonmember banks participate in payroll card account programs and that each institution will make approximately 5,000 disclosures which will require an average of 1.5 minutes per disclosure to prepare and distribute, resulting in 625 hours of annual burden. The FDIC estimates that the five institutions will take, on average, 7 hours to prepare and distribute 12 periodic statements for an annual burden of 420 hours. The FDIC estimates that the five respondents will take, on average, 30 minutes for eight error resolution procedures for a total of 20 hours. The payroll card account disclosures would add 1,065 hours of ongoing burden to the current annual Regulation E burden of 28,930 hours.

At this time, the FDIC does not believe that any State nonmember banks are engaged in electronic check conversion transactions as a merchant or payee. The FDIC is not proposing to make any changes to the Regulation CC or DD parts of the OMB approved information collection. The FDIC's burden estimate is based on the FRB's proposed rule; we will adjust it as necessary to make it consistent with the FRB's final rule.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated in Washington, DC, this 28th day of June, 2005.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 05–13115 Filed 7–1–05; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request; 3064–0072

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collections to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it is submitting to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

DATES: Comments must be submitted on or before August 4, 2005.

ADDRESSES: Interested parties are invited to submit written comments. All comments should refer to ''Acquisition Services Information Requirements, 3064–0072.'' Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- E-mail: *comments@fdic.gov.* Include ''Acquisition Services Information Requirements, 3064–0072.'' in the subject line of the message.
- Mail: Gary A. Kuiper (202) 942–3824), Counsel, Federal Deposit Insurance Corporation, PA1730–3000, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Mark Menchik, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

Title: Acquisition Services Information Requirements.

OMB Number: 3064–0072. This OMB Number covers the following forms:

Forms Currently in Use:

FDIC Background Investigation Questionnaire for Contractor Personnel Management Officials, Form 1600/04 (1–03) [Added questions regarding other names used, race, height, weight, eye color, hair color, contract number and oversight manager]

FDIC Contractor Representation and Certifications, Form 3700/04A (8–02) [changed format so form can be filled out online]

FDIC Background Investigation Questionnaire for Contractor, Form 1600/07 (8–02) [no changes]

FDIC Notice and Authorization Pertaining to Consumer Reports, Form 1600/10 (10–02) [added statement that authorization is valid for one year or upon separation of employment/services from the FDIC]

FDIC Integrity and Fitness Representations and Certifications, Form 3700/12(11–03) [In the instructions for the form, ''Definitions'' was replaced with ''Unique Terms'and the explanations of ''conflict of interest'' and ''ownership or

control'' were simplified; also, examples were given of ''pattern or practice of defalcation regarding obligations,'' and of ''conflicts of interest.'']

FDIC Leasing Representations and Certifications Form 3700/44 (10–01) [no changes]

Discontinued Forms in This Collection:

FDIC Contractor Application, Form 3700/13 (5–02) Contractor Past Performance RFP Reference Check Questionnaire, 3700/29(10–01) Contractor Application Revision Request, Form 3700/33 (8–98)

Frequency of Response: On occasion.

Affected Public: Any contractors who wish to do business, have done business, or are currently under contract with the FDIC.

Estimated Number of Respondents and Burden Hours:

FDIC Document	Hours per unit	No. of respondents	Burden hours
Background Investigation Questionnaire Management (1600/04)	.33	2,330	769
Background Investigation Questionnaire Contractors (1600/10)	.50	664	332
Notice of Authorization (1600/10)	.05	1,172	59
Contractor Representation and Certifications (3700/04A)	.50	2,312	1,156
Integrity and Fitness Representations and Certifications (3700/12)	.33	2,312	763
Leasing Representations and Certifications (3700/44)	1.0	20	20
Total		8,810	3099
Discontinued Forms:			
Contractor Application (3700/13)	.58	631	366
Contractor Past Performance RPF Reference Check Questionnaire (3700/29)	.75	2,295	1,721
Contractor Application Revision Request (3700/33)	.25	810	203
Total Reduction in Burden		3,736	2,290

Previous Estimated Total Annual Reporting Burden Hours: 5,389 hours.

New Estimated Total Annual Reporting Burden Hours: 3,099 hours.

Net Reduction in Estimated Burden Hours: 2,290 hours.

General Description of Collection: The collection involves the submission of information on various forms by contractors who wish to do business, have done business, or are currently under contract with the FDIC. The information is used to:

- Enter contractors on the FDIC's nationwide contractor database, the National Contractor System (NCS);
- Ensure compliance with established contractor ethics regulations (12 CFR part 366);
- Obtain information on a contractor's past performance for proposal evaluation purposes;
- Review a potential lessor's fitness and integrity prior to entering into a lease transaction;
- Provide notice and authorization for obtaining consumer reports for employment purposes or performance under a contract; and
- Document contractor change requests.

Request for Comment

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated in Washington, DC, this 28th day of June, 2005.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 05–13116 Filed 7–1–05; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted for OMB review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system entitled ''Prompt Corrective Action.''

DATES: Comments must be submitted on or before August 4, 2005.

ADDRESSES: Interested parties are invited to submit written comments. All comments should refer to ''Prompt Corrective Action, 3064–0115.'' Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- E-mail: comments *@FDIC.gov.* Include ''Prompt Corrective Action, 3064–0115'' in the subject line of the message.
- Mail: Leneta G. Gregorie (202) 898–3719, Counsel, Room MB–3082, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments should also be submitted to the OMB desk officer for the FDIC: Mark Menchik, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, or by electronic mail to *mmenchik@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Leneta G. Gregorie, (202) 898–3719, or at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

Title: Prompt Corrective Action.

OMB Number: 3064–0115.

Frequency of Response: On occasion.

Affected Public: All insured financial institutions.

Estimated Number of Respondents: 19.

Estimated Number of Responses: 19.

Estimated Time per Response: 4 hours.

Estimated Total Annual Burden: 76 hours.

General Description of Collection: The prompt corrective action provisions in section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) permits and, in some cases requires, the Federal Deposit Insurance Corporation (FDIC) and other Federal banking agencies to take certain supervisory actions when FDIC-insured institutions fall within one of five capital categories. They also restrict or prohibit certain activities and require the submission of a capital restoration plan when an insured institution becomes undercapitalized.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

All comments will become a matter of public record.

Dated in Washington, DC, this 28th day of June, 2005.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 05–13117 Filed 7–1–05; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Human Research Protections

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a) of the Federal Advisory Committee Act, U.S.C. Appendix 2, notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP) will hold its eighth meeting. The meeting will be open to the public.

DATES: The meeting will be held on Monday, August 1, 2005, from 8:30 a.m. to 5 p.m. and on Tuesday, August 2, 2005, from 8:30 a.m. until 4:30 p.m.

ADDRESSES: The Radisson Hotel Old Town Alexandria, 901 North Fairfax Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Bernard Schwetz, D.V.M., PhD, Director, Office for Human Research Protections (OHRP), or Catherine Slatinshek, Executive Director, Secretary's Advisory Committee on Human Research Protections; Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852; (240) 453–6900; fax: (240) 453–6909; e-mail address: *sachrp@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services and the Assistant Secretary for Health on issues and topics pertaining to or associated with the protection of human research subjects.

On August 1, 2005, SACHRP will discuss preliminary reports from its two subcommittees: the Subpart A Subcommittee, which is evaluating the application of HHS regulations for the protection of human subjects at subpart A of 45 CFR part 46 in the current research environment, and the Subcommittee on Research Involving Children, which is assessing the HHS regulations and policies for research involving children. The Subcommittees were established by SACHRP at its October 4–5, 2004 meeting and at its inaugural meeting on July 22, 2003, respectively.

On August 2, 2005, the Committee will hear presentations and participate in deliberations with three panels invited to discuss views on patient/subject issues in research. One panel will include representatives from subject/patient advocacy organizations. Another will offer perspectives from individuals representing specific research subject populations, including women, children, and the cognitively impaired. A third panel will be composed of individual research subjects.

Public attendance at the meeting is limited to space available. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact persons. Members of the public will have the opportunity to provide comments on both days of the meeting. Public comment will be limited to five minutes per speaker. Members of the public who wish to have printed materials distributed to SACHRP members for this scheduled meeting should submit materials to the Executive Director, SACHRP, prior to the close of business Wednesday, July 27, 2005. Information about SACHRP and the draft meeting agenda will be posted on the SACHRP Web site at: *http://ohrp.osophs.dhhs.gov/sachrp/sachrp.htm.*

Dated: June 28, 2005.

Bernard A. Schwetz,

Director, Office for Human Research Protections, Executive Secretary, Secretary's Advisory Committee on Human Research Protections.

[FR Doc. 05–13155 Filed 7–1–05; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Enhancing Professional Education, Research Infrastructure, and Capacity Building in Minority Serving Institutions

Announcement Type: New.

Funding Opportunity Number: AA131.

Catalog of Federal Domestic Assistance Number: 93.283.

Key Dates: Application Deadline: August 4, 2005.

I. Funding Opportunity Description

Authority: This program is authorized under Sections 317(k)(2) of the Public Health Service Act, (42 U.S.C. Section 247b(k)(2)). In addition, the program is authorized under Presidential Executive Orders 13256, 13230, and 13270 which relate to advancing opportunities for higher education and strengthening capacity of Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities, (TCUs), and Hispanic Serving Institutions (HSIs).

Purpose: The purpose of the program announcement is to assist organizations which provide support for the advancement of professional development, education, and research and training for racial and ethnic minorities. These organizations consist of representatives from member institutions (medical, dental public health, pharmacy, and/or veterinarian schools) who work to ensure racial and ethnic parity in health professions.

Specifically, the program is intended to assist these organizations to:

1. Build and strengthen institutional infrastructure supporting the development and implementation of innovative organizational strategies and effective programs to advance professional development, education, and research training for racial and ethnic minorities.

2. Improve program and institutional capacity to foster community leadership development, promote community mobilization strategies and community resource development, and encourage partnerships and coalition building.

3. Enhance quantitative and qualitative research efforts of the participating institutions.

4. Strengthen the educational and professional development of minority health professionals and educators.

5. Support student training initiatives, in order to introduce public health to racial and ethnic minority students.

This program addresses the ''Healthy People 2010'' focus area(s) of Educational and Community-Based Programs and Public Health Infrastructure. This program also addresses the performance of executive agency actions under Executive Orders 13256, 13230, and 13270 in order to advance the development of the Nation's full human potential and to advance equal opportunity in higher education, to strengthen the capacity of HBCUs, HSIs, and TCUs, respectively, to provide the highest quality education, and to increase opportunities for these institutions to participate in and benefit from Federal programs.

Measurable outcomes of the program will be in alignment with one (or more) of the following performance goal(s) for the Office of Minority Health:

Goal 1: Prepare disadvantaged minority medical, veterinary, pharmacy, and graduate students for careers in public health.

Goal 2: Support HBCUs, HSIs, and TCUs by increasing the number of funding mechanisms and the number of minority-serving institutions receiving support.

This announcement is only for non-research activities supported by CDC/ATSDR. If research is proposed, the application will not be reviewed. For the definition of research, please see the CDC Web site at the following Internet address: *http://www.cdc.gov/od/ads/opspoll1.htm.*

Activities:

1. Recipient Activities Required by all Applicants:

A. Capacity Building and Resource Development Provide technical and consultative capacity building assistance of lead organization and/or member institutions to:

1. Identify, coordinate and implement strategic planning activities to advance organizational development and change.

2. Develop, coordinate and implement faculty/student learning programs.

3. Identify appropriate additional academic partners, including community-based organizations, academic foundations, private entities and institutions to strengthen the lead organizations' and/or member institution's overall ability to carry out proposed activities.

4. Provide technical assistance, guidance, and support to strengthen the lead organization or member institutions' ability to carry out proposed activities.

5. Establish an organizational structure that includes working groups to address critical program issues.

6. Facilitate awarding of funds to constituents (sub-awardees) through a variety of mechanisms, including but not limited to CDC identified extramural project activities and/or Investigator Initiated non-research activities.

B. Student Training Opportunities, Fellowships Programs, and Internship Programs

1. Initiate internship and fellowship programs and pre and post doctoral opportunities designed to encourage minority students to choose and pursue graduate careers in public health and biomedical sciences.

2. Identify, conduct, and evaluate new opportunities for public health field experiences that will provide students with an opportunity to apply the concepts and principals of public health practice and epidemiology as it relates to their community and help to increase the participation of minority students that are under represented in the biomedical, environmental, and public health sciences.

C. Needs Assessment and Public Health Research (Prevention Research, Policy Research, Dissemination Research)

1. Identify effective strategies to address pressing public health problems affecting minority population groups. This activity will range from gathering initial information regarding the health status of communities and determining effective intervention strategies, to determining how to encourage the use of scientific findings in public health programs.

2. Initiate innovative strategies for minority research recruitment and retention by enhancing the competency and capacity of member organizations' research administration process, policy development procedures, needs assessment framework, program evaluation guidelines, and community development structures.

3. Conduct activities that promote the development and utilization of public health strategies to lead organizations and/or member institutions. The strategies should include coalition building, technical assistance workshops, language assistance planning for persons with LEP (limited English proficiency), community outreach, health communications, and cultural competency.

4. Conduct activities that will increase the capacity of participation of minority principal investigators in prevention research.

5. Identify and work to develop new opportunities for research and project collaboration among prevention health professionals.

6. Regularly explore project ideas in instruction practice, and research in prevention which respond to health promotion and disease prevention objectives as stated in ''Healthy People 2010''.

D. Program Evaluation

Identify data sources, establish outcomes, and process evaluation measures for determining the overall effectiveness of the lead organization and the member institutions.

In a cooperative agreement, CDC staff is substantially involved in the program activities, above and beyond routine grant monitoring.

CDC Activities for this program are as follows:

A. Convene semi-annual meetings with the recipient to facilitate collaboration and information sharing.

B. Conduct onsite visits with the recipient and sub-awardees to provide consultation and technical support; and help recipients meet program objectives and cooperative agreement requirements.

C. Inform recipients about the laws and regulations pertaining to human subjects research and conduct inquiries concerning allegations of scientific misconduct.

D. Evaluate and monitor recipients' progress toward meeting program objectives and goals.

E. Provide technical assistance and guidance on analyzing data and evaluation of the program's progress.

F. Provide to the lead organization, guidance on collaborating with HBCU's, HSI's, and TCU's.

G. Work collaboratively with the lead organization to assist in its efforts to build research and training capacity and serve as a resource for HBCU's, HSI's,

and TCU's interested in expanding biomedical opportunities, public health academic opportunities and field experience among students and faculty.

H. Provide to the lead organization, guidance and technical assistance on identifying health disparities priorities that the HBCU, HSI, and TCU member schools can investigate. This will help achieve CDC's health disparities goals and objectives.

II. Award Information

Type of Award: Cooperative Agreement. CDC involvement in this program is listed in the Activities Section above.

Fiscal Year Funds: 2005.

Approximate Total Funding: $900,000 (This amount is an estimate, and is subject to availability of funds.).

Approximate Number of Awards: Three (one from each academic group).

Approximate Average Award: $300,000 (This amount is for the first 12-month budget period, and includes both direct and indirect costs.).

Floor of Award Range: None.

Ceiling of Award Range: $300,000 (This ceiling is for the first 12-month budget period.).

Anticipated Award Date: August 31, 2005.

Budget Period Length: 12 months.

Project Period Length: Five years.

Throughout the project period, CDC's commitment to continuation of awards will be conditioned on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by a lead organization that serves the targeted racial and ethnic minority population. Lead organizations are nonprofit educational, scientific and charitable 501(c)(3) organizations, that engage the collaborative resources, scholarship and technology of HBCUs, HSIs, including Hispanic-Serving Health Professions Schools (HSPHS); or TCUs. The applicant organizations must serve as the umbrella organizations for HBCUs, HSIs, including HSHPS; or TCUs. For the purpose of this announcement, umbrella organizations are defined as nonprofit educational, scientific, and charitable 501 (c)(3) organizations that serve as the management, administrative, and clearinghouse arm for member HBCU, HSI/HSPHS, and TCU institutions. Applications may also be submitted by eligible member institutions which are defined as minority health professions schools (HBCUs, HSIs/HSHPS or TCUs) which may include medical, dental, pharmacy and veterinary medicine schools and other minority academic institutions that are funded and supported by the lead organization to provide support for the advancement of professional development, education, and research and training for racial and ethnic minorities. Eligible member institutions must have at least a 10 percent enrollment of minority students, prevention research centers, and primary care centers that serve racial and ethnic minority populations. The applicant must have existing partnerships with HBCUs, TCUs, or HSIs.

A Bona Fide Agent is an agency/organization identified by the state as eligible to submit an application under the state eligibility in lieu of a state application. If you are applying as a bona fide agent of a state or local government, you must provide a letter from the state or local government as documentation of your status. Place this documentation behind the first page of your application form.

III.2. Cost Sharing or Matching

Matching funds are not required for this program.

III.3. Other

If you request a funding amount greater than the ceiling of the award range, your application will be considered non-responsive, and will not be entered into the review process. You will be notified that your application did not meet the submission requirements.

Special Requirements:

1. Lead Organization.

a. The lead organization must have experience providing guidance and oversight to sub-award recipients (members' institutions), administrative infrastructure to manage comprehensive public health educational programs, and expertise implementing programs that strengthen the public health system by preparing public health workers.

b. The lead organization must provide administrative oversight in accordance with appropriate federal guidelines to sub-award recipients, and provide updates as well as progress reports to CDC regarding project activities and resources.

c. The lead organization must have direct fiduciary responsibility for the administration and management of the cooperative agreement program.

d. The lead organization must show proof or documentation that they have a formal partnership with at least three (3) academic institutions that have relationships with HBCUs, HSIs, and TCUs. These collaborative relationships should be described in the narrative, and evidenced by a detailed and signed memoranda of agreement among the participants.

If your application is incomplete or non-responsive to the special requirements listed in this section, it will not be entered into the review process. You will be notified that your application did not meet submission requirements.

- Late applications will be considered non-responsive. See section ''IV.3. Submission Dates and Times'' for more information on deadlines.
- **Note:** Title 2 of the United States Code Section 1611 states that an organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

IV. Application and Submission Information

IV.1. Address To Request Application Package

To apply for this funding opportunity use application form PHS 5161–1.

Electronic Submission

CDC strongly encourages you to submit your application electronically by utilizing the forms and instructions posted for this announcement on *http://www.Grants.gov,* the official Federal agency wide E-grant Web site. Only applicants who apply online are permitted to forego paper copy submission of all application forms.

Paper Submission

Application forms and instructions are available on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) staff at: 770–488–2700. Application forms can be mailed to you.

IV.2. Content and Form of Submission

Application:

You must submit a project narrative with your application forms. The narrative must be submitted in the following format:

- Maximum number of pages: 40

If your narrative exceeds the page limit, only the first pages which are within the page limit will be reviewed.

- Font size: 12 point unreduced
- Double-spaced
- Paper size: 8.5 by 11 inches
- Page margin size: One inch
- Printed only on one side of page
- Held together only by rubber bands or metal clips; not bound in any other way.

Your narrative should address activities to be conducted over the entire project period, and must include the following items in the order listed:

1. Project Abstract

Provide a brief summary that includes: Brief overview of the lead organization (history, structure, experience and member institutions),

b. Summary of the program plan;

c. Description of the Evaluation plan;

d. Summary of the lead Organization's operational and management plan.

2. Describe Lead Organization (History and Experience)

a. Describe member schools in the organization (types and capacity).

b. Describe all appropriate partners, including community-based organizations, academic, and foundations, from which to strengthen the community's overall ability to eliminate the health disparities of the target population, and to demonstrate the changes in health disparities.

3. Program Plan

a. Describe program plans with specific, time-phased program objectives and the priorities to be addressed (include timeline and/or action plan).

b. Describe the project by identifying the purpose and problems addressing the goals and objectives, and the activities to attain these goals.

c. The plan should describe the project objectives that fit the activities in the application including expected outcomes.

d. Discuss specific goals related to program requirements, and indicate expected program outcome at the end of the five-year project period.

e. Describe goals and objectives that are specific measurable and feasible.

4. Program Evaluation

a. Describe how progress toward meeting project objectives will be monitored.

b. The evaluation plan should address measures considered critical to determine the success of the plan outlined by the applicant, and results should be used for improvement of the intended plan.

c. Describe plan to evaluate all major program activities and services supported with CDC Office of Minority Health funds.

5. Operational and Management Plan

a. Describe an operational and management plan, including coordination and collaboration efforts with other organizations and agencies involved in program activities, especially those serving the target populations.

b. Describe the proposed staffing for the project and submit job descriptions of key personnel illustrating their qualification and experience to carryout project activities.

6. Budget Plan and Budget Justification

a. Provide a detailed budget and budget justifications which indicate the anticipated costs for personnel, fringe benefits, travel, supplies, contractual, consultants, equipment, indirect, and other items.

You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the Federal government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711.

For more information, see the CDC Web site at: *http://www.cdc.gov/od/pgo/funding/pubcommt.htm.* If your application form does not have a DUNS number field, please write your DUNS number at the top of the first page of your application, and/or include your DUNS number in your application cover letter.

Additional requirements that may require you to submit additional documentation with your application are listed in section ''VI.2. Administrative and National Policy Requirements.''

IV.3. Submission Dates and Times

Application Deadline Date: August 4, 2005.

Explanation of Deadlines: Applications must be received in the CDC Procurement and Grants Office by 4 p.m. Eastern Time on the deadline date.

Applications may be submitted electronically at *http://www.grants.gov*. Applications completed on-line through Grants.gov are considered formally submitted when the applicant organization's Authorizing Official electronically submits the application to *http://www.grants.gov*. Electronic applications will be considered as having met the deadline if the application has been submitted electronically by the applicant organization's Authorizing Official to Grants.gov on or before the deadline date and time.

If submittal of the application is done electronically through Grants.gov (*http://www.grants.gov*), the application will be electronically time/date stamped, which will serve as receipt of submission. Applicants will receive an e-mail notice of receipt when CDC receives the application.

If submittal of the application is by the United States Postal Service or commercial delivery service, the applicant must ensure that the carrier will be able to guarantee delivery by the closing date and time. If CDC receives the submission after the closing date due to: (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, the applicant will be given the opportunity to submit documentation of the carrier's guarantee. If the documentation verifies a carrier problem, CDC will consider the submission as having been received by the deadline.

If a hard copy application is submitted, CDC will not notify the applicant upon receipt of the submission. If questions arise on the receipt of the application, the applicant should first contact the carrier. If the applicant still has questions, contact the PGO-TIM staff at (770) 488–2700. The applicant should wait two to three days after the submission deadline before calling. This will allow time for submissions to be processed and logged.

This announcement is the definitive guide on application content, submission address, and deadline. It supersedes information provided in the application instructions. If your submission does not meet the deadline above, it will not be eligible for review, and will be discarded. You will be notified that you did not meet the submission requirements.

IV.4. Intergovernmental Review of Applications

Your application is subject to Intergovernmental Review of Federal Programs, as governed by Executive Order (EO) 12372. This order sets up a system for state and local governmental review of proposed federal assistance applications. You should contact your state single point of contact (SPOC) as early as possible to alert the SPOC to prospective applications, and to receive

instructions on your state's process. Click on the following link to get the current SPOC list: *http://www.whitehouse.gov/omb/grants/spoc.html.*

IV.5. Funding Restrictions

Restrictions, which must be taken into account while writing your budget, are as follows:

- Reimbursement of pre-award costs is not allowed.
- Funds may not be used for construction costs.
- Funds may not be used for research.

If you are requesting indirect costs in your budget, you must include a copy of your indirect cost rate agreement. If your indirect cost rate is a provisional rate, the agreement should be less than 12 months of age.

Guidance for completing your budget can be found on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/funding/budgetguide.htm.*

IV.6. Other Submission Requirements

Application Submission Address:

Electronic Submission

CDC strongly encourages applicants to submit applications electronically at *http://www.Grants.gov.* The application package can be downloaded from *http://www.Grants.gov.* Applicants are able to complete it off-line, and then upload and submit the application via the Grants.gov Web site. E-mail submissions will not be accepted. If the applicant has technical difficulties in Grants.gov, costumer service can be reached by e-mail at *http://www.grants.gov/CustomerSupport* or by phone at 1–800–518–4726 (1–800–518–GRANTS). The Customer Support Center is open from 7 a.m. to 9 p.m. eastern time, Monday through Friday.

CDC recommends that submittal of the application to Grants.gov should be early to resolve any unanticipated difficulties prior to the deadline. Applicants may also submit a back-up paper submission of the application. Any such paper submission must be received in accordance with the requirements for timely submission detailed in Section IV.3. of the grant announcement. The paper submission must be clearly marked: ''BACK–UP FOR ELECTRONIC SUBMISSION.'' The paper submission must conform to all requirements for non-electronic submissions. If both electronic and back-up paper submissions are received by the deadline, the electronic version will be considered the official submission.

It is strongly recommended that the applicant submit the grant application using Microsoft Office products (*e.g.*, Microsoft Word, Microsoft Excel, etc.). If the applicant does not have access to Microsoft Office products, a PDF file may be submitted. Directions for creating PDF files can be found on the Grants.gov Web site. Use of file formats other than Microsoft Office or PDF may result in the file being unreadable by staff.

OR

Paper Submission

Applicants should submit the original and two hard copies of the application by mail or express delivery service to: Technical Information Management—RFA AA131, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341.

V. Application Review Information

V.1. Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the ''Purpose'' section of this announcement. Measures must be objective and quantitative, and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

Your application will be evaluated against the following criteria:

Evaluation Criteria (100 Points)

Each application will be evaluated individually against the following criteria, by an independent review group:

1. Program Plan (40 Points)

a. The extent to which the proposed goals and objectives are specific, measurable, time-phased, consistent with the program purpose and the proposed activities, and consistent with the applicant organization's overall mission.

b. The extent to which the applicant has included objectives and a timeline, which are feasible to be accomplished during the budget period, and which address all activities necessary to accomplish the purpose of the proposal.

2. Description of Lead Organization (History and Experience) (25 Points)

a. Extent to which the applicant documents it's experience and successes in operating and centrally administering a coordinated public health or related program serving the target population for at least two years for the selected priority area(s) (including appended letters of support).

b. Extent of experience in other public health programs, and public health research or related data collection.

3. Evaluation Plan (25 Points)

a. Extent to which the applicant presents a reasonable and thorough evaluation plan.

b. Appropriateness of the evaluation methods, goals, objectives, and time lines prepared for the development of the overall planning effort; and identification of data and information sources needed to track progress toward the project's objectives.

4. Operational and Management Plan (10 Points)

The extent to which applicant describes the history, nature, and extent of its relevant experience within the last two years with supporting documentation.

5. Project Abstract

a. The extent to which the applicant clearly defines the targeted population group, geographic community, and priority area(s) to be addressed.

b. The extent to which the applicant uses data, if such data are available and other supporting evidence to document the disparities within the targeted population, and the appropriateness of the target population sizes for the priority area selected.

c. The degree of the disparity between the targeted population and the non-Hispanic white population based on local, State, and National data which directly supports the basis for the health disparity in the priority area(s) selected.

6. Budget (Not Scored)

Extent to which a line-item budget is presented, justified, and is consistent with the purposes and objectives of the cooperative agreement.

V.2. Review and Selection Process

Applications will be reviewed for completeness by the Procurement and Grants Office (PGO) staff, and for responsiveness by the Office of Minority Health (OMH). Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will be notified that their application did not meet submission requirements.

An objective review panel will evaluate complete and responsive applications according to the criteria listed in the ''V.1. Criteria'' section above. The objective review process will follow the policy requirements as stated

in the GPD 2.04 [*http://198.102.218.46/doc/gpd204.doc*]. The application review will be performed by CDC employees within the agency's CIOs. In addition, the following factors may affect the funding decision:

(a) Funding preference will be given to organizations that have a recent history of collaborating with the CDC on public health student training programs.

(b) Preference will be given to institutions with at least a five-year track record of implementing public health internship and fellowship programs for minority students.

(c) Funding preference will be given to institutions that have appropriate staff expertise and other sources of support for implementing public health internship and/or fellowship programs.

(d) At least one organization will be funded from each academic group (*i.e.*, HBCU, HSI/HSHPS, TCU).

CDC will provide justification for any decision to fund out of rank order.

V.3. Anticipated Announcement and Award Dates

Anticipated Award Date: August 31, 2005.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will receive a Notice of Award (NoA) from the CDC Procurement and Grants Office. The NoA shall be the only binding, authorizing document between the recipient and CDC. The NoA will be signed by an authorized Grants Management Officer, and mailed to the recipient fiscal officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review by mail.

VI.2. Administrative and National Policy Requirements

Successful applicants must comply with the administrative requirements outlined in 45 CFR Part 74 and Part 92 as Appropriate. For more information on the Code of Federal Regulations, see the National Archives and Records Administration at the following Internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.*

An additional Certifications form from the PHS5161-1 application needs to be included in your Grants.gov electronic submission only. Refer to *http://www.cdc.gov/od/pgo/funding/PHS5161–1 Certificates.pdf.* Once the form is filled out attach it to your Grants.gov submission as Other Attachments Form.

The following additional requirements apply to this project:

- AR–7 Executive Order 12372
- AR–10 Smoke-Free Workplace Requirements
- AR–11 Healthy People 2010
- AR–12 Lobbying Restrictions
- AR–15 Proof of Non-Profit Status
- AR–16 Security Clearance Requirement
- AR–21 Small, Minority, and Women-Owned Business

Additional information on these requirements can be found on the CDC web site at the following Internet address: *http://www.cdc.gov/od/pgo/funding/ARs.htm.*

VI.3. Reporting Requirements

You must provide CDC with an original, plus two hard copies of the following reports:

1. Interim progress report, due no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Budget.

e. Measures of Effectiveness.

f. Additional Requested Information.

2. Annual progress report, due 90 days after the end of the budget period.

3. Financial status report due no more than 90 days after the end of the budget period.

4. Final financial and performance reports, no more than 90 days after the end of the project period.

These reports must be mailed to the Grants Management or Contract Specialist listed in the ''Agency Contacts'' section of this announcement.

VII. Agency Contacts

We encourage inquiries concerning this announcement.

For general questions, contact: Technical Information Management Section, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341. Telephone: 770–488–2700.

For program technical assistance, contact: Yvonne Lewis, HBCU Project Officer, Centers for Disease Control and Prevention, 1600 Clifton Road MS E67, Atlanta, GA 30333. Telephone: 404–498–2320. E-mail: *YLewis@cdc.gov.*

Mike Snesrud, TCU Project Officer, Centers for Disease Control and Prevention, 1600 Clifton Road MS E67, Atlanta, GA 30333. Telephone: 404–498–2320. E-mail: *PSnesrud@cdc.gov.*

Ana Rivera, HSI Project Officer, Centers for Disease Control and Prevention, 1600 Clifton Road MS E67, Atlanta, GA 30333. Telephone: 404–498–2320. E-mail: *ARivera@cdc.gov.*

For financial, grants management, or budget assistance, contact: Mattie B. Jackson, Grants Management Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road MS K14, Atlanta, GA 30341. Telephone: 770–488–2696. E-mail: *mij3@cdc.gov.*

Dated: June 27, 2005.

Alan A. Kotch,

Acting Deputy Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–13133 Filed 7–1–05; 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): Breast and Prostate Cancer Data Quality and Patterns of Care Study, Request for Applications (RFA) DP–05–071

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): Breast and Prostate Cancer Data Quality and Patterns of Care Study, Request for Applications (RFA) DP–05–071.

Times and Dates: 6:30 p.m.–9:30 p.m., July 27, 2005 (Closed), 8:30 a.m.–5:30 p.m., July 28, 2005 (Closed).

Place: Doubletree Hotel-Buckhead, 3342 Peachtree Road, NE., Atlanta, GA 30326, Telephone Number 404.231.1234.

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: Breast and Prostate Cancer Data Quality and Patterns of Care Study, Request for Applications (RFA) DP–05–071.

Contact Person for More Information: Gwen Cattledge, Ph.D., Scientific Review Administrator, National Center for Chronic Disease Prevention and Health Promotion, CDC, Chamblee Campus 4770 Buford Hwy, Mailstop K92, Atlanta, GA 30341, Telephone 770.488.4655.

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 28, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–13131 Filed 7–1–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Prospective Grant of Exclusive License: Diagnostics of Fungal Infections; Correction

In the notice document appearing on page 33905 in the **Federal Register** issued on Friday, June 10, 2005, Vol. 70, No. 111, make the following correction:

On page 33905 under Centers for Disease Control and Prevention, change the title ''Prospective Grant of Exclusive License: Diagnostics of Fungal Infections'' to ''Prospective Grant of Exclusive License: System and Methods for Aerosolized Delivery of Vaccines'' (remove previous title ''Diagnostics of Fungal Infections'').

All other information in the document remains unchanged.

Dated: June 24, 2005.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention.

[FR Doc. 05–13132 Filed 7–1–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cellular, Tissue and Gene Therapies Advisory Committee (formerly Biological Response Modifiers Advisory Committee); Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Cellular, Tissue and Gene Therapies Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held, via teleconference, on July 29, 2005, from 12:30 p.m. to 2:30 p.m.

Location: National Institutes of Health, Bldg. 29B, conference room C, 8800 Rockville Pike, Rockville, MD. This meeting will be held by teleconference. The public is welcome to attend the meeting at the previously mentioned location. A speakerphone will be provided at the specified location for public participation in the meeting.

Contact Person: Gail Dapolito, Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512389. Please call the Information Line for up-to-date information on this meeting.

Agenda: In open session, the committee will hear brief opening remarks and allow time for public participation and comments related to individual FDA research programs during the open public hearing. The committee will not hear presentations or discuss individual research programs in the open session (see *Closed Committee Deliberations* below).

Procedure: On July 29, 2005, from 12:30 p.m. to 1:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 21, 2005. Oral presentations from the public will be scheduled between approximately 12:30 p.m. to 1:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 21, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On July 29, 2005, from approximately 1:30 p.m. to 2:30 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The committee will discuss a review of individual FDA research programs.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Gail Dapolito at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 23, 2005.

Sheila Dearybury Walcoff,

Associate Commissioner for External Relations.

[FR Doc. 05–13122 Filed 7–1–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004D–0333]

Draft Guidance; Emergency Use Authorization of Medical Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of draft guidance entitled ''Emergency Use Authorization of Medical Products.'' The draft guidance explains FDA's policies for authorizing the use of an unapproved medical product or an unapproved use of an approved medical product during a declared emergency. The draft guidance is not final and is not in effect at this time. FDA also is announcing an opportunity for public comment on the proposed collection of information related to emergency use authorizations by the agency.

DATES: Submit written or electronic comments on the draft guidance and the proposed collection of information by September 6, 2005.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Counterterrorism Policy and Planning (HF–29), Food and Drug Administration, 5600 Fishers Lane, rm. 14C–26, Rockville, MD 20857. Send a self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–827–5671. Submit written comments on the draft guidance and the proposed collection of information to the Division of Dockets

Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. All comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

For information on the draft guidance: Charlotte Christin, Office of Counterterrorism Policy and Planning (HF–29), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4067.

For information on the proposed collection of information: JonnaLynn Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of draft guidance for industry, government agencies, and FDA staff entitled ''Emergency Use Authorization of Medical Products.'' This draft guidance describes the agency's general recommendations and procedures for issuance of emergency use authorizations (EUA) under section 564 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360bbb–3), which was amended by the Project BioShield Act of 2004 (Public Law 108–276).

Section 564 of the act provides for authorization of ''emergency use'' of a medical product, after a declaration of emergency justifying an authorization is issued by the Secretary of Health and Human Services (the Secretary) based on one of the following grounds: A determination by the Secretary of Homeland Security that there is an actual or potential ''domestic emergency;'' a determination by the Secretary of Defense that there is an actual or potential ''military emergency;'' or a determination by the Secretary that there is a public health emergency under section 319 of the Public Health Service Act that affects or has the significant potential to affect national security. The Commissioner of FDA (the Commissioner) may issue an EUA for an unapproved drug, device, or biologic, or an unapproved use of an approved drug, device, or biologic, during a declared emergency.

This draft guidance, when finalized, may be supplemented by guidance from the FDA Centers that provides additional detail on these recommendations and procedures.

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Reporting and Recordkeeping for Emergency Use Authorization of Medical Products

The act permits the Commissioner to authorize the use of unapproved medical products or unapproved uses of approved medical products during an emergency declared under section 564 of the act. The data to support issuance of an EUA must demonstrate that, based on the totality of the scientific evidence available to the Commissioner, including data from adequate and well-controlled clinical trials (if available), it is reasonable to believe that the product may be effective in diagnosing, treating, or preventing a serious or life-threatening disease or condition (21 U.S.C. 360bbb–3(c)). Although the exact type and amount of data needed to support an EUA may vary depending on the nature of the declared emergency and the nature of the candidate product, FDA recommends that a request for consideration for an EUA include scientific evidence evaluating the product's safety and effectiveness, including the adverse event profile for diagnosis, treatment, or prevention of the serious or life-threatening disease or condition, as well as data and other information on safety, effectiveness, risks and benefits, and (to the extent available) alternatives.

Under section 564, the Commissioner may establish conditions on the approval of an EUA. Section 564(e) requires the Commissioner (to the extent practicable given the circumstances of the emergency) to establish certain conditions on an authorization that the Commissioner finds necessary or appropriate to protect the public health and permits the Commissioner to establish other conditions that he finds necessary or appropriate to protect the public health. Conditions authorized by section 564(e) of the act include, for example: Requirements for information dissemination to health care providers or authorized dispensers and product recipients; adverse event monitoring and reporting; data collection and analysis; recordkeeping and records access; restrictions on product advertising, distribution, and administration; and limitations on good manufacturing practices requirements. Some conditions, the statute specifies, are mandatory to the extent practicable for authorizations of unapproved products and discretionary for authorizations of unapproved uses of approved products. Moreover, some conditions may apply to manufacturers of an EUA product, while other conditions may apply to any person who carries out any activity for which the authorization is issued. Section 564 of the act also gives the Commissioner authority to establish other conditions on an authorization that the Commissioner finds to be necessary or appropriate to protect the public health.

For purposes of estimating the burden of reporting, FDA has established six categories of respondents which include: (1) Those who file a Request for Consideration for an EUA after a determination of actual or potential emergency and, in lieu of submitting the data, provide reference to a pending or approved application; (2) those who file a Request for Consideration for an EUA and the data after a determination of actual or potential emergency, without reference to a pending or approved application; (3) those who submit data to FDA on a candidate EUA product, which is subject to a pending or approved application, prior to a

determination of actual or potential emergency; (4) those who submit data to FDA prior to a determination of actual or potential emergency about a candidate EUA product for which there is no pending or approved application; (5) manufacturers of an unapproved EUA product who must report to FDA regarding such activity; and (6) State and local public health officials who carry out an activity related to an unapproved EUA product (e.g., administering the product to civilians) and who must report to FDA regarding such activity.

For purposes of estimating the burden of recordkeeping, FDA has calculated the anticipated burden on manufacturers of unapproved products authorized for emergency use. The agency anticipates that the Federal Government will perform some of the additional recordkeeping necessary for unapproved products (e.g., related to the administration of unapproved EUA products to military personnel). FDA also anticipates that some State and local public health officials may be required to perform additional recordkeeping (e.g., related to the administration of unapproved EUA products to civilians) and calculated a recordkeeping burden for those activities.

No burden was attributed to reporting or recordkeeping for unapproved uses of approved products, since those products already are subject to approved collections of information (adverse experience reporting for biological products is approved under OMB control number 0910–0308 through May 31, 2005; adverse drug experience reporting is approved under OMB control number 0910–0230 through September 30, 2005; and investigational new drug applications (IND) regulations are approved under OMB control number 0910–0014 through January 31, 2006) and any additional burden imposed by this proposed collection would be minimal. Thus, FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Request for Consideration; Pending application on file	1	1	1	15	15
Request for Consideration; No application pending	1	1	1	50	50
Pre-emergency submissions; Pending application on file	10	1	10	20	200
Pre-emergency submissions; No application pending	3	1	3	75	225
Manufacturers of an unapproved EUA product	3	4	12	2	24
State and local public health officials; Unapproved EUA product	30	4	120	2	240
Total					754

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Record	Total Hours
Manufacturers of an unapproved EUA product	3	4	12	25	300
State and local public health officials; Unapproved EUA product	30	4	120	3	360
Total					660

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The annual burden estimate for this information collection is 1,414 hours. The estimated reporting burden for this collection is 754 hours and the estimated recordkeeping burden is 660 hours.

III. Significance of Guidance

This draft guidance document is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on emergency use authorizations of medical products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any

mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

Persons with access to the Internet may obtain copies of this draft guidance at *http://www.fda.gov/opacom/morechoices/industry/guidedc.htm*.

Dated: June 27, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–13121 Filed 7–01–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: May 2005

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of May 2005, the HHS Office of Inspector General imposed exclusions in cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care Programs. In addition, no program payment is made to any business or facility, *e.g.,* a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject name, address	Effective date
Program-Related Convictions	
Adoff, Arnold Valhalla, NY	6/20/2005
Agett, Deborah Kingsport, TN	6/20/2005
Albanese, Anthony Brooklyn, NY	3/29/2005
Albarracin, Carlos Palmdale, CA	6/20/2005
Aloma, Filomena Miami, FL	6/20/2005
Alvarez, Jose Miami, FL	6/20/2005
Arenales, Anna Hialeah, FL	6/20/2005
ARS Professional Pharmacy, LTD Monsey, NY	6/20/2005
Barreda, Celina Miami, FL	6/20/2005
Beauchene, Tracey Aberdeen, WA	6/20/2005
Birotech Corporation Tampa, FL	6/20/2005
Bonett, Olga Camden, NJ	6/20/2005
Canning, Joyce Sanford, ME	6/20/2005
Chancy, Luke Kelso, WA	6/20/2005
Curbelo, Sue Glendale, CA	6/20/2005
Dean, Nancy Danbury, CT	6/20/2005
Depaula, Grisel Miami, FL	6/20/2005
Dubois, Marylin Paradis, LA	6/20/2005
Espinosa, Sara Miami, FL	6/20/2005
Gibbs, Debra Fayetteville, NC	6/20/2005
Gilley, Margaret Ellsworth, ME	6/20/2005
Gladkovister, Petr Shorewood, WI	6/20/2005
Goode, Constance Essex Junction, VT	6/20/2005
Hill, Stella Sacramento, CA	6/20/2005
Hines, Shelia Enfield, NC	6/20/2005
Hoover, Ronald Manchester, KY	6/20/2005
Howze, Andreco Great Falls, SC	6/20/2005
Ince, Karen Hollis, NY	6/20/2005
Joyner, Connie Clinton, NC	6/20/2005
Karapetyan, Margarita Los Angeles, CA	6/20/2005
Katherine, Scott Minersville, PA	6/20/2005
Kaufman, Brian Honeoye Falls, NY	6/20/2005
Leafa, Tina Seatac, WA	6/20/2005
Lennon, Dionne Wadesboro, NC	6/20/2005
Loveall, Amy Fulton, NY	6/20/2005
McCloskey, Debra Schenectady, NY	6/20/2005
Mora, Zoraida Miami, FL	6/20/2005
Morales-Montalvo, Carlos San German, PR	6/20/2005
Nemirovskaya, Viktoria Cedarburg, WI	6/20/2005
Nsekpong, Michael Seagoville, TX	6/20/2005
Pederson, Randi Fargo, ND	6/20/2005
Porter, Kevin Shelby, NC	6/20/2005
Purcell, Donald Napa, CA	6/20/2005
Rascoe, Jessica Windsor, NC	6/20/2005
Reardon, Gina Cumming, GA	6/20/2005
Reusche, Jane Fort Myers, FL	6/20/2005
Ricketts, Donna Hendersonville, TN	6/20/2005
Rivera-Iglesias, Jorge Cabo Rojo, PR	6/20/2005
Rivera-Iglesias, Wilson Cabo Rojo, PR	6/20/2005
Rodriguez-Sorrentini, Eric Cabo Rojo, PR	6/20/2005
Rodriquez-Sorrentini, Noel Cabo Rojo, PR	6/20/2005
Senquiz, Luz Philadelphia, PA	6/20/2005
Showell, Stephanie Georgetown, DE	6/20/2005
Stanley A Gorgol, D P M, Inc, Corp Salem, NH	6/20/2005
Symkowski, Yanina Waukesha, WI	6/20/2005
Taft, William Cornelius, NC	6/20/2005
Tatman, April Thornville, OH	6/20/2005
Taylor, Patricia Wiggins, MS	6/20/2005
Thomas-Hicks, Michelle Taylor, MI	6/20/2005
Thurn, Anita Scott, LA	6/20/2005
Thurn, Melvin Breaux Bridge, LA	6/20/2005
Uko, Ekong Chatsworth, CA	6/20/2005
Underwood, Paul Charlotte, NC	6/20/2005
Urbano-Jane, Gloria Miami, FL	6/20/2005
Vann, Hoeuth Long Beach, CA	6/20/2005
Warren, Constanza Altamonte Springs, FL	6/20/2005
Weir, Burnadett Hollis, NY	6/20/2005
Williams, Taranika Minneapolis, MN	6/20/2005
Wright, Carrie Eden, NY	6/20/2005
Felony Conviction for Health Care Fraud	
Amato, Nicola Flanders, NJ	6/20/2005
Bass, Theresa Imperial, MO	6/20/2005
Cazel, Phillip Newcastle, CA	6/20/2005
Colon, Margaret E Falmouth, MA	6/20/2005
Crowder, Linda Lancaster, CA	6/20/2005
Duhon, Paula	6/20/2005

Subject name, address	Effective date
Lancaster, TX	
Farrell, Linda ..... Rochester, NY	6/20/2005
Getz, Nicole ..... Clinton, OH	6/20/2005
Greenleaf, Janice ..... N Wildwood, NJ	6/20/2005
Korman, Julie ..... Hamilton, OH	6/20/2005
Lamoreaux, Christopher ..... Lompoc, CA	6/20/2005
Landa, Carlos ..... Napa, CA	6/20/2005
Masterson, Pamela ..... Niles, OH	6/20/2005
McCormick, Cynthia ..... Cambridge, OH	6/20/2005
McCoy, Reginald ..... Edinburg, TX	6/20/2005
Nguyen, Phu ..... San Jose, CA	6/20/2005
Ruther Charlotte ..... West Milton, OH	6/20/2005
Tsirulsky, Ilya ..... Los Angeles, CA	6/20/2005
Wills, Cathy ..... Providence, RI	6/20/2005
Felony Control Substance Conviction	
Cockerille, Lawrence ..... Litchfield, OH	6/20/2005
Cook, Stephanie ..... Checotah, OK	6/20/2005
Dao, David ..... Elizabethtown, KY	6/20/2005
Johnson, Russell ..... Chester, VA	6/20/2005
Kenward, John ..... San Diego, TX	6/20/2005
Martin, Katherine ..... Burlington, VT	6/20/2005
Marzen, Matthew ..... Macungie, PA	6/20/2005
McDowell, Jerri ..... Somerset, KY	6/20/2005
Nesbitt, Aaron ..... Lawton, MI	6/20/2005
Petersen, Penny ..... Denver, CO	6/20/2005
Portales, Arturo ..... Manchester, KY	6/20/2005
Rick, Roxanne ..... Alexandria, VA	6/20/2005
Rudolph, Jeanette ..... Clinton, MO	6/20/2005
Withington, Pamela ..... Flemington, NJ	6/20/2005
Worcester, Keith ..... Stockton, CA	6/20/2005
Patient Abuse/Neglect Convictions	
Anderson, Lisa ..... Dallas, TX	6/20/2005
Bah, Haja ..... Hyattsville, MD	6/20/2005
Brasley, Michael ..... E Rochester, NY	6/20/2005
Breakfield, Jimmy ..... Columbia, MS	6/20/2005
Browder, Clarissa ..... Centreville, MS	6/20/2005
Coleman, Charlotte ..... Columbia, MS	6/20/2005
Friendship, Theodore ..... Baton Rouge, LA	6/20/2005
Greaves, Yvette ..... Roxbury, MA	6/20/2005
Johnson, Evelyn ..... Elizabeth City, NC	6/20/2005
Kimmons, Regina ..... Holly Springs, MS	6/20/2005
Kutscher, Laura ..... Pennellville, NY	6/20/2005
Mathis, Jacqueline ..... Jackson, MS	6/20/2005
Mitchell, Virginia ..... Carbon, IN	6/20/2005
Moore, Pamela ..... Washington, NC	6/20/2005
Mosley, Gloria ..... Oklahoma City, OK	6/20/2005
Rippy, David ..... Wichita Falls, TX	6/20/2005
Showell, Cora ..... Berlin, MD	6/20/2005
Simmons, Tina ..... Buffalo, NY	6/20/2005
Spomer, Kandise ..... Enid, OK	6/20/2005
Tadlock, Amanda ..... Mapleton, IA	6/20/2005
Wittscheck, Heather ..... Toledo, OH	6/20/2005
Zabala, Wilfredo ..... Seattle, WA	6/20/2005
Conviction for Health Care Fraud	
Redman, Chelsea ..... Statesville, NC	6/20/2005
Conviction—Obstruction of an Investigation	
OPI Properties, INC ..... St Louis Park, MN	2/11/2005
License Revocation/Suspension/ Surrendered	
Abarca, Cheryl ..... Newark, NJ	6/20/2005
Alexander, Melissa ..... Clarksville, IN	6/20/2005
Allen, Deanna ..... Kilgore, TX	6/20/2005
Amato, Frank ..... Bellport, NY	6/20/2005
Atkinson, Kristin ..... Winston-Salem, NC	6/20/2005
Austin, Todd ..... Eaton, IN	6/20/2005
Baguss, Loraine ..... Louisville, KY	6/20/2005
Baker, Richard ..... Lima, OH	6/20/2005
Barlow, Mary ..... Glendale, AZ	6/20/2005
Bass, Jean ..... South Hero, VT	6/20/2005
Batchan, Danette ..... Chandler, AZ	6/20/2005
Baxter, Tabatha ..... Anniston, AL	6/20/2005
Bohanon, Terri ..... San Jose, CA	6/20/2005
Bolton, Pamela ..... Batesville, MS	6/20/2005
Bonner, Julie ..... Houston, TX	6/20/2005
Boswell, Andrea ..... New Bedford, MA	6/20/2005
Brill, Mary ..... Philadelphia, PA	6/20/2005
Brunson, Judith ..... Calusa, CA	6/20/2005
Burquist, Tammy ..... Semmes, AL	6/20/2005
Byrd, Dena ..... Lake Charles, LA	6/20/2005
Byrd, John ..... Phoenix, AZ	6/20/2005
Campbell, Shari ..... Antioch, CA	6/20/2005
Camuti, Diane ..... Astoria, NY	6/20/2005
Caraballo, Marcy ..... Pueblo, CO	6/20/2005
Carper, Nancy ..... Sebring, FL	6/20/2005
Carter, Roselyn ..... Providence, RI	6/20/2005
Casimiro, Melissa ..... West Warwick, RI	6/20/2005
Castorena, Kim ..... Brush, CO	6/20/2005
Cedarwoods Day Spa, Inc ..... Pembroke Pines, FL	6/20/2005
Champion, Mary ..... Egg Harbor TWP, NJ	6/20/2005
Chaney, Mary ..... Fort Wayne, IN	6/20/2005
Christon, Shannon ..... Fresno, CA	6/20/2005
Cinsavich, Scott ..... Westford, MA	6/20/2005
Cline, Sarah ..... Puyallup, WA	6/20/2005
Cloys, Donald ..... Richmond, KY	6/20/2005
Clyburn, Vickie ..... Loxley, AL	6/20/2005
Collymore, Kerri ..... Houston, TX	6/20/2005
Colon, Karen ..... Toms River, NJ	6/20/2005
Craig, Donna ..... Noblesville, IN	6/20/2005
Crudale, Ann ..... Warwick, RI	6/20/2005
Cupolo, Stacy ..... Lakewood, NJ	6/20/2005
Currier-Hill, Theresa ..... Delta, OH	6/20/2005
Danieli, Alexis ..... Tiverton, RI	6/20/2005
Daniels, Jennifer ..... Syracuse, NY	6/20/2005
Davidson, Jean ..... Lutz, FL	6/20/2005
Dean, Elizabeth ..... Satellite Beach, FL	6/20/2005
Demara, Toni ..... El Monte, CA	6/20/2005
Dinovo, Linda ..... Largo, FL	6/20/2005
Downes, Dennis ..... McKeesport, PA	6/20/2005
Duff, Charlette	6/20/2005

Subject name, address	Effective date
Bruce, MS	
Dunn, Deborah ..... Louisville, KY	6/20/2005
Eddy, Vickie ..... High Point, NC	6/20/2005
Elder, Lisa ..... Pittsburgh, PA	6/20/2005
Eyler, Kelley ..... Churubusco, IN	6/20/2005
Fennell, Leslie ..... Port St Lucie, FL	6/20/2005
Fenzel, Carl ..... Goodyear, AZ	6/20/2005
Fhrye, Karen ..... Sacramento, CA	6/20/2005
Fletcher, Constance ..... Enosburg Falls, VT	6/20/2005
Fritts, Larry ..... Phillipsburg, NJ	6/20/2005
Fuster, David ..... Bethesda, MD	6/20/2005
Gagnon, Kimberly ..... Woonsocket, RI	6/20/2005
Garcia, Marcy ..... Avenal, CA	6/20/2005
Gardner, Charlotta ..... Jackson, MS	6/20/2005
Godwin, Carla ..... Dothan, AL	6/20/2005
Goodie, James ..... Mount Vernon, NY	6/20/2005
Grim, Donald ..... Peshastin, WA	6/20/2005
Groothand, Kimberly ..... Sanford, ME	6/20/2005
Guttman, Dennis ..... Gainesville, FL	6/20/2005
Hall, John ..... Cornelius, NC	6/20/2005
Hart, Kimberly ..... Lodi, CA	6/20/2005
Hatten, Candace ..... Lone Star, TX	6/20/2005
Hayes-Bolster, Lori ..... Chicago, IL	6/20/2005
Hendrickson, Molly ..... Morganfield, KY	6/20/2005
Henry, Andrea ..... Marrero, LA	6/20/2005
Herron, Jerry ..... Murfreesboro, TN	6/20/2005
Herschel, Layne ..... Chester, VT	6/20/2005
Hodges, Donna ..... Rancho Cordova, CA	6/20/2005
Howerton, Cynthia ..... Saucier, MS	6/20/2005
Hu, Ming ..... Baldwin Park, CA	6/20/2005
Hubbard, Russelle ..... Alabaster, AL	6/20/2005
Hursh, Susan ..... Fort Wayne, IN	6/20/2005
Johanson, Leeann ..... Draper, UT	6/20/2005
Johnson, Sarah ..... Riverside, CA	6/20/2005
Jones, Janet ..... Fort Collins, CO	6/20/2005
Jones, Joy ..... Lawrenceville, GA	6/20/2005
Jones, Luella ..... Richmond, KY	6/20/2005
Kantola, Jeffrey ..... Tacoma, WA	6/20/2005
Keegan, Barbara ..... North Cape May, NJ	6/20/2005
Keeton, Heather ..... Willows, CA	6/20/2005
Kelly, Sherry ..... Philadelphia, PA	6/20/2005
Kent, Kim ..... Huntington, WV	6/20/2005
Knowles, Abbey ..... Orlando, FL	6/20/2005
Koeller, Bambi ..... Midvale, UT	6/20/2005
Kolinsky, Carol ..... Berlin, NH	6/20/2005
Land, Cindy ..... Claremore, OK	6/20/2005
Landry, Danielle ..... West Warwick, RI	6/20/2005
Laughlin, Lee ..... Brandon, VT	6/20/2005
Lehman, Lori ..... Nine Mile Falls, WA	6/20/2005
Lesieur, Sandra ..... Grover, NC	6/20/2005
Lewis, Cassandra ..... Nicholasville, KY	6/20/2005
Lewis, Jeanette ..... Elizabethton, TN	6/20/2005
Lindquist, Beth ..... Greencastle, IN	6/20/2005
Logan, Michael ..... Palmdale, CA	6/20/2005
Luque, Vita ..... Griffith, IN	6/20/2005
Maack, Don ..... W Fargo, ND	6/20/2005
Macavoy, Sonia ..... Port St Lucie, FL	6/20/2005
MaLear, Jeremy ..... Hemet, CA	6/20/2005
Marcotte, Julie ..... Phoenix, AZ	6/20/2005
Martin, Thomas ..... St Petersburg, FL	6/20/2005
Mauiri, Sandy ..... Totowa, NJ	6/20/2005
McArthur, Teri ..... Pueblo West, CO	6/20/2005
McDonald, Mary ..... Vacaville, CA	6/20/2005
McGinnis, Susan ..... Leesburg, OH	6/20/2005
McKinney, Sheila ..... Oakland, MS	6/20/2005
McLain, Jennifer ..... Oklahoma City, OK	6/20/2005
Medley, Ginger ..... Winchester, KY	6/20/2005
Meza, Patricia ..... Orosi, CA	6/20/2005
Michaelis, David ..... Paso Robles, CA	6/20/2005
Mills, Jane ..... Mt Vernon, KY	6/20/2005
Miranda, Rose ..... Tucson, AZ	6/20/2005
Moran, Finn ..... Webster, MA	6/20/2005
Mullen, Priscilla ..... Mesa, AZ	6/20/2005
Navas, Jennifer ..... Jacksonville, FL	6/20/2005
Niemiec, June ..... Littleton, NH	6/20/2005
Norwood, Elizabeth ..... Atmore, AL	6/20/2005
Perry, Marc ..... Addison, IL	6/20/2005
Peters, Janice ..... Marshalltown, IA	6/20/2005
Petillo, Larry ..... Coeur d'Alene, ID	6/20/2005
Pleat, Donna ..... Sunrise, FL	6/20/2005
Quidgeon, Maureen ..... Thomaston, CT	6/20/2005
Quinn, Eamonn ..... Ft Lauderdale, FL	6/20/2005
Rabon, Judy ..... Rembert, SC	6/20/2005
Remmers, Janice ..... Mooresville, IN	6/20/2005
Richardson, Katherine ..... Gary, IN	6/20/2005
Riggs, Dezirae ..... Madison, IN	6/20/2005
Rivera, Mary ..... Las Animas, CO	6/20/2005
Robertson, Blythe ..... Paisley, FL	6/20/2005
Romanauskas, Vincent ..... Harrisburg, PA	6/20/2005
Rose, Rebecca ..... Leitchfield, KY	6/20/2005
Rothwell, Frances ..... Palm Bay, FL	6/20/2005
Roy, Leona ..... Port St Lucie, FL	6/20/2005
Rudd, Carol ..... Orlando, FL	6/20/2005
Sanderson, Lynn ..... Trenton, NJ	6/20/2005
Schoening, Linda ..... Winston-Salem, NC	6/20/2005
Scott, Jason ..... Calvert City, KY	6/20/2005
Shatzer, Bonnie ..... Westminster, MD	6/20/2005
Shelton, Joshua ..... Richland, WA	6/20/2005
Sheperd, Anne ..... Ashland, KY	6/20/2005
Shiraldi,Teresa ..... Abingdon, MD	6/20/2005
Siddall, Donley ..... Collegedale, TN	6/20/2005
Skowron, Tadeusz ..... Avon, CT	6/20/2005
Smargiassi, Suzanne ..... Leesburg, FL	6/20/2005
Smith-Moore, Tonya ..... Omaha, IL	6/20/2005
Stachkunas, Matthew ..... Bristol, CT	6/20/2005
Stevenson, Cathy ..... Mancos, CO	6/20/2005
Stone, Tammy ..... Pawtucket, RI	6/20/2005
Sullivan, Jackie ..... Orlando, FL	6/20/2005
Sullivan, Janice ..... Stockton, CA	6/20/2005
Swicegood, Joseph ..... Louisville, TN	6/20/2005
Tambo, Brenda ..... Los Osos, CA	6/20/2005
Tate, Larry	6/20/2005

Subject name, address	Effective date
Phoenix, AZ	
Thervil, Yolette ..... Miami, FL	6/20/2005
Thurber, Pauline ..... Lakewood, CO	6/20/2005
Tidd, Miles ..... Trenton, NJ	6/20/2005
Tiscornia, Kimberly ..... W Milford, NJ	6/20/2005
Tofflemire, Andrew ..... San Francisco, CA	6/20/2005
Trentacosta, Gregory ..... Wayne, NJ	6/20/2005
Trombley, Laurie ..... Bradford, VT	6/20/2005
Vaughn-Bey, David ..... Colorado Springs, CO	6/20/2005
Vitols, Britt ..... Essex Junction, VT	6/20/2005
Wells, Larry ..... Louisville, KY	6/20/2005
Wheat, Patricia ..... Louisville, KY	6/20/2005
Wheeler, Marsha ..... Chesire, CT	6/20/2005
White, Jeannie ..... Fresno, CA	6/20/2005
Wilburn, Robert ..... North Point, FL	6/20/2005
Williamson, Christina ..... Chewelah, WA	6/20/2005
Willie, Dennis ..... Salt Lake City, UT	6/20/2005
Wimmer, Jan ..... Providence, RI	6/20/2005
Wood, Kristy ..... Hopbottom, PA	6/20/2005
Yancey, Dawn ..... Yerington, NV	6/20/2005
Yrigoyen, Florence ..... Denver, CO	6/20/2005
Zink, Tricia ..... Mt Vernon, IN	6/20/2005
Fraud/Kickbacks/Prohibited Acts/ Settlement Agreements	
Ahmad, Vimlesh ..... Seattle, WA	10/5/2004
Day, Floyd ..... Portland, OR	3/7/2005
Owned/Controlled By Convicted Entities	
Amgu, Inc ..... McKinney, TX	6/20/2005
Health & Wellness Medical Clinic, Inc ..... Los Angeles, CA	6/20/2005
Southern California Respiratory Care Services ..... Long Beach, CA	6/20/2005
Default on Heal Loan	
Bayles, Jay ..... Westlake Village, CA	6/20/2005
Duong, Chau ..... Brooklyn, NY	6/20/2005
Mohammadkhani, Alireza ..... Chatsworth, CA	6/20/2005
Owners of Excluded Entities	
Edoho-Ukwa, Grace ..... McKinney, TX	6/20/2005
Greer, Leta ..... St. Louis, MO	6/20/2005

Dated: June 1, 2005.

Katherine B. Petrowski,

Director, Exclusions Staff, Office of Inspector General.

[FR Doc. 05–12693 Filed 7–1–05; 8:45 am]

BILLING CODE 4152–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notification of Request for Emergency Clearance; Evaluation of the Impact of the New Conflicts of Interest Regulations on the National Institutes of Health's Ability To Recruit and Retain Staff

In accordance with Section 3507(j) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) hereby publishes notification of request for Emergency Clearance for the information collection related to the Evaluation of the Impact of the New Conflicts of Interest Regulations on the National Institutes of Health's Ability to Recruit and Retain Staff.

This information collection is essential to the mission of the NIH [42 U.S.C. 241 and 282(b)(1)]. In December 2003, the House Energy and Commerce Committee raised concerns about potential conflicts of interest at NIH. In response to these concerns, the NIH Director, Dr. Elias Zerhouni, ordered an internal investigation into consulting agreements at NIH and in June 2004 proposed changes to the agency's conflict-of-interest policies. Effective February 3, 2005, the new regulations (5 CFR parts 5501 and 5502, ''Supplemental Standards of Ethical Conduct and Financial Disclosure Requirements for Employees of the Department of Health and Human Services,'' **Federal Register**, Vol. 70, No. 22 Thursday, February 3, 2005, 5543–5565) apply to all NIH employees and place limits on certain financial holdings of employees, their spouses, and minor children and on certain outside activities in which NIH staff may engage. In the brief time since the implementation of the new ethics rules, many key NIH senior scientists have chosen to leave NIH rather than comply with the new regulations.

In the preamble to the rule, HHS stated its intent to evaluate the impact of the new rules within the next year. Gauging both the immediate and longer term impact of these new rules is crucial to NIH's ability to develop and maintain a world-class staff. This project will produce data that will help NIH and HHS leaders determine the impact of the regulations and whether changes should be made, so it is essential that the data are collected while the review of the regulations is still in progress.

NIH cannot reasonably comply with the normal clearance procedures for information collection, because the use of normal procedures will delay the collection and hinder the agency in accomplishing its mission, to the detriment of the public good. NIH has taken all practicable steps to consult with the scientific community and the public in reaching the determination. Several months have elapsed since the publication of the new conflict of interest regulations, and NIH has had several meetings with employees, interviewed senior scientists and has made plans to survey current NIH employees, as well as reviewed more than 1800 comments on the regulations. At this point, NIH intends to survey recent applicants, applicants who have declined to accept employment offers from NIH and potential applicants from scientific organizations from which NIH has traditionally drawn leading scientific personnel. This will allow NIH to determine whether the regulations impact an individual's attitudes about employment at NIH and the likelihood of their joining the agency.

NIH and HHS leaders are still examining and modifying some aspects of the rules. It is essential that these leaders obtain information on the impact of the rules on the career aims and choices of non-NIH scientists and the perception of the scientific community to inform their decision making.

Proposed Collection

Title: Evaluation of the Impact of the New Conflicts of Interest Regulations on the National Institutes of Health's Ability to Recruit and Retain Staff. *Type of Information Collection Request:* Emergency. *Need and Use of Information Collection:* To assess the impact of new NIH ethics regulations on the agency's ability to continue to attract and recruit highly qualified scientific personnel. *Frequency of Response:* One time. *Affected Public:* Individuals and households. *Type of Respondent:* Highly

trained and qualified scientists engaged in medicine and life sciences research. The annual reporting burden is as follows: *Estimated Number of Respondents:* 900; *Estimated Number of Responses per Respondent:* One; *Average Burden Hours Per Response:* 10 minutes; and *Estimated Total Annual Burden Hours Requested:* 150 hours. The annualized cost to respondents is estimated at $4,950. There are no Capital Costs, Operating Costs, 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 is 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, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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 Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project contact Michael Rosenthal; Building 31—Claude D Pepper Bldg, Room 3B43, 1 Center Drive, Bethesda, MD 20892; *rosenthm@od.nih.gov*; 301–496–3366.

Dated: June 24, 2005.

Raynard S. Kington,

Deputy Director, National Institutes of Health.

[FR Doc. 05–13153 Filed 7–1–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Proposed Collection; Comment Request; Health Behaviors in School-Age Children

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: Health Behaviors in School-Age Children—United States.

Type of Information Collection Request: Continuation.

Need and Use of Information Collection: The goal of this research is to obtain data from a survey of adolescent health behavior conducted in the United States with a national probability sample of adolescents. This information will enable the improvement of health services and programs for youth. The study should provide needed information about adolescents nationally and will also enable international comparisons.

This U.S. survey is linked to the broader Health Behaviors in School-Age Children (HBSC) study, in which surveys are conducted every four years among nationally representative samples of students at ages 11, 13, and 15 years of age in about 35 countries. The HBSC was conducted in the U.S. previously in 1997–1998 and 2001–2002. Previous HBSC–US surveys showed that U.S. 15-year-old youth are less likely to smoke than students in most other countries surveyed, even though 13-year-old U.S. students experiment with tobacco in comparable proportions to youth in other countries. The most recent survey demonstrated that U.S. youth are more likely to be overweight and obese than students in the other HBSC countries. U.S. eating habits were also shown to be somewhat less healthful than in other countries, with a comparatively high proportion of youth consuming high fat foods and soft drinks with sugar. The 2005–2006 U.S. survey will address a sample of health-related factors according to rigorous research protocols developed by the HBSC. The international HBSC survey requires at least 1,536 youth in each age group and a total of 5,000 students. In the U.S., a nationally representative sample of children in grades 6 through 10 will be surveyed and minority children will be over-sampled to permit comparisons across under-represented populations. The children will be students from approximately 340 schools; in order to assess health programs in those schools and how the school environment supports health behaviors, a school administrator and the lead health education teacher from each school will be surveyed.

Affected Public: School-age children.

Type of respondents	Estimated number of respondents	Estimated number of responses per hours	Average burden hours per response	Estimated total annual burden requested
Adolescents	14,350	1	0.75	10,763
School Administrators	340	1	0.33	112
Lead Health Educator	340	1	0.20	68

The estimated annualized cost to respondents is $5,392. 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 are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

For Further Information Contact: To request more information on the proposed project or to obtain a copy of

the data collection plans and instruments, contact Dr. Bruce Simons-Morton, Chief, Prevention Research Branch, Division of Epidemiology, Statistics, and Prevention Research, National Institute of Child Health and Human Development, Building 6100, 7B05, 9000 Rockville Pike, Bethesda, Maryland, 20892–7510, or call non-toll free number (301) 496–5674 or E-mail your request, including your address to *bm79K@nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: June 24, 2005.

Paul L. Johnson,

Project Clearance Liaison, NICHD, National Institutes of Health.

[FR Doc. 05–13154 Filed 7–1–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Record of Decision—National Institutes of Health, Master Plan 2003 Update, Main Campus, Bethesda, MD

AGENCY: Department of Health and Human Services, National Institutes of Health (NIH).

ACTION: Notice.

After completion of a Final Environmental Impact Statement (EIS) for the NIH Bethesda Master Plan 2003 Update and a thorough consideration of public comments on the Draft EIS, the Department of Health and Human Services, NIH, has decided to approve the Proposed Action, the Master Plan 2003 Update, as the guide for the future growth and development of the Bethesda campus. This alternative was identified as the Preferred Alternative in the Final EIS.

The Master Plan 2003 Update is a revision of the campus' 1995 Master Plan. It provides a framework for satisfying NIH's projected incremental growth needs on the Bethesda campus while ensuring long term planning and design coherence. The Update accommodates a potential growth in campus population from 17,500 to 22,000 employees by the end of the 20-year planning period. During this same period, building space on the Bethesda campus could increase from approximately 7.4 million gross square feet (gsf) to nearly 10.7 million gsf. While the Master Plan Update is a reasonable guideline for future campus development, it does not represent the pre-approval of any individual facility project. Implementation of individual projects is dependent upon the annual Federal budget process as well as the Department of Health and Human Services (DHHS) project approval process.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Wilson, Master Planner, Division of Facilities Planning, Office of Research Facilities, National Institutes of Health, 31 Center Drive, Room 3B44, MSC 2162, Bethesda, Maryland 20817–2162, telephone 301–496–5037, e-mail: *wilsoron@ors.od.nih.gov.*

SUPPLEMENTARY INFORMATION: The National Institutes of Health (NIH) has prepared this Record of Decision (ROD) on the Final EIS for the Master Plan 2003 Update, NIH Main Campus, Bethesda, Maryland. This ROD includes:

1. The final decision;
2. All alternatives considered, specifying the alternative or alternatives which were considered to be environmentally preferable;
3. A discussion of factors which were involved in the decision, including any essential considerations of national policy which were balanced in making the decision and a statement of how those considerations, if any, entered into the decision;
4. A statement of whether all practicable means to avoid or minimize potential environmental harm from the selected alternative have been adopted, and if not, why they were not;
5. A description of mitigation measures that will be undertaken to make the selected alternative environmentally acceptable;
6. A discussion of the extent to which pollution prevention is included in the decision and how pollution prevention measures will be implemented; and
7. A summary of any monitoring and enforcement program adopted for any mitigation measures.

Alternatives Considered

Two alternatives were identified and considered in the Final EIS. They are (1) the Proposed Action, and (2) the No Action Alternative. The Proposed Action is described above under **ACTION**. Under the No Action Alternative, NIH would continue to maintain and repair its existing facilities in response to Congressional actions and to address building deficiencies and accreditation and safety codes and guidelines. In addition, NIH would complete several campus building projects already in various stages of planning, design, or construction. Consequently, despite the assumed limits on campus growth implied by the No Action Alternative, total building space on campus would still increase by 1.5 million gsf by 2007, or from 7.4 million gsf to approximately 8.9 million gsf. An estimated 17,900 employees would be located on the campus under the No Action Alternative.

Various campus design alternatives and growth scenarios were identified during the development of the 1995 Master Plan, the forerunner to the Master Plan 2003 Update. Some of these design alternatives were rejected as not practical or unsuitable for the operational or physical conditions present on the campus, or because they conflicted with planning principles and goals. In the end, the design approach taken in the 2003 Update follows the 1995 Preferred Concept, with some refinements to adapt the plan to new and evolving NIH needs.

Because of its limited scope, the No Action Alternative would result in less adverse environmental impact than the Proposed Action. The Final EIS does, however, contain mitigation measures to lessen or eliminate impacts of the Proposed Action.

Factors Involved in the Decision

The primary factors involved in NIH's decision to proceed with the Proposed Action as the selected action are described below.

First, DHHS' Facilities Manual requires Operating Divisions to prepare master plans for their sites if they contain more than one principal building or activity. The manual also requires periodic master plan updates as new conditions arise or as circumstances dictate. In addition, under Section 5 of the National Capital Planning Act, Federal agencies in the National Capital Region are required to prepare master plans for their installations and update them every five years. The Master Plan 2003 Update satisfies DHHS and National Capital Planning Commission (NCPC) master planning requirements.

In addition, based on analyses in the Draft and Final EISs, the selected action best satisfies the proposal's Purpose and Need, as described in the EIS. The purpose of the Master Plan Update is to provide guidance for the orderly and comprehensive physical development of the Bethesda campus so that NIH can continue to perform its mission, which is to conduct biomedical research, educate and train researchers, assist in the transfer of biotechnology, and disseminate biomedical and related information to help improve and extend the lives and enhance the welfare of the

American people. The master plan also recognizes that NIH is part of a larger Bethesda community and that its activities have the potential to negatively impact surrounding residential communities if not carefully designed and controlled. In this respect, the master plan serves as a vehicle for educating and informing local, state, and federal authorities of NIH's long term facility objectives for its Bethesda campus so these authorities can align their own plans and proposals with the ideas presented in the plan. The master planning process also assists NIH in identifying and attending to community concerns related to NIH development.

Finally, the Master Plan 2003 Update helps NIH create an environment conducive for the achievement of NIH research goals. One of the major factors in NIH's ability to accomplish its mission is its success in recruiting, attracting, and retaining highly qualified senior scientists and promising young investigators, many of which are part of NIH's Intramural Research Program (IRP) based at the Bethesda campus. Dedicated and talented research staff, state-of-the-art research and research support facilities, quality employee amenities and services, and an attractive and open academic-like campus environment that encourages intellectual exchange are considered vital to a successful IRP. The Master Plan 2003 Update provides a well-conceived conceptual framework for the physical development of the Bethesda campus enabling NIH to provide the conditions necessary to compete over the long term with academia and industry for quality researchers.

From an environmental perspective, the Master Plan 2003 Update will result in minor to negligible disruption to the physical and biological environment. In instances where unavoidable adverse environmental effects are anticipated, the potential adverse impacts will be mitigated through compliance with existing state and Federal regulatory requirements, application of Best Management Practices (BMPs), implementation of a campus Transportation Management Plan, adherence to the 1992 Memorandum of Understanding (MOU) between NIH, the Montgomery County Planning Board, and NCPC regarding parking and traffic, and construction contract requirements that limit construction-related effects.

Practicable Means To Avoid or Minimize Potential Environmental Harm From the Selected Alternative

All practicable means to avoid or minimize adverse environmental effects from the selected action have been identified and incorporated into the action. As noted above, these include compliance with existing regulatory requirements, application of BMPs, implementation of a Transportation Management Plan, adherence to the 1992 MOU, and construction contract requirements that limit construction-related effects, such as dust, noise, and traffic.

Mitigation Measures

During the preparation of the Final EIS several potential environmental issues associated with implementation of the Proposed Action were identified. These included land use (land disturbance), construction-related noise, dust, and traffic, transportation (traffic and parking), noise generated from new NIH facilities, terrestrial vegetation (removal of mature trees), cultural (historic and archaeological resources and potential impacts on National Register eligible properties), and pollution prevention/waste management (handling and disposal of solid, mixed/hazardous, and medical/pathological waste generated during facility operations). NIH determined that these potential adverse impacts were capable of being mitigated through compliance with existing local, state, and Federal regulatory requirements, application of BMPs, adherence to established local/Federal agreements, and construction contract requirements.

Pollution Prevention

In accordance with DHHS General Administration Manual Part 30, Environmental Protection (dated February 25, 2000), pollution prevention is a major focus of the Master Plan Update and will also be incorporated into the design, construction, and operation of future NIH facilities. Pollution prevention measures incorporated in the selected action include:

- Expanding upon NIH's program to segregate and minimize solid, mixed/hazardous, and medical/pathological waste;
- Requiring BMPs during construction of new facilities;
- Incorporating new state-of-the-art, energy efficient, and environmental-friendly systems in new facilities; and
- Enforcing NIH's Transportation Management Plan.

Monitoring and Enforcement Program for Mitigation Measures

Since potential adverse impacts would be mitigated by compliance with existing regulatory requirements, application of BMPs, and adherence to agreements and construction contract requirements, existing reporting requirements and contract administration procedures will serve in lieu of a formal Monitoring and Enforcement Program.

Conclusion

Based upon careful review and consideration of the impacts identified in the Final EIS; public comments received throughout the National Environmental Policy Act process, including comments on the Draft EIS; and other relevant factors, such as DHHS and NCPC master planning requirements, NIH has decided to approve the Proposed Action, the Master Plan 2003 Update as the guide for future growth and development of its Bethesda Main Campus.

Dated: June 23, 2005.

Leonard Taylor, Jr.,

Director, Office of Research Facilities, National Institutes of Health.

[FR Doc. 05–13147 Filed 7–1–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 on Mental Health Special Emphasis Panel, Review of RADAR.

Date: July 22, 2005.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Martha Ann Carey, PhD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Mental Health, NIH, Neuroscience Center, 6001 Executive

Boulevard, Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301/443–1606, *mcarey@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS.)

Dated: June 27, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–13151 Filed 7–1–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Dendritic Cell Vaccines: 3D Model Based on Morphological and Genetic Analysis

Date: July 22, 2005.

Time: 10 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Child Health and Human Development, 6100 Executive Blvd., 5B01, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–6884, *ranhandj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 27, 2005

LaVerne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–13152 Filed 7–1–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2005–0043]

Open Meeting of National Infrastructure Advisory Council (NIAC); Correction

AGENCY: Directorate of Information Analysis and Infrastructure Protection, DHS.

ACTION: Notice of meeting; correction.

SUMMARY: The Department of Homeland Security published a document in the **Federal Register** of June 27, 2005, concerning the National Infrastructure Advisory Council (NIAC) meeting on Tuesday, July 12, 2005. The time has changed for the meeting.

FOR FURTHER INFORMATION CONTACT: Nancy J. Wong, NIAC Designated Federal Official, telephone 703–235–5352.

Correction

In the **Federal Register** of June 27, 2005, in FR Doc. 05–12752, on page 36941, in the third column, correct the **DATES** caption to read:

DATES: The National Infrastructure Advisory Council (NIAC) will meet on Tuesday, July 12, 2005, from 9:30 a.m. to 12:30 p.m. at the National Press Club in Washington DC.

Dated: June 30, 2005.

David Houser,

Federal Register Certification Official.

[FR Doc. 05–13217 Filed 7–1–05; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[DHS–2005–0040]

Privacy Act of 1974; Systems of Records

AGENCY: Privacy Office; Department of Homeland Security

ACTION: Notice of Privacy Act system of records.

SUMMARY: The Department of Homeland Security is creating a new system of records for the United States Visitor and Immigrant Status Indicator Technology Program. This new system of records is the Automated Identification Management System. It will be used to facilitate and further automate processes for entry into and exit from the United States through the issuance, to covered individuals, of a radio frequency identification tag with a unique identifier. These tags and their associated reading, processing, and storage components are intended to improve the recording of entry and exit data at U.S. land border Ports of Entry beginning July 31, 2005.

DATES: The new system of records will be effective August 4, 2005, unless comments are received that result in a contrary determination.

ADDRESSES: You may submit comments, identified by EPA DOCKET NUMBER DHS–2005–0040 by *one* of the following methods:

- *EPA Federal Partner EDOCKET Web Site: http://www.epa.gov/feddocket.* Follow instructions for submitting comments on the Web site.
- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 298–5201.
- *Mail:* Steve Yonkers, US–VISIT Privacy Officer, 245 Murray Lane, SW., Washington, DC 20538; Nuala O'Connor Kelly, Chief Privacy Officer, Department of Homeland Security, 601 S. 12th Street, Arlington, VA 22202–4220.

FOR FURTHER INFORMATION CONTACT: Steve Yonkers, US–VISIT Privacy Officer, 245 Murray Lane, SW., Washington, DC 20538, by telephone (202) 298–5200 or by facsimile (202) 298–5201.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS) has established the United States Visitor and Immigrant Status Indicator Technology Program (US–VISIT), an integrated, automated entry-exit system that records the arrival and departure of covered individuals; verifies their identities and authenticates their travel documents through comparison of biometric identifiers. Individuals subject to US–VISIT are required to provide finger scans, photographs, or other biometric identifiers upon arrival in, or departure from, the United States.

US–VISIT has been implemented in increments. As part of Increment 2, US–VISIT will test the use of passive radio frequency identification (RFID) tags to automatically, passively, and remotely record the entry and exit of covered individuals. These RFID tags will be

embedded in the Form I–94 or I–94W, which is an Arrival-Departure Record issued to a traveler. The RFID tag, which will contain a unique identification code, will be linked at a POE with the biographic and biometric information that was collected when the traveler entered the United States.

When travelers either drive or walk through the port-of-entry, a transceiver will send out a harmless radio wave frequency that will power the DHS-issued RFID tag to transmit back a unique identifier code number. This code number, when received by the transceiver, will be relayed back to secure DHS computer systems and matched with the biographic and/or biometric data of the traveler. The RFID tag number will not contain or be derived from any personal information. DHS will be able to automatically identify and document the exits and, if applicable, the subsequent re-entry of covered individuals.

To collect, store, and maintain the unique RFID tag number and the matching biographic and/or biometric data, US–VISIT is creating a new Privacy Act system of records, the Automated Identification Management System (AIDMS).

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system to make agency recordkeeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist the individual to more easily find such files within the agency. Individuals may request their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations (6 CFR 5.21).

US–VISIT is hereby publishing the description of the AIDMS system of records. In accordance with 5 U.S.C. 552a(r), a report of this new system of records has been provided to the Office of Management and Budget (OMB) and to the Congress.

DHS/US–VISIT 001

SYSTEM NAME:

Department of Homeland Security (DHS), United States Visitor and Immigration Status Indicator Technology, Automated Identification Management System (AIDMS).

SYSTEM LOCATION:

The primary AIDMS records database is located at the DHS Data Center in Ashburn, Virginia. AIDMS interfaces, RFID tag readers, and other supporting components are located at U.S. land border Ports of Entry (POE).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system (''covered individuals'') consist of aliens as that term is defined in section 101(a)(3) of the Immigration and Nationality Act (INA): any person not a citizen or national of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

The AIDMS maintains four general categories of records: Traveler (*i.e.*, covered individual) identification information, RFID tag related information, RFID tag read event information, and border crossing history information.

1. Traveler identification information includes the AIDMS unique traveler identification number (*i.e.*, the traveler's RFID tag number); and data received from the TECS database within Customs and Border Protection (CBP). The data received from TECS was collected as part of the form I–94 and form I–94W issuance process and may include: The traveler's complete name; date of birth; and travel document type (*e.g.*, visa), number, date, and country of issuance.

2. RFID tag related information encompasses data collected about the issuance and status and may include: RFID tag number; status (*e.g.*, active, returned, seized, lost or stolen, damaged, location, date/time, identification number of the CBP officer responsible for the transaction).

3. RFID tag read event information is transactional data associated with the reading of an RFID tag and may include: RFID tag number associated with a read event; transaction identification numbers; type, date/time and location of a read event; direction of border crossing (entry or exit); and equipment identification numbers involved in the read event.

4. Border crossing history information consists of the composition of information from the other three categories of information into a border crossing event that is communicated to other DHS systems which support the US–VISIT Program, such as TECS and the Arrival and Departure Information System (ADIS).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1187, 1221, 1722, 1731.

PURPOSE (S) OF THE SYSTEM:

The AIDMS system will provide the capability to automatically, passively, and remotely record the entry and exit of covered individuals using Radio Frequency Identification (RFID) tags. The RFID tag will be embedded in the I–94 Arrival/Departure forms, and will use a unique ID number embedded in the tag to associate the data on the form I–94 with the tag. After the tag-enabled form I–94 is issued to an individual, the ID number will be used as a pointer to the individual's biographic information located in the TECS database maintained by CBP. Biometric information, if applicable, is contained in the Automated Biometric Identification System (IDENT) maintained by US–VISIT. When the individual passes through the entry and exit lanes of a POE, the ID number will be read and used to retrieve the individual's immigration information for use in the entry and exit inspection processes by CBP officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To appropriate government agencies or organizations (regardless of whether they are Federal, state, local, foreign, or tribal), lawfully engaged in collecting law enforcement (whether civil, criminal, or administrative) or intelligence information and/or charged with investigating, prosecuting, enforcing, or implementing civil and/or criminal laws, related rules, regulations, or orders, to enable these entities to carry out their law enforcement and intelligence responsibilities.

B. In a proceeding before a court, grand jury, or adjudicative body when records are determined by the Department of Homeland Security to be arguably relevant to the proceeding where any of the following is a party: (1) The DHS, or any DHS component, or subdivision thereof; (2) any DHS

employee in his or her official capacity; (3) any DHS employee in his or her individual capacity when the DHS has agreed to represent the employee or has authorized a private attorney to represent him or her; and (4) the United States, where the DHS or its components are likely to be affected.

C. To a Member of Congress or staff acting on the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

D. To the National Archives and Records Administration or other Federal government agencies in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

E. To the news media and the public when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of the Department or is necessary to demonstrate the accountability of the Department's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

F. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal government, when necessary to accomplish an agency function related to this system of records.

G. To an agency, organization, or individual for the purposes of performing authorized audit or oversight operations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

AIDMS electronic records are temporarily stored in systems (including, but not limited to, electronic readers, databases, servers, workstations, and message queues) at land border POEs and at principally stored at the primary AIDMS records database at the DHS Data Center in Ashburn, Virginia.

RETRIEVABILITY:

Information may be searched and retrieved based on various data elements, including, but not limited to: RFID tag number, traveler identification number, transaction number, and name of covered individual.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws and policies, including the DHS Information Technology Security Program Handbook. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who have a need-to-know, using locks, and password protection identification features. The system is also protected through a multi-layer security approach. The protective strategies are physical, technical, administrative and environmental in nature and provide access control to sensitive data, physical access control to DHS facilities, confidentiality of communications, authentication of sending parties, and personnel screening to ensure that all personnel with access to data are screened through background investigations commensurate with the level of access required to perform their duties.

RETENTION AND DISPOSAL:

The information that resides in the AIDMS is temporary and is retained only as long as needed to process a covered individual's land border crossing and to transfer the crossing information to existing DHS systems. US–VISIT is working with the U.S. National Archives and Records Administration (NARA) to develop a retention schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, AIDMS Program Management Office, US–VISIT Program, Border and Transportation Security, U.S. Department of Homeland Security, Washington, DC 20528, USA.

NOTIFICATION PROCEDURES:

To determine whether this system contains records relating to you, write to the US–VISIT Privacy Officer, US–VISIT Program, Border and Transportation Security, U.S. Department of Homeland Security, 245 Murray Lane SW., Washington, DC 20528, USA.

RECORD ACCESS PROCEDURES:

Requests for access, confirmation, or data correction must be in writing and should be addressed to the US–VISIT Privacy Officer above. Requests should conform to the requirements of 6 CFR part 5, subpart B, which provides the rules for requesting access to Privacy Act records maintained by DHS. The envelope and letter should be clearly marked ''Privacy Act Access Request.'' The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury.

CONTESTING RECORD PROCEDURES:

Same as ''Notification Procedures'' and ''Record Access Procedures,'' above.

RECORD SOURCE CATEGORIES:

The records in this system come directly from the RFID tag embedded in the I–94 Arrival/Departure forms, information located in the TECS database maintained by CBP, and information captured directly from the covered individual. Each RFID tag will use a unique ID number embedded in the tag to associate the I–94 holders with the tag. After the tag-enabled I–94 is issued to an individual, the ID number will be used as a pointer to the individual's biographic information located in the TECS database. When the individual passes through the entry and exit lanes of a POE, the ID number will be read and used to retrieve the individual's immigration information for use in the entry and exit inspection processes by CBP officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: June 29, 2005.

Nuala O'Connor Kelly,

Chief Privacy Officer.

[FR Doc. 05–13215 Filed 6–30–05; 11:34 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–21472]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Numbers: 1625–0028 (Formerly 2115–0111), 1625–0034 (Formerly 2115–0139), and 1625–0043 (Formerly 2115–0540)

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of three Information Collection Requests (ICRs). The ICRs are for (1) 1625–0028, Course Approvals for Merchant Marine Training Schools, (2) 1625–0034, Ships' Stores Certification for Hazardous Materials Aboard Ships, and (3) 1625–0043, Ports and Waterways Safety—

Title 33 CFR Subchapter P. Before submitting the ICRs to OMB, the Coast Guard is inviting comments on them as described below.

DATES: Comments must reach the Coast Guard on or before September 6, 2005.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2005–21472] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

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

(3) By fax to the Docket Management Facility at (202) 493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at 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 also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICRs are available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Ms. Barbara Davis), 2100 Second Street, SW., Washington, DC 20593–0001. The telephone number is (202) 267–2326.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone (202) 267–2326, or fax (202) 267–4814, for questions on these documents; or telephone Ms. Andrea M. Jenkins, Program Manager, Docket Operations, (202) 366–0271, for questions on the docket.

SUPPLEMENTARY INFORMATION: *Public participation and request for comments:* We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov;* they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2005–21472], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in 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 Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Information Collection Request

1. *Title:* Course Approvals for Merchant Marine Training Schools.

OMB Control Number: 1625–0028.

Summary: The information is needed to ensure that merchant marine training schools meet minimal statutory requirements. The information is used to approve the curriculum, facility, and faculty for these schools.

Need: Title 46 U.S.C. 7315 authorizes an applicant for a license or document to substitute the completion of an approved course for a portion of the required sea service. Title 46 Code of Federal Regulations 10.302 prescribe the Coast Guard regulations for course approval.

Respondents: Merchant marine training schools.

Frequency: Five years for reporting; one year for recordkeeping.

Burden Estimate: The estimated burden has been increased from 16,988 hours to 27,675 hours a year.

2. *Title:* Ships' Stores Certification for Hazardous Materials Aboard Ships.

OMB Control Number: 1625–0034.

Summary: The information is needed to ensure that personnel aboard ships are made aware of the proper usage and stowage instructions for certain hazardous materials. Provisions are made for waivers of products in special DOT hazard classes.

Need: Title 46 U.S.C. 3306 authorizes the Coast Guard to prescribe regulations for the transportation, stowage, and use of ships' stores and supplies of a dangerous nature. Title 46 Code of Federal Regulations part 147 prescribe the regulations for hazardous ships' stores.

Respondents: Suppliers and manufacturers of hazardous products used on ships.

Frequency: On occasion.

Burden Estimate: The estimated burden has been increased from 6 hours to 9 hours a year.

3. *Title:* Ports and Waterways Safety—Title 33 CFR subchapter P.

OMB Control Number: 1625–0043.

Summary: This collection of information allows the master, owner, or agent of a vessel affected by these rules to request deviation from the requirements governing navigation safety equipment to the extent that there is no reduction in safety.

Need: Title 33 CFR Chapter I Subchapter P allows any person directly affected by these rules to request a deviation from any of the requirements as long as it does not compromise safety. This collection enables the Coast Guard to evaluate the information the respondent supplies, to determine whether it justifies the request for a deviation.

Respondents: Master, owner, or agent of a vessel.

Frequency: On occasion.

Burden Estimate: The estimated burden has been increased from 2,929 hours to 3,171 hours a year.

Dated: June 21, 2005.

Sherry Richardson,

Acting, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 05–13127 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–21473]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Number: 1625–0010

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of one Information Collection Request (ICR). The ICR is for 1625–0010, Defect/Noncompliance Report and Campaign Update Report. Before submitting the ICR to OMB, the Coast Guard is inviting comments on it as described below.

DATES: Comments must reach the Coast Guard on or before September 6, 2005.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2005–21473] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

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

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at 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 also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Ms. Barbara Davis), 2100 Second Street, SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone 202–267–2326, or fax 202–267–4814, for questions on these documents; or telephone Ms. Andrea M. Jenkins, Program Manager, Docket Operations, 202–366–0271, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov;* they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2005–21473], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in 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 Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Information Collection Request

Title: Defect/Noncompliance Report and Campaign Update Report.

OMB Control Number: 1625–0010.

Summary: Manufacturers whose products contain defects which create a substantial risk of personal injury to the public or which fail to comply with an applicable U.S. Coast Guard safety standard are required to conduct defect notification and recall campaigns in accordance with 46 U.S.C. 4310. Regulations in 33 CFR part 179 require manufacturers to submit certain reports to the Coast Guard about progress made in notifying owners and making repairs.

Need: 46 U.S.C. 4310 requires manufacturers of boats and engines to notify consumers, both of failures to comply with applicable standards of the Coast Guard for safety and of defects that create a substantial risk of personal injury to the public. 46 U.S.C. 4310 and 33 CFR part 179 prescribe requirements for certain reports to the Coast Guard concerning potential impacts on recreational boating safety, how problems will be corrected, and progress in notifying owners and repairing affected units.

Respondents: Manufacturers of boats and certain items of ''designated'' associated equipment (inboard engines, outboard motors, or sterndrive engines).

Frequency: Quarterly.

Burden Estimate: The estimated burden has been decreased from 328 hours to 315 hours a year.

Dated: June 21, 2005.

Sherry Richardson,

Acting, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 05–13128 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD08–05–037]

Implementation of Sector Lower Mississippi River

AGENCY: Coast Guard, DHS.

ACTION: Notice of organizational change.

SUMMARY: The Coast Guard announces the stand-up of Sector Lower

Mississippi River. The Sector Lower Mississippi River Commanding Officer has the authority, responsibility and missions of the prior Group Commander, Captain of the Port (COTP), Officer in Charge, Marine Inspection (OCMI), Federal On Scene Coordinator (FOSC), Federal Maritime Security Coordinator (FMSC), and Search and Rescue Mission Coordinator (SMC) Lower Mississippi River. The Coast Guard has established a continuity of operations whereby all previous practices and procedures will remain in effect until superseded by an authorized Coast Guard official and/or document.

DATES: This change is effective July 8, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD08–05–037 and are available for inspection or copying at Commander (rpl), Eighth Coast Guard District, 500 Poydras Street, New Orleans, Louisiana 70130–3310 between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Michael Roschel, Eighth District Planning Office at 504–589–6293.

SUPPLEMENTARY INFORMATION:

Discussion of Notice

Sector Lower Mississippi River is located at #2 Auction Avenue, Memphis, Tennessee 38105 and contains a single Command Center. Sector Lower Mississippi River is composed of a Response Department, Prevention Department, and Logistics Department. Effective July 8, 2005, Group Lower Mississippi River and Marine Safety Office Memphis no longer exist as organizational entities. Sector Lower Mississippi River is responsible for all Coast Guard Missions in the following zone: ''The boundary of Sector Lower Mississippi River is comprised of Oklahoma; all of Arkansas except for Boone, Marion, Baxter, and Fulton Counties; in Tennessee: Shelby, Fayette, Hardeman, Tipton, Haywood, Lauderdale, Crockett, and Dyer Counties, and all of Lake County, with the exception of the portion of the Mississippi River which borders that part of New Madrid County, Missouri, lying east of 89° 30′W longitude (including the area known as Winchester Towhead); in Missouri: Pemiscot County, and those portions of Dunklin and New Madrid Counties south of a line drawn eastward from the southeast corner of Butler County to the westernmost point of intersection of the Missouri, Kentucky, and Tennessee borders at the lower Mississippi River (Mile 882.7). In Mississippi: DeSoto, Marshall, Benton, Tippah, Tunica, Tate, Coahoma, Quitman, Panola, Lafayette, Union, Pontotoc, Lee, Bolivar, Washington, Sunflower, Tallahatchie, Leflore, Yalobusha, Grenada, Calhoun and Chickasaw Counties.''

Sector Lower Mississippi River's zone will be modified in the future upon the stand-up of adjoining sectors. Notice will be published in the **Federal Register**.

The Sector Lower Mississippi River Commander is vested with all the rights, responsibilities, duties, and authority of a Group Commander and Commanding Officer Marine Safety Office, as provided for in Coast Guard regulations, and is the successor in command to the Commanding Officers of Group Lower Mississippi River and Marine Safety Office Memphis. The Sector Lower Mississippi River Commander is designated: (a) Captain of the Port (COTP) for the Lower Mississippi River COTP zone; (b) Federal Maritime Security Coordinator (FMSC); (c) Federal On Scene Coordinator (FOSC) for the Lower Mississippi River COTP zone, consistent with the National Contingency Plan; (d) Officer in Charge of Marine Inspection (OCMI) for the Lower Mississippi River Marine Inspection Zone and, (e) Search and Rescue Mission Coordinator (SMC). The Deputy Sector Commander is designated alternate COTP, FMSC, FOSC, SMC and Acting OCMI. A continuity of operations order has been issued ensuring that all previous Group Lower Mississippi River and Marine Safety Office Memphis practices and procedures will remain in effect until superseded by Commander, Sector Lower Mississippi River. This continuity of operations order addresses existing COTP regulations, orders, directives and policies.

The following information is a list of updated command titles, addresses and points of contact to facilitate requests from the public and assist with entry into security or safety zones:

Name: Sector Lower Mississippi River.

Address: Commander, U.S. Coast Guard Sector Lower Mississippi River, #2 Auction Avenue, Memphis, Tennessee 38105.

Contact: General Number, (901) 544–3912, Sector Commander: Commander David Stalfort; Deputy Sector Commander: Lieutenant Commander Jerry Davenport.

Dated: June 13, 2005.

R.F. Duncan,

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

[FR Doc. 05–13130 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4892–N–02]

OIG Fraud Alert: Bulletin on Detecting and Preventing Embezzlement by Section 8 Fund Handlers

AGENCY: Office of the Inspector General, HUD.

ACTION: Notice.

SUMMARY: This **Federal Register** notice provides important information recently issued by HUD's Office of the Inspector General (OIG) on a recurring national problem in the embezzlement of Section 8 funds by housing authority (HA) officials empowered to issue Section 8 vouchers (checks) on behalf of low-income renters.

FOR FURTHER INFORMATION CONTACT: Bryan P. Saddler, Counsel to the Inspector General, Office of Legal Counsel Office of 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

HUD's OIG is established by law to provide independent and objective reporting to the Secretary, the Congress, and the American people through its audit and investigative activities. OIG works to promote the integrity, efficiency and effectiveness of HUD programs and operations to assist the Department in meeting its mission. OIG is charged specifically with combating waste, fraud, and abuse in the administration of HUD programs and operations.

Consistent with this charge, Section II of this notice presents OIG's recently issued bulletin on detecting and preventing embezzlement of local HA checks.

II. Fraud Information Bulletin: Detecting and Preventing Embezzlement by Section 8 Fund handlers

Purpose

This Bulletin highlights a recurring national problem in the embezzlement of Section 8 funds by HA officials empowered to issue Section 8 vouchers (checks) on behalf of low-income renters.

Background

OIG's mission is to provide policy direction for HUD and to conduct, supervise, and coordinate audits, investigations, and other activities for the purpose of promoting economy and efficiency in the administration of the programs and operations of HUD and preventing and detecting fraud and abuse in such programs. HUD administers federal aid to local HAs that own and operate housing for low-income residents at rents they can afford. During the course of audits and investigations of, and relating to, HAs, OIG has discovered multiple instances of HA officials abusing Section 8 vouchers for personal gain. Examples of these schemes follow.

Examples

In Newark, NJ, a former official with the Housing Authority for the City of Perth Amboy (HACPA) pled guilty to four counts of theft from a program receiving government funds. The official administered Section 8 funds for HACPA, including issuing vouchers to landlords on behalf of Section 8 recipients. While serving in this capacity, the official forged the signatures of various landlords on Section 8 vouchers and endorsed the checks over to herself. The official then deposited the funds into her personal account. Over several years, the official managed to embezzle $407,603 of Section 8 funds in this manner, which she spent on jewelry, clothes, travel, and other personal expenses.

In Boston, MA, a former official with the Avon Housing Authority (AHA) was indicted on multiple bribery counts. The official, who administered Section 8 funds for the AHA, solicited and received bribes from Section 8 applicants. In exchange for these bribes, the official would issue vouchers to the applicants, some of whom would not otherwise be eligible to receive them or would normally wait longer to receive them. The official exceeded the AHA's number of allowed vouchers by over 90, for a total value of approximately $1.3 million, causing the AHA to pay nearly $50,000 per month it did not have. As a result, the AHA was forced to terminate more than 90 eligible families from the Section 8 program.

What Happens

In each case, a particular HA official possesses primary responsibility for issuing Section 8 vouchers. Although other HA personnel may technically be required to play a role in authorizing such vouchers, the official in question acts independently to a large degree. Exploiting this independence, the official mishandles the Section 8 funds in some way, such as by fraudulently endorsing vouchers and keeping the funds, or by issuing unauthorized vouchers in exchange for bribes.

The Problem

Federal funds are at risk, and from an HA's standpoint avoiding victimization can be difficult. First, even tiny HAs may have numerous landlords who regularly receive Section 8 vouchers, and it only takes one employee to open an HA to fraud. Second, HAs may have few personnel, often stretched thin or performing multiple jobs, making it difficult to detect and prevent fraud by a fellow HA employee. Third, every Section 8 dollar wasted or stolen is lost to those low-income individuals who require Section 8 assistance, thereby reducing the number of available vouchers.

Red Flags

- Discrepancies between income actually received by a participating landlord and the amount shown on the landlord's 1099.
- Discrepancies between income actually received by a participating landlord and the amount indicated in recertification documents.
- Inability or unwillingness of HA's Section 8 fund administrator to produce copies of vouchers.

HA Responsibility. What Can Be Done?

Internal Controls

The key step in preventing these problems is for HAs to enhance procedures for preventing and detecting fraud and mismanagement (*i.e.*, to improve internal controls). The most effective internal control concept is separation of duties. An ideal system of internal controls will separate three functions: (1) Authorizing transactions; (2) keeping books; and (3) handling funds.

Certification and Recertification Authority. Duties should be separated even further, however. HA officials who handle funds should not also handle landlord certifications and recertifications for Section 8 eligibility, because the recertification process might reveal fraud, waste, or abuse in those officials' handling of Section 8 funds over the past year. For example, recertification documents could reveal discrepancies between the amount of money actually distributed to landlords, and the amount that official claimed was distributed. Otherwise, fund handlers might conceal misdeeds for long stretches of time. Certification and recertification authority should be placed only with HA personnel other than those who handle Section 8 funds.

Executive Director—More Training, Closer Supervision. Executive directors—particularly in small HAs—cannot leave all Section 8 matters in the hands of the official charged with handling the funds. Executive directors must undergo training on a regular basis to ensure current knowledge of the Section 8 program, and must supervise all HA employees closely to prevent unauthorized distributions of Section 8 funds. Separation of duties does not mean that the executive director abdicates all responsibility for functions performed by other HA officials.

External Controls

Electronic Payment Systems. HAs may also consider converting to an electronic payment system, and ensuring that the person(s) authorized to handle funds are not the only HA officials authorized to access that system. Electronic payment systems presumably generate an automatic, nearly real-time record of all issued vouchers, thereby ensuring that the HA official who keeps the books will learn promptly of any questionable Section 8 expenditures by the HA official responsible for administering the funds.

Dated: June 27, 2005.

Kenneth M. Donohue,

Inspector General.

[FR Doc. E5–3479 Filed 7–1–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection Activities Under OMB Review; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal of currently approved collection (OMB No. 1006–0005).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces the following Information

Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Individual Landholder's and Farm Operator's Certification and Reporting Forms for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428, OMB Control Number: 1006–0005. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Your comments must be received on or before August 4, 2005.

ADDRESSES: You may send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile to (202) 395–6566 or e-mail to *OIRA_DOCKET@omb.eop.gov.* A copy of your comments should also be directed to the Bureau of Reclamation, Attention: D–5300, P.O. Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed forms contact Stephanie McPhee, D–5300, P.O. Box 25007, Denver, CO 80225–0007; or by telephone: (303) 445–2897.

SUPPLEMENTARY INFORMATION:

Title: Individual Landholder's and Farm Operator's Certification and Reporting Forms for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428.

Abstract: This information collection requires certain landholders (direct or indirect landowners or lessees) and farm operators to complete forms demonstrating their compliance with the acreage limitation provisions of Federal reclamation law. These forms are submitted to districts who use the information to establish each landholder's status with respect to landownership limitations, full-cost pricing thresholds, lease requirements, and other provisions of Federal reclamation law. In addition, forms are submitted by certain farm operators to provide information concerning the services they provide and the nature of their farm operating arrangements.

All landholders whose entire westwide landholdings total 40 acres or less are exempt from the requirement to submit Reclamation Reform Act of 1982 (RRA) forms. Landholders who are ''qualified recipients'' have RRA forms submittal thresholds of 80 acres or 240 acres depending on the district's RRA forms submittal threshold category where the land is held. Only farm operators who provide multiple services to more than 960 acres held in trusts or by legal entities are required to submit forms. This collection of information allows the Bureau of Reclamation (we, our, or us) to establish landholders' compliance with Federal reclamation law.

Changes to the RRA forms and the instructions to those forms: Several proposed changes were made to the current RRA forms and the instructions to those forms prior to the 60-day comment period initiated by the notice published in the **Federal Register** on February 1, 2005 (70 FR 5219, Feb. 1, 2005). Those changes were designed to increase the respondents' understanding of the forms, instructions to the forms, and what information is required to be submitted with the forms to the districts. Comments resulting from the 60-day comment period consisted of minor language additions, deletions, and revisions to specific areas of certain RRA forms. Such additions, deletions, and revisions reflected language found in current RRA directives and/or in other places within the current RRA forms. Changes based on the comments received were made when the changes resulted in increased clarity and increased correctness of the RRA forms and the corresponding instructions. All other changes that were made are editorial or typographical in nature. The proposed revisions to the RRA forms will be included starting in the 2006 water year.

Frequency: Annually.

Respondents: Landholders and farm operators of certain lands in our projects, whose westwide landholdings exceed specified RRA forms submittal thresholds.

Estimated Total Number of Respondents: 17,875.

Estimated Number of Responses per Respondent: 1.02.

Estimated Total Number of Annual Responses: 18,233.

Estimated Total Annual Burden on Respondents: 13,590 hours.

Estimate of Burden for Each Form:

Form No.	Estimated Number of respondents	Frequency of response	Total annual responses	Burden estimate per form (in minutes)	Total burden hours
Form 7–2180	4,963	1.02	5,062	60	5,062
Form 7–2180EZ	503	1.02	513	45	385
Form 7–2181	1,467	1.02	1,496	78	1,945
Form 7–2184	36	1.02	37	45	28
Form 7–2190	1,845	1.02	1,882	60	1,882
Form 7–2190EZ	109	1.02	111	45	83
Form 7–2191	880	1.02	898	78	1,167
Form 7–2194	4	1.02	4	45	3
Form 7–21PE	178	1.02	182	75	228
Form 7–21PE-IND	5	1.02	5	12	1
Form 7–21TRUST	1,045	1.02	1,066	60	1,066
Form 7–21VERIFY	6,237	1.02	6,362	12	1,272
Form 7–21FC	243	1.02	248	30	124
Form 7–21XS	164	1.02	167	30	84
Form 7–21FARMOP	196	1.02	200	78	260
Total	17,875	1.02	18,233	.....	13,590

Comments

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) The accuracy of our burden estimate for the proposed collection of information;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) 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.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Reclamation will display a valid OMB control number on the RRA forms. A **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published in the **Federal Register** on February 1, 2005 (70 FR 5219, Feb. 1, 2005). A list of the comments received and our responses to those comments will be sent to: (1) all districts, (2) all commenters, and (3) OMB with the ICR; it is also available from us upon request.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Department of the Interior 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 public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: June 17, 2005.

Roseann Gonzales,

Director, Office of Program and Policy Services.

[FR Doc. 05–13138 Filed 7–1–05; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection Activities Under OMB Review; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal of a currently approved collection (OMB No. 1006–0006).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and comment: Certification Summary Form and Reporting Summary Form for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428, OMB Control Number: 1006–0006. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Your comments must be received on or before August 4, 2005.

ADDRESSES: You may send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile to (202) 395–6566 or e-mail to *OIRA_DOCKET@omb.eop.gov.* A copy of your comments should also be directed to the Bureau of Reclamation, Attention: D–5300, PO Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed forms contact Stephanie McPhee, D–5300, PO Box 25007, Denver, CO 80225–0007; or by telephone: (303) 445–2897.

SUPPLEMENTARY INFORMATION:

Title: Certification Summary Form and Reporting Summary Form for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428.

Abstract: The summary forms in this information collection are to be used by district offices to summarize individual landholder (direct or indirect landowner or lessee) and farm operator certification and reporting forms as required by the Reclamation Reform Act of 1982 (RRA), 43 CFR part 426 and 43 CFR part 428. This information allows the Bureau of Reclamation (we, our, or us) to establish water user compliance with Federal reclamation law.

Changes to the Reclamation Reform Act of 1982 (RRA) Forms and the Instructions to Those Forms

Proposed changes were made to the current Form 7–21SUMM–C, Form 7–21SUMM–R, the corresponding tabulation sheets, and the corresponding instructions prior to the 60-day comment period initiated by the notice published in the **Federal Register** on February 1, 2005 (70 FR 5222, Feb. 1, 2005). Those changes were designed to increase the respondents' understanding of the summary forms, the instructions to the summary forms, and what information is required to be submitted to Reclamation. Comments resulting from the 60-day comment period consisted of minor language additions, deletions, and revisions to specific areas of certain summary forms. Such additions, deletions, and revisions reflected in language found in current RRA directives and/or in other places within the current summary forms. Changes based on the comments received were made when the changes resulted in increased clarity and increased correctness of the summary forms and the corresponding instructions. All other changes that were made are editorial or typographical in nature. The proposed revisions to the summary forms will be included starting in the 2006 water year.

Draft of a New Form

As part of Reclamation's ongoing acceptance of users' comments on the RRA forms, Reclamation received a request to devise a way to more efficiently track limited recipients that hold less than 40 acres (*i.e.*, those that are below the RRA forms submittal threshold and thus do not submit standard RRA forms) and the full-cost and excess land held by such limited recipients. In an effort to address this comment Reclamation proposed a draft of a new form, ''Tabulation H of Limited Recipients That Hold Less Than 40 Acres, and Full-Cost Landholders and Excess Landowners That Are Below the RRA Forms Submittal Threshold.'' This draft form was presented for public comment during the 60-day comment period initiated by the **Federal Register** notice published on February 1, 2005 (70 FR 5222, Feb. 1, 2005). Nearly all of the public comments received with regard to the proposed new form expressed opposition to the form. Therefore, the proposed new form will not be implemented for use in the 2006 or future water years, and the proposed new form is not included as part of the forms presented for comment during this 30-day comment period.

Frequency: Annually.

Respondents: Contracting entities that are subject to the acreage limitation provisions of Federal reclamation law.

Estimated Total Number of Respondents: 238.

Estimated Number of Responses per Respondent: 1.25.

Estimated Total Number of Annual Responses: 298.

Estimated Total Annual Burden on Respondents: 11,900 hours.

Estimate of Burden for Each Form:

Form No.	Estimated No. of respondents	Frequency of response	Total annual responses	Burden hours per response	Total burden hours
7–21SUMM–C and tabulation sheets	198	1.25	248	40	9,900
7–21SUMM–R and tabulation sheets	40	1.25	50	40	2,000
Total	238	1.25	298		11,900

Comments

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) The accuracy of our burden estimate for the proposed collection of information;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) 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.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Reclamation will display a valid OMB control number on the RRA forms. A **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published in the **Federal Register** on February 1, 2005 (70 FR 5222, Feb. 1, 2005). A list of the comments received and our responses to those comments will be sent to: (1) All districts, (2) all commenters, and (3) OMB with the ICR; it is also available from us upon request.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Department of the Interior 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 public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: June 17, 2005.

Roseann Gonzales,

Director, Office of Program and Policy Services.

[FR Doc. 05–13145 Filed 7–1–05; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection Activities Under OMB Review; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal of currently approved collection (OMB No. 1006–0023).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and comment: Limited Recipient Identification Sheet and Trust Information Sheet, 43 CFR part 426, OMB Control Number: 1006–0023. As a result of Reclamation's activities to fully implement the acreage limitation provisions applicable to public entities (43 CFR 426.10 and the Act of July 7, 1970, Pub. L. 91–310), a new ''Public Entity Information Sheet'' (Form 7–2565) has been developed for approval as part of this information collection. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Your comments must be received on or before August 4, 2005.

ADDRESSES: You may send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile to (202) 395–6566 or e-mail to *OIRA_DOCKET@omb.eop.gov.* A copy of your comments should also be directed to the Bureau of Reclamation, Attention: D–5300, PO Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed forms contact Stephanie McPhee, D–5300, PO Box 25007, Denver, CO 80225–0007; or by telephone: (303) 445–2897.

SUPPLEMENTARY INFORMATION:

Title: Limited Recipient Identification Sheet, Trust Information Sheet, and Public Entity Information Sheet for Acreage Limitation, 43 CFR part 426 and the Act of July 7, 1970, Public Law 91–310.

Abstract: Identification of limited recipients—Some entities that receive Reclamation irrigation water may believe themselves to be under the Reclamation Reform Act of 1982 (RRA) forms submittal threshold and consequently, may not submit the appropriate RRA form(s). However, some of these entities may in fact have a different RRA forms submittal threshold than what they believe it to be due to the number of natural persons benefitting from each entity. In addition, some entities that are exempt from the requirement to submit RRA forms due to the size of their landholdings (directly and indirectly owned and leased land) may in fact be receiving Reclamation irrigation water for which the full-cost rate must be paid because the entity first started to receive Reclamation irrigation water deliveries after October 1, 1981 [43 CFR 426.6(b)(2)]. The information obtained through completion of the Limited Recipient Identification Sheet allows the Bureau of Reclamation (we, our, or us) to establish entities' compliance with Federal reclamation law. The Limited Recipient Identification Sheet is disbursed at our discretion.

Trust review—We are required to review and approve all trusts [43 CFR part 426.7(b)(2)] in order to ensure trusts meet the regulatory criteria specified in 43 CFR part 426.7. Land held in trust generally will be attributed to the beneficiaries of the trust rather than the trustee if the regulatory criteria are met. When we become aware of trusts with a relatively small landholding (40 acres

or less), we may extend to those trusts the option to complete and submit for our review the proposed Trust Information Sheet instead of actual trust documents. If we find nothing on the completed, Trust Information Sheet that would warrant the further investigation of a particular trust, that trustee will not be burdened with submitting trust documents to us for in-depth review. The Trust Information Sheet is disbursed at our discretion.

Acreage limitation provisions applicable to public entities—Land farmed by a public entity can be considered exempt from the application of the acreage limitation provisions provided the public entity meets certain criteria pertaining to the revenue generated through the entity's farming activities (43 CFR 426.10 and the Act of July 7, 1970, Pub. L. 91–310). We are required to ascertain whether or not public entities that receive Reclamation irrigation water meet such revenue criteria regardless of how much land the public entities hold (directly or indirectly own or lease) [43 CFR 426.10(a)]. In order to minimize the burden on public entities, standard RRA forms are submitted by a public entity only when the public entity holds more than 40 acres, which makes it difficult to apply the revenue criteria as required to those public entities that hold less than 40 acres. A new ''Public Entity Information Sheet'' (Form 7–2565) has been developed for approval as part of this information collection. The information obtained through completion of Form 7–2565 allows us to establish compliance with Federal reclamation law for those public entities that hold less than 40 acres and thus do not submit a standard RRA form because they are below the RRA forms submittal threshold. In addition, for those public entities that do not meet the exemption criteria, we must determine the proper rate to charge for Reclamation irrigation water deliveries. There is anticipated to be a very minimal increase in burden hours resulting from the addition of this form because of the very limited type of landholders that can use this form (*i.e.*, only those public entities that hold less than 40 acres). The Public Entity Information Sheet is disbursed at our discretion and will be effective starting in the 2006 water year. Because of the addition of this proposed new form to this information collection, we also propose that the title of this information collection be changed to ''Forms for Certain Landholders That Hold Less Than 40 Acres for Acreage Limitation.'' This change in title will allow us to capture the purpose of the forms in this information collection without listing lengthy form names.

Changes to the RRA forms and the instructions to those forms.

Several proposed changes were made to the current forms, and the proposed new form, prior to the 60-day comment period initiated by the notice published in the **Federal Register** on February 1, 2005 (70 FR 5221, Feb. 1, 2005). Those changes were designed to increase the respondents' understanding of the forms and how to complete them. Comments resulting from the 60-day comment period consisted of minor language revisions and layout revisions to specific areas of the forms. Changes based on the comments received were made when the changes resulted in increased clarity and increased correctness of the forms and the corresponding instructions. All other changes that were made are editorial or typographical in nature. The proposed revisions to the forms will be included starting in the 2006 water year.

Frequency: Generally, these forms will be submitted once per identified entity, trust, or public entity. Each year, we expect new responses in accordance with the following numbers.

Respondents: Entity landholders, trusts, and public entities identified by Reclamation that are subject to the acreage limitation provisions of Federal reclamation law.

Estimated Total Number of Respondents: 425.

Estimated Number of Responses per Respondent: 1.00.

Estimated Total Number of Annual Responses: 425.

Estimated Total Annual Burden on Respondents: 52 hours.

Estimate of Burden for Each Form:

Form No.	Estimated number of respondents	Frequency of response	Total annual responses	Burden estimate per form (in minutes)	Total burden hours
Limited Recipient Identification Sheet	175	1.00	175	5	15
Trust Information Sheet	150	1.00	150	5	12
Public Entity Information Sheet	100	1.00	100	15	25
Total	425	1.00	425	.....	52

Comments

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) The accuracy of our burden estimate for the proposed collection of information;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) 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.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Reclamation will display a valid OMB control number on the ''Limited Recipient Identification Sheet,'' the ''Trust Information Sheet,'' and the ''Public Entity Information Sheet.'' A **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published in the **Federal Register** on February 1, 2005 (70 FR 5221, Feb. 1, 2005). A list of the comments received and our responses to those comments will be sent to: (1) All districts, (2) all commenters, and (3) OMB with the ICR; it is also available from us upon request.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Department of the Interior 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 public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity

from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: June 17, 2005.

Roseanne Gonzales,

Director, Office of Program and Policy Services.

[FR Doc. 05–13146 Filed 7–1–05; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–376, 377, & 379 and 731–TA–788–793 (Review)]

Certain Stainless Steel Plate From Belgium, Canada, Italy, Korea, South Africa, and Taiwan

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the countervailing duty orders on certain stainless steel plate from Belgium, Italy, and South Africa and that revocation of the antidumping duty orders on certain stainless steel plate from Belgium, Italy, Korea, South Africa, and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2] The Commission further determines, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on certain stainless steel plate from Canada would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Background

The Commission instituted these reviews on April 1, 2004 (69 FR 17235) and determined on July 6, 2004 that it would conduct full reviews (69 FR 45076, July 28, 2004). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on September 3, 2004 (69 FR 53946).[4] The hearing was held in Washington, DC, on March 30, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on June 21, 2005. The views of the Commission are contained in USITC Publication 3784 (June 2005), entitled Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan: Investigations Nos. 701–TA–376, 377, & 379 and 731–TA–788–793 (Review).

Issued: June 28, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–13123 Filed 7–1–05; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given the National Council on the Humanities will meet in Washington, DC on July 28–29, 2005.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on July 28–29, 2005, will not be open to the public pursuant to subsections (c)(4), (c)(6) and (c)(9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the sessions on July 28, 2005 will be as follows:

Committee Meetings

(Open to the Public)

Policy Discussion

9–10:30 a.m.
- Challenge Grants—Room 415
- Education Programs—Room 315
- Federal/State Partnership—Room 507
- Public Programs—Room 420

(Closed to the Public)

Discussion of specific grant applications and programs before the Council.

10:30 a.m. until Adjourned
- Challenge Grants—Room 415
- Education Programs—Room 315
- Federal/State Partnership—Room 507
- Public Programs—Room 420

2:30–3:30 p.m.
- National Humanities Medals—Room 527

The morning session on July 29, 2005 will convene at 9:00 a.m., in the 1st Floor Council Room M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

A. Minutes of the Previous Meeting

B. Reports
1. Introductory Remarks
2. Staff Report
3. Congressional Report
4. Reports on Policy and General Matters
   a. Challenge Grants
   b. Education Programs
   c. Federal/State Partnership
   d. Public Programs
   e. National Humanities Medals

The remainder of the proposed meeting will be given to the consideration of specific applications and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Mr. Michael P. McDonald, Acting Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Vice Chairman Deanna Tanner Okun and Commissioners Jennifer A. Hillman and Daniel R. Pearson dissenting.

[3] Chairman Stephen Koplan and Commissioner Charlotte R. Lane dissenting.

[4] The revised schedule for the subject reviews was published on January 27, 2005 (70 FR 3944).

8282. Advance notice of any special needs or accommodations is appreciated.

Michael P. McDonald,

Acting Advisory Committee, Management Officer.

[FR Doc. 05–13183 Filed 7–1–05; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of OMB review of information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Title of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 445, Request For Approval of Official Foreign Travel.

3. *The form number if applicable:* NRC Form 445.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* Non-Federal consultants, contractors and NRC invited travelers (*i.e.*, non-NRC employees).

6. *An estimate of the number of annual responses:* 200.

7. *The estimated number of annual respondents:* 200.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 200 hours (200 forms × 1 hour each).

9. *An indication of whether Section 3507(d), Public Law 104–13 applies:* N/A.

10. *Abstract:* Form 445, ''Request for Approval of Foreign Travel,'' is supplied by consultants, contractors, and NRC invited travelers who must travel to foreign countries in the course of conducting business for the NRC. In accordance with 48 CFR part 20, ''NRC Acquisition Regulation,'' contractors traveling to foreign countries are required to complete this form. The information requested includes the name of the Office Director/Regional Administrator or Chairman, as appropriate, the traveler's identifying information, purpose of travel, listing of the trip coordinators, other NRC travelers and contractors attending the same meeting, and a proposed itinerary.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC World Wide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 4, 2005. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. John A. Asalone, Office of Information and Regulatory Affairs (3150–0193), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *JohnA.Asalone@omb.eop.gov* or submitted by telephone at (202) 395–4650.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated in Rockville, Maryland, this 28th day of June 2005.

For the Nuclear Regulatory Commission.

Beth C. St. Mary,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E5–3483 Filed 7–1–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 9, Public Records.

2. *Current OMB approval number:* 3150–0043.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* Individuals requesting access to records under the Freedom of Information or Privacy Acts, or to records that are already publicly available in the NRC's Public Document Room. Submitters of information containing trade secrets or confidential commercial or financial information who have been notified that the NRC has made an initial determination that the information should be disclosed.

5. *The number of annual respondents:* 7,987.

6. *The number of hours needed annually to complete the requirement or request:* 2,120 (3.8 responses per respondent).

7. *Abstract:* 10 CFR Part 9 establishes information collection requirements for individuals making requests for records under the Freedom of Information Act (FOIA) or Privacy Act (PA). It also contains requests to waive or reduce fees for searching for and reproducing records in response to FOIA requests; and requests for expedited processing of requests. The information required from the public is necessary to identify the records they are requesting; to justify requests for waivers or reductions in searching or copying fees; or to justify expedited processing. Section 9.28(b) provides that if the submitter of information designated to be trade secrets or confidential commercial or financial information objects to the disclosure, he must provide a written statement within 30 days that specifies all grounds why the information is a trade secret or commercial or financial information that is privileged or confidential.

Submit, by September 6, 2005, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated

collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Office, Brenda Jo. Shelton (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail to *infocollects@nrc.gov.*

Dated in Rockville, Maryland, this 24th day of June, 2005.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E5–3484 Filed 7–1–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR 31, General Domestic Licenses for Byproduct Material.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* Reports are submitted as events occur. Registration certificates may be submitted at any time. Changes to the information on the registration certificate are submitted as they occur.

5. *Who will be required or asked to report:* Persons receiving, possessing, using, or transferring byproduct material in certain items.

6. *An estimate of the number of responses:* 51,205 (1977 NRC responses + 6600 NRC recordkeepers + 16,228 Agreement State responses + 26,400 Agreement State recordkeepers).

7. *The estimated number of annual respondents:* Approximately 6,600 NRC general licensees and 26,400 Agreement State general licensees.

8. *An estimate of the number of hours needed annually to complete the requirement or request:* 15,118 (2,474 hours for NRC licensees [1,650 hours recordkeeping and 824 hours reporting] and 12,644 hours for Agreement State licensees [6,600 hours recordkeeping and 6,044 hours reporting] or an average of 0.4 hours per response and .25 hours per recordkeeper).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* 10 CFR part 31 establishes general licenses for the possession and use of byproduct material in certain items and a general license for ownership of byproduct material. General licensees are required to keep records and submit reports identified in part 31 in order for NRC to determine with reasonable assurance that devices are operated safely and without radiological hazard to users or the public.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 4, 2005. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. John Asalone, Office of Information and Regulatory Affairs (3150–0016), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *John_A._Asalone@omb.eop.gov* or submitted by telephone at (202) 395–4650.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated in Rockville, Maryland, this 28th day of June, 2005.

For the Nuclear Regulatory Commission.

Beth C. St. Mary,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E5–3485 Filed 7–1–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Application and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 10, 2005 to June 23, 2005. The last biweekly notice was published on June 21, 2005 (70 FR 35735).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov*; or (4) facsimile transmission addressed to the Office of

the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(I)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: May 26, 2005.

Description of amendments request: The amendments would revise the Technical Specification (TS) requirements related to steam generator (SG) tube integrity, consistent with those in NRC-approved Revision 4 to Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–449, ''Steam Generator Tube Integrity.'' The proposed amendment also includes changes to the revised SG program in TS Section 5.5.9 to specify the SG tube inspection length through the SG tubesheet and establish plugging criteria in the inspected tubesheet region for the remaining original SGs containing Alloy 600 mill annealed (MA) tubes. This change is being proposed to establish conformance with the NRC position identified in Generic Letter (GL) 2004–01, ''Requirements for Steam Generator Tube Inspections.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated.

Response: No.

The analysis that established the inspection length through the SG tube sheet for the PVNGS Alloy 600 MA-tube SGs took into account the reinforcing effect the tubesheet has on the external surface of an expanded SG tube. Tube-bundle integrity will not be adversely affected by the implementation of the revised tube inspection scope. SG tube burst or collapse cannot occur within the confines of the tubesheet; therefore, the tube burst and collapse criteria of draft Regulatory Guide (RG) 1.121, ''Bases for Plugging Degraded PWR Steam Generator Tubes,'' are inherently met. Any degradation below the inspection length is shown by analyses and test results to be acceptable, thereby precluding an event with consequences similar to a postulated tube rupture event.

Tube burst is precluded for cracks within the tubesheet by the constraint provided by the tubesheet. Thus, structural integrity is maintained by the tubesheet constraint. However, a 360-degree circumferential crack or many axially oriented cracks could permit severing of the tube and tube pullout from the tubesheet under the axial forces on the tube from primary to secondary pressure differentials. Analysis and testing was performed to define the length of non-degraded tubing that is sufficient to compensate for the axial forces on the tube and thus prevent pullout. That length is bounded by the inspection length proposed in this change.

In conclusion, incorporation of the revised inspection scope into PVNGS TS maintains existing design limits and therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated.

Response: No.

The proposed performance based requirements are an improvement over the requirements imposed by the current TS.

Implementation of the proposed Steam Generator Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The result of the implementation of the Steam Generator Program will be an enhancement of SG tube performance. Primary to secondary leakage that may be experienced during all plant conditions will be monitored to ensure it remains within current accident analysis assumptions.

The proposed change does not affect the design of the SGs, their method of operation, or primary or secondary coolant chemistry controls. In addition, the proposed change does not impact any other plant system or component. The change enhances SG inspection requirements.

Tube-bundle integrity is expected to be maintained during all plant conditions upon implementation of the proposed tube inspection scope. Use of this scope does not introduce a new mechanism that would result in a different kind of accident from those previously analyzed. Even with the limiting circumstances of a complete circumferential separation of a tube occurring below the inspection length into the tubesheet, SG tube pullout is precluded and leakage is predicted to be maintained within the Updated Final Safety Analysis Report limits during all plant conditions.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety.

Response: No.

The SG tubes in pressurized water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes also isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of a SG is maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change is expected to result in an improvement in the tube integrity by implementing the Steam Generator Program to manage SG tube inspection, assessment, repair, and plugging. The requirements established by the Steam Generator Program are consistent with those in the applicable design codes and standards and are an improvement over the requirements in the current TS.

Upon implementation of the revised inspection scope, operation with potential cracking below the Inspection Extent length in the expansion region of the SG tubing will meet the margin of safety as defined by Regulatory Guide (RG) 1.83 [Inservice Inspection of Pressurized Water Reactor Steam Generator Tubes], draft RG 1.121 [Bases for Plugging Degraded PWRSteam Generator Tubes], and the requirements of General Design Criteria 14, 15, 31, and 32 of Appendix A to 10 CFR 50.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Kenneth C. Manne, Senior Attorney, Arizona Public Service Company, P.O. Box 52034, Mail Station 7636, Phoenix, Arizona 85072–2034. *NRC Acting Section Chief:* Daniel S. Collins.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: June 3, 2005.

Description of amendments request: The proposed amendments would revise the Updated Final Safety Analysis Report (UFSAR) for Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2 and 3. The proposed amendments would reflect a modification performed by the licensee that replaced the automatic water makeup function for the emergency diesel generator jacket water cooling system with that of manual operator actions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated.

Response: No.

The emergency diesel generator (EDG) is a system that must function in response to an accident that has been evaluated in either Chapter 6 or 15 of the PVNGS UFSAR. It is designed to respond to certain described accident scenarios. None of the accidents evaluated are initiated within the EDG system. Therefore, this request to allow the replacement of the automatic makeup feature(s) with a manual feature can not increase the probability of an accident previously postulated in the UFSAR.

None of the accidents evaluated which credit operation of the EDG system require automatic fill of the DGCWS [Diesel Generator Cooling Water System] in order to mitigate the consequences of the accident. The fill system, whether automatic in nature as originally designed or manual, simply maintains the EDG in the ready state.

Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated.

Response: No.

The EDG is a piece of equipment important to safety. This modification replaces the automatic water makeup function for the EDG jacket water cooling system with that of manual operator actions. The jacket water makeup is needed for normal leakage and possible evaporation. Area walkdowns occur twice daily when the diesel generator is in a standby mode (not running) and more frequently (thirty minutes after initial loading and every two hours while loaded) when the EDG is being tested or has responded to an emergency event. The area operator walkdown procedures instruct the operators to log the standpipe level and ensure it is in the normal operating range. If the level is not, operators are required to restore level and conduct further investigation of the condition and notify appropriate personnel. This ensures that enough water remains in the jacket water system to allow the diesel to remain operational and evaluations are performed in order to detect any abnormal leakrates. Therefore, the normal area operator walkdowns and frequencies are adequate to ensure that sufficient jacket water standpipe inventory is maintained.

With this modification, the EDG is still maintained and monitored for proper conditions in a standby status to ensure that it will respond to emergencies when called upon. Once the EDG responds to an emergency signal and is loaded, its jacket water system is required to be monitored every two hours to help ensure that all parameters are observed and maintained for proper operation, including its jacket water standpipe level.

So, with these measures in place it can be expected that the EDG will be maintained capable of performing as designed to any emergency safety signal. The [E]DG safety system and its support jacket water cooling system do not initiate any accident events.

Therefore, the modification of this non-safety support system cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety.

Response: No.

The PVNGS UFSAR states that the design basis function for the emergency diesel generators is to provide a standby source of onsite Class 1E AC power for the two trains of engineered safety features equipment for safe plant shutdown and decay heat removal in the event of loss of preferred (off-site) power. Supporting this design basis function of supplying emergency power is the function of the emergency diesel generator jacket cooling water system, which is to remove rejected heat from each diesel engine at the rated design load of the emergency diesel generator. The UFSAR further describes the emergency diesel generator jacket cooling water surge tank (standpipe), stating that the surge tank is sized to provide an adequate reservoir to compensate for any minor leaks. The UFSAR also described makeup to the jacket cooling water system as being automatically actuated and provided from the safety-grade condensate transfer system or manually from the demineralized water systems. The subject modification replaced the automatic features with manual operator action—the sources of the makeup water have not changed.

The PVNGS engineering analyses and the safety analyses that demonstrate the functional goals and the design basis of the emergency diesel generator system do not credit any makeup water supply to the jacket cooling water system of the emergency diesel generator for an initial 25 hours into an event. Operator monitoring and manual makeup provides adequate control for maintaining the DGCWS standpipe level, both for standby and loaded conditions. An automatically actuated makeup water supply is not essential to the safe and continued operation of the emergency diesel generator. Makeup water is provided as a convenient source of water to compensate for anticipated normal system losses and evaporation. It is not provided to serve as an emergency source of makeup water to the jacket cooling water system in the event of a major failure or leak occurring within the jacket cooling water system.

Makeup to the system is required to compensate for normal expected system losses, minor leaks, and evaporation. In addition, an engineering calculation has been performed to address 10 CFR 50, Appendix R concerns, which demonstrates that no operator action is required or credited during the first twenty-five hours of emergency diesel generator loaded operation provided that the initial water level is at the specified minimum level. This twenty-five hour period before operator intervention, which is assumed to occur, sufficiently bounds the thirty minutes of no operator action that is normally assumed in most of the accident analyses.

In addition, the area operator walkdown procedures instruct the operators to log the standpipe level and ensure it is in the normal operating range. If the level is not, operators are required to restore level and conduct further investigation of the condition and notify appropriate personnel. This ensures that enough water remains in the jacket water system to allow the diesel to remain operational and evaluations are performed in order to detect any abnormal leakrates.

Therefore, APS has concluded that the proposed license amendment request does not involve a significant reduction in a margin of safety.

Based on the above, Arizona Public Service Company (APS) concludes that the proposed amendment presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Kenneth C. Manne, Senior Attorney, Arizona Public Service Company, P.O. Box 52034, Mail Station 7636, Phoenix, Arizona 85072–2034.

NRC Section Chief: Daniel S. Collins.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: June 7, 2005.

Description of amendments request: The proposed amendment would revise Technical Specification (TS) 3.1.1, ''Shutdown Margin,'' to modify Required Action B.1 restricting a positive reactivity addition. The proposed amendment would also correct an administrative error regarding an incorrect TS reference in TS 3.4.17, ''Special Test Exception RCS [reactor coolant system] Loops—Modes 4 and 5.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The intent of this change is to clarify a Technical Specification involving positive reactivity additions to the shutdown reactor so that small, controlled, safe insertions of positive reactivity will be allowed where they are now categorically prohibited, posing a potential conflict between two required actions. These controlled activities could result in a slight change in the probability of an event occurring as a RCS manipulation that is currently prohibited would now be allowed. However, RCS manipulations are rigidly controlled to minimize the possibility of a significant reactivity increase.

In addition, there is sufficient shutdown margin available in this condition to allow for slight reactivity changes without significantly increasing the probability of an accident previously evaluated.

The proposed change involving positive reactivity additions does not permit the shutdown margin required by the Technical Specifications to be reduced. While the proposed change will permit changes in the discretionary boron concentration above the Technical Specification requirements, this excess concentration is not credited in the Updated Final Safety Analysis Report safety analysis. Because the initial conditions assumed in the safety analysis are preserved, no increase in the consequence of an accident previously evaluated would occur. These small changes are within the required shutdown margin, therefore, there is no increase in the consequence of an accident previously evaluated.

The administrative error was in the marked up Technical Specification pages submitted with a proposed change. The correct Technical Specification number was provided in the proposal letter and was used by the staff in the discussion for accepting the proposed change. Correcting this administrative error does not change the significant hazards discussion previously submitted.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change involving positive reactivity addition allows for a minor plant operational adjustment without adversely impacting the safety analysis required shutdown margin. It does not involve any change to plant equipment or the shutdown margin requirements in the Technical Specifications.

The administrative error was in the marked up Technical Specification pages submitted with a proposed change. The correct Technical Specification number was provided in the proposal letter and was used by the staff in the discussion for accepting the proposed change. Correcting this administrative error does not change the significant hazards discussion previously submitted.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Would not involve a significant reduction in [a] margin of safety.

The margin of safety in Modes 3, 4 and 5 is preserved by the calculated shutdown margin which prevents an inadvertent criticality. The proposed change involving positive reactivity addition will permit reductions in discretionary shutdown margin that is beyond Technical Specification requirements. However, the shutdown margin required by the Technical Specifications is not changed. By not impacting the shutdown margin, the margin of safety is not affected.

The administrative error was in the marked up Technical Specification pages submitted with a proposed change. The correct Technical Specification number was provided in the proposal letter and was used by the staff in the discussion for accepting the proposed change. Correcting this administrative error does not change the significant hazards discussion previously submitted.

Therefore, the proposed change will not involve a significant reduction in [a] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Carey Fleming, Sr. Counsel—Nuclear Generation, Constellation Generation Group, LLC, 750 East Pratt Street, 17th floor, Baltimore, MD 21202.

NRC Section Chief: Richard J. Laufer.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: June 7, 2005.

Description of amendments request: The proposed amendment would revise the Technical Specifications (TSs) to eliminate the use of the defined term Core Alterations. The proposed amendment would incorporate the changes reflected in TS Task Force (TSTF) Travelers 471–T (TSTF–471–T) and TSTF–51–A. In addition, the proposed amendment would revise TS 3.9.2, ''Nuclear Instrumentation,'' by replacing ''Core Alterations'' with ''positive reactivity additions'' in the required action for an inoperable source range monitor during refueling operations. The limiting conditions for operation in TS 3.9.4, ''Shutdown Cooling (SDC) and Coolant Recirculation—High Water Level,'' would also be revised by replacing ''core alterations'' with ''movement of fuel assemblies within containment.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change eliminates the use of the defined term CORE ALTERATIONS from the Technical Specifications. Core alterations are not an initiator of any accident previously evaluated except a fuel handling accident. Those revised Technical Specifications that protect the initial conditions of a fuel handling accident also require the suspension of movement of irradiated fuel assemblies, which protects the initial condition of a fuel handling accident. Therefore, suspension of CORE ALTERATIONS do not affect the initiators of the accidents previously evaluated and suspension of CORE ALTERATIONS does not affect the mitigation of the accidents previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new or different accidents result from utilizing the proposed change. The changes

do not involve a physical modification of the plant (*i.e.*, no new or different type of equipment will be installed) or a significant change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

Only two accidents are postulated to occur during plant conditions where CORE ALTERATIONS may be made: A fuel handling accident and a boron dilution accident. Suspending movement of irradiated fuel assemblies prevents a fuel handling accident. Also requiring the suspension of CORE ALTERATIONS is redundant to suspending movement of irradiated fuel assemblies and does not increase the margin of safety. CORE ALTERATIONS have no effect on a boron dilution accident. Core components are not involved in the initiation or mitigation of a boron dilution accident. Therefore, CORE ALTERATIONS have no effect on the margin of safety related to a boron dilution accident.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: Carey Fleming, Sr. Counsel—Nuclear Generation, Constellation Generation Group, LLC, 750 East Pratt Street, 17th floor, Baltimore, MD 21202.

NRC Section Chief: Richard J. Laufer.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina and Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: October 27, 2004.

Description of amendment request: The amendments would revise the facility operating licenses (FOLs) to remove a license condition that limits the maximum rod average burnup for any rod to 60 GWd/mtU. This deletion would allow the 62 GWd/mtU limit, approved by the NRC, as documented in Duke Topical Report DPC–2009–P–A, to become the burnup limit. The amendments would also revise both of the station's Updated Final Safety Analysis Reports (Section 4.0) to include a new discussion of the fuel burnup limit. Additionally, approval would allow Duke to make an administrative revision to Duke Topical Report DPC–NE–2009–P–A, Revision 2, to reference the approval of these amendments and to reflect removal of the current license condition. Furthermore, the amendments would remove the McGuire FOL Section 2.E, that lists reporting requirements with regard to Maximum Power Level, Fire Protection, Protection of the Environment (Unit 2 FOL only), and Physical Protection. It would also remove the Catawba FOL Section 2.F, that lists reporting requirements with regard to Maximum Power Level, Updated Final Safety Analysis Report, Antitrust Conditions, Fire Protection, and Additional Conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would implementation of the changes proposed in this LAR [License Amendment Request] involve a significant increase in the probability or consequences of an accident previously evaluated?

No, deletion of the fuel burnup limit currently stated as an additional license condition in the McGuire and Catawba Facility Operating Licenses has no impact on accident probabilities. Further, as determined in the NRC's environmental assessment which supports the increased burnup limit (NUREG/CR–6703, Environmental Effects of Extending Fuel Burnup Above 60 GWd/mtU), the potential environmental consequences of postulated accidents are not expected to increase significantly with increased burnup. Duke concurs with this assessment conclusion for the burnup range in this LAR.

The deletion of the reporting requirements from the FOLs is solely administrative. No plant equipment or accident analyses will be affected by this deletion.

2. Would implementation of the changes proposed in this LAR create the possibility of a new or different kind of accident from any accident previously evaluated?

No, implementation of this amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms will be created as a result of the NRC approval of this LAR. No changes are being made to the plant which will introduce any new accident causal mechanisms. This amendment does not otherwise impact any plant structures, systems, or components that are accident initiators; therefore, no new accident types are being created.

3. Would implementation of the changes proposed in this LAR involve a significant reduction in a margin of safety?

No, margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. These barriers are not significantly affected by the changes proposed in this LAR. The effect of the increased burnup on fuel cladding was considered in the NRC's environmental assessment supporting the increase in the fuel burnup limit. Further, the proposed limit is equal to that approved for the fuel rod cladding at McGuire and Catawba.

The deletion of the reporting requirements from the FOLs is solely administrative in nature. No plant equipment or accident analyses will be affected by this deletion.

The margin of safety is established through the design of the plant structures, systems, components, the parameters within which the plant is operated, and the establishment of the setpoints for the actuation of equipment relied upon to respond to an event, and thereby protect the fission product barriers. The proposed changes have no significant impact on any of these considerations in regard to the physical plant or the manner in which it is operated.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: Evangelos C. Marinos

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: October 11, 2004.

Description of amendment request: The proposed amendments apply to Technical Specifications 3.8.1, ''AC Sources—Operating,'' and 3.8.9, ''Distribution Systems—Operating.'' They would extend several completion times and would modify several Surveillance Requirement (SR) Notes. Additionally, they would correct a recently identified non-conservative situation that currently exists with SR 3.8.1.4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

First Standard

Will implementation of the changes proposed in this license amendment request involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The changes proposed in this license amendment request increase the Technical Specifications Completion Times for the emergency diesel generators and electrical power and distribution systems. Increasing these Completion Times will not cause a significant increase in the probability or consequences of an accident which has been previously evaluated. This license amendment request is supported by an extensive risk-informed study performed by the nuclear industry and documented in a topical report and Technical Specifications Task Force travelers that have been submitted for NRC review and approval. Within this study, the risk impacts of increasing the Completion Times were calculated and compared against the acceptability guidelines contained in the applicable regulatory guides and found to be acceptable. The emergency diesel generators and electrical power and distribution systems and equipment affected by this license amendment request will remain highly reliable. Thus there will be no significant increase in the probability or consequences of an accident which has been previously evaluated.

The proposed changes that modify Surveillance Requirement notes are consistent with an NRC [Nuclear Regulatory Commission]-approved industry initiative. Implementation of these changes will require that the plant's risk be managed. Thus there will be no significant increase in the probability or consequences of an accident which has been previously evaluated.

The proposed change that corrects the non-conservative Surveillance Requirement only increases a Technical Specifications parameter value in the conservative direction. Thus this change will not contribute to any increase in the probability or consequences of an accident which has been previously evaluated.

Second Standard

Will implementation of the changes proposed in this license amendment request create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed changes would create no new accidents since no changes are being made that introduce any new accident casual mechanisms. The deterministic evaluation that supports this license amendment request consisted of a review of plant systems and safety functions impacted by entry into the expanded Completion Times, the performance of testing in previously prohibited operating modes, or increasing a Technical Specification mandated parameter in the conservative direction. The emergency diesel generators and electrical power and distribution systems were quantitatively and qualitatively assessed. It was determined that no new accidents or transients would be introduced by the proposed changes.

Third Standard

Will implementation of the changes proposed in this license amendment request involve a significant reduction in a margin of safety?

No. The impact of the proposed changes on the safety margins was considered in the deterministic evaluations that support this license amendment request. Extending the Completion Times, performing testing activities to confirm operability, or conservatively increasing a Technical Specification controlled parameter does not adversely impact any assumptions or inputs in the transient analyses contained in the McGuire Updated Final Safety Analysis Report (UFSAR). The proposed changes have no negative impact upon the ability of the fission product barriers (fuel cladding, the reactor coolant system, and the containment system) to perform their design functions during and following an accident situation. Additionally, the proposed changes have no adverse impact on setpoints or limits established or assumed within the UFSAR.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c)) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: Evangelos C. Marinos.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of amendment request: May 24, 2005.

Description of amendment request: The proposed amendment would revise the steam generator (SG) tube inspection scope for Byron Station, Unit 2 for Refueling Outage 12 and the subsequent operating cycle. The proposed changes modify the inspection requirements for portions of SG tubes within the hot leg tubesheet region of the SGs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The previously analyzed accidents are initiated by the failure of plant structures, systems, or components. The proposed changes that alter the SG inspection criteria do not have a detrimental impact on the integrity of any plant structure, system, or component that initiates an analyzed event. The proposed changes will not alter the operation of, or otherwise increase the failure probability of any plant equipment that initiates an analyzed accident. Therefore, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

Of the applicable accidents previously evaluated, the limiting transients with consideration to the proposed changes to the SG tube inspection criteria, are the SG tube rupture (SGTR) event and the steam line break (SLB) accident.

During the SGTR event, the required structural integrity margins of the SG tubes will be maintained by the presence of the SG tubesheet. SG tubes are hydraulically expanded in the tubesheet area. Tube rupture in tubes with cracks in the tubesheet is precluded by the constraint provided by the tubesheet. This constraint results from the hydraulic expansion process, thermal expansion mismatch between the tube and tubesheet and from the differential pressure between the primary and secondary side. Based on this design, the structural margins against burst, discussed in Regulatory Guide (RG) 1.121, ''Bases for Plugging Degraded PWR [pressurized water reactor] SG Tubes,'' are maintained for both normal and postulated accident conditions.

The proposed changes do not affect other systems, structures, components or operational features. Therefore, the proposed changes result in no significant increase in the probability of the occurrence of a SGTR accident.

At normal operating pressures, leakage from primary water stress corrosion cracking (PWSCC) below the proposed limited inspection depth is limited by both the tube-to-tubesheet crevice and the limited crack opening permitted by the tubesheet constraint. Consequently, negligible normal operating leakage is expected from cracks within the tubesheet region. The consequences of an SGTR event are affected by the primary-to-secondary leakage flow during the event. Primary-to-secondary leakage flow through a postulated broken tube is not affected by the proposed change since the tubesheet enhances the tube integrity in the region of the hydraulic expansion by precluding tube deformation beyond its initial hydraulically expanded outside diameter.

The probability of a SLB is unaffected by the potential failure of a SG tube as this failure is not an initiator for a SLB.

The consequences of a SLB are also not significantly affected by the proposed changes. During a SLB accident, the reduction in pressure above the tubesheet on the shell side of the SG creates an axially uniformly distributed load on the tubesheet due to the reactor coolant system pressure on the underside of the tubesheet. The resulting bending action constrains the tubes in the tubesheet thereby restricting primary-to-secondary leakage below the midplane.

Primary-to-secondary leakage from tube degradation in the tubesheet area during the

limiting accident (*i.e.*, SLB) is limited by flow restrictions resulting from the crack and tube-to-tubesheet contact pressures that provide a restricted leakage path above the indications and also limit the degree of potential crack face opening as compared to free span indications. The primary-to-secondary leak rate during postulated SLB accident conditions would be expected to be less than that during normal operation for indications near the bottom of the tubesheet (i.e., including indications in the tube end welds). This conclusion is based on the observation that while the driving pressure causing leakage increases by approximately a factor of two, the flow resistance associated with an increase in the tube-to-tubesheet contact pressure, during a SLB, increases by up to approximately a factor of three. While such a leakage decrease is logically expected, the postulated accident leak rate could be conservatively bounded by twice the normal operating leak rate if the increase in contact pressure is ignored. Since normal operating leakage is limited to less than 0.104 gpm (150 gpd) per TS 3.4.13, ''RCS Operational Leakage,'' the associated accident condition leak rate, assuming all leakage to be from lower tubesheet indications, would be bounded by approximately 0.2 gpm. This value is well within the assumed accident leakage rate of 0.5 gpm discussed in Updated Final Safety Analysis Table 15.1–3, ''Parameters Used in Steam Line Break Analyses.'' Hence it is reasonable to omit any consideration of inspection of the tube, tube end weld, bulges/overexpansions or other anomalies below 17 inches from the top of the hot leg tubesheet. Therefore, the consequences of a SLB accident remain unaffected.

Based on the above discussion, the proposed changes do not involve an increase in the consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve the use or installation of new equipment and the currently installed equipment will not be operated in a new or different manner. No new or different system interactions are created and no new processes are introduced. The proposed changes will not introduce any new failure mechanisms, malfunctions, or accident initiators not already considered in the design and licensing bases.

Based on this evaluation, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve significant reduction in a margin of safety?

Response: No.

The proposed changes maintain the required structural margins of the SG tubes for both normal and accident conditions. Nuclear Energy Institute (NEI) 97–06, ''Steam Generator Program Guidelines,'' Revision 1 and Regulatory Guide (RG) 1.121, ''Bases for Plugging Degraded PWR Steam Generator Tubes,'' are used as the bases in the development of the limited hot leg tubesheet inspection depth methodology for determining that SG tube integrity considerations are maintained within acceptable limits. RG 1.121 describes a method acceptable to the NRC for meeting General Design Criteria (GDC) 14, ''Reactor coolant pressure boundary,'' GDC 15, ''Reactor coolant system design,'' GDC 31, ''Fracture prevention of reactor coolant pressure boundary,'' and GDC 32, ''Inspection of reactor coolant pressure boundary,'' by reducing the probability and consequences of a SGTR. RG 1.121 concludes that by determining the limiting safe conditions for tube wall degradation the probability and consequences of a SGTR are reduced. This RG uses safety factors on loads for tube burst that are consistent with the requirements of Section III of the American Society of Mechanical Engineers (ASME) Code.

For axially oriented cracking located within the tubesheet, tube burst is precluded due to the presence of the tubesheet. For circumferentially oriented cracking, Westinghouse letter LTR–CDME–05–32–P, ''Limited Inspection of the Steam Generator Tube Portion Within the Tubesheet at Byron Unit 2 and Braidwood Unit 2,'' Revision 1, dated May 2005, defines a length of degradation free expanded tubing that provides the necessary resistance to tube pullout due to the pressure induced forces, with applicable safety factors applied. Application of the limited hot leg tubesheet inspection depth criteria will preclude unacceptable primary-to-secondary leakage during all plant conditions. The methodology for determining leakage provides for large margins between calculated and actual leakage values in the proposed limited hot leg tubesheet inspection depth criteria.

Therefore, the proposed changes do not involve a significant hazards consideration under the criteria set forth in 10 CFR 50.92(c).

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Thomas S. O'Neill, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Section Chief: Gene Y. Suh.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of amendment request: May 11, 2005. The proposed amendment supercedes, in its entirety, a previous amendment request dated April 29, 2004, published in the **Federal Register** on May 25, 2004 (69 FR 29766).

Description of amendment request: The proposed amendment would revise technical specification (TS) 3/4.4.10, ''Reactor Coolant System—Structural Integrity, ASME Code Class 1, 2, and 3 Components,'' to allow a one-time extension of the surveillance interval for the reactor vessel internals vent valves from September 2005 to March 2006.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed one-time surveillance interval exception does not alter the design, operation, or testing method of any structure, system, or component. Therefore, the proposed change does not involve a significant increase in the probability of an accident previously evaluated. In addition, no accident initiators are affected and no previously analyzed accident scenario is changed. Initiating conditions and assumptions remain as previously analyzed. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed one-time surveillance interval exception does not alter the design, operation, or testing method of any structure, system, or component. The proposed change does not introduce any new or different accident initiators. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed one-time surveillance interval exception does not affect the capabilities of the Reactor Vessel Internals Vent Valves. Therefore, the proposed change will not involve a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary E. O'Reilly, Attorney, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: Gene Y. Suh.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of amendment request: May 22, 2005.

Description of amendment request: The proposed amendment would adopt a qualified alternate repair criteria (ARC) for axial tube end cracking (TEC) indications in the Davis-Besse Nuclear Power Station, Unit 1 once-through steam generator tubes. Specifically, the proposed amendment would revise the technical specification surveillance requirements for steam generator tube inservice inspection to include the TEC ARC. The technical basis for the ARC is provided in Babcock & Wilcox Owners Group Topical Report BAW–2346P, ''Alternate Repair Criteria for Tube End Cracking in the Tube-to-Tubesheet Roll Joint of Once-Through Steam Generators,'' dated April 1999.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment does not increase the probability of any accident. Steam generator tube failure is an initiating condition for the steam generator tube rupture (SGTR) accident. The proposed TEC ARC does not affect the probability of an SGTR because the TEC ARC is limited to crack indications that are precluded from burst due to the presence of the tubesheet. Therefore, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

The proposed amendment does not increase the consequences of any previously evaluated accident. Primary-to-secondary leakage affects the radiological consequences of accidents evaluated in the Updated Safety Analysis Report. The proposed amendment may result in an increase in post-accident primary-to-secondary leakage. Analyses have been performed to determine the expected post-accident leakage from each TEC left in service. The proposed amendment would impose inservice inspection and leakage assessment requirements that would ensure that the expected post-accident primary-to-secondary leakage through TECs and all other sources is maintained below the value assumed in the accident analyses. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed TEC ARC does not introduce any new failure modes or accident scenarios. Analyses have demonstrated that structural and leakage integrity is maintained for normal operating and accident conditions. Any failure of a tube from a TEC would be bounded by the SGTR analysis. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment does not reduce the structural margin of the steam generator tubes. Structural integrity of the tube is maintained since the TEC ARC is limited to crack indications that are precluded from burst due to the presence of the tubesheet. The proposed amendment would impose inservice inspection and leakage assessment requirements that will ensure that the expected post-accident primary-to-secondary leakage through TECs and all other sources is maintained below the value assumed in the accident analyses. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary E. O'Reilly, Attorney, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308

NRC Section Chief: Gene Y. Suh.

Florida Power and Light Company, Docket Nos. 50–335 and 50–389, St. Lucie Nuclear Plant, Units 1 and 2, St. Lucie County, Florida

Date of amendment request: April 21, 2005.

Description of amendment request: The submittal requests revision to several Technical Specifications (TSs) using seven TS Task Force (TSTF) generic changes. The seven TSTFs (nos. 5, 65, 101, 258, 299, 308, and 361) delete redundant safety limit violation notification requirements; adopt use of generic titles for utility positions; change the auxiliary feedwater pump test frequency to be consistent with the inservice test program frequency; remove redundant requirements and add other requirements to Section 5.0, Administrative Controls; clarify the meaning of ''refueling cycle'' for system integrated leak test intervals in the Primary Coolant Sources Outside Containment program; clarify the requirements regarding the frequency of testing for cumulative and projected dose contributions from radioactive effluents; and add a note to the residual heat removal requirements during Mode 6 low water level operations that allows one required residual heat removal (RHR) loop to be inoperable for up to 2 hours for surveillance testing provided the other RHR loop is operable and in operation. In addition, the proposed amendments revise the TSs to adopt the Improved Standard Technical Specification (ISTS) requirements for remote shutdown instrumentation and the ISTS actions and action times for accident monitoring instrumentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes revise administrative requirements, actions, action times, surveillance requirements, and surveillance frequencies. The revised requirements are not an initiator of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased by the proposed changes. The Technical Specifications continue to require the systems, structures, and components associated with the revised requirements to be operable. Therefore, any mitigation functions assumed in the accident analyses will continue to be performed. As a result, the consequences of any accident previously evaluated are not significantly increased. Therefore, the proposed amendments do not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not alter the design or physical configuration of the plant. No changes are being made to the plant that would introduce any new accident causal mechanisms. Therefore, operation of the facility in accordance with the proposed amendments do not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The proposed changes do not change the design or function of plant equipment. The proposed changes do not significantly reduce the level of assurance that any associated plant equipment will be available to perform its function. The proposed changes provide

operating flexibility without significantly affecting plant operation. Therefore, operation of the facility in accordance with the proposed amendments would not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Section Chief: Michael L. Marshall, Jr.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 25, 2005.

Description of amendment request: The proposed amendment would delete from the Cooper Nuclear Station (CNS) Technical Specifications (TSs) temporary notes that have expired and are no longer in effect.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Deleting temporary notes that have expired from the CNS TS does not impact the plant design or how the plant is operated, nor does it affect any of the conditions that could cause an accident. Thus, this change does not result in a significant increase in the probability of an accident previously evaluated. Removing the expired temporary notes does not reduce the requirements for maintaining systems needed to mitigate postulated accidents as described in the CNS Updated Safety Analysis Report. Thus, this change does not result in a significant increase in the consequences of an accident previously evaluated. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Deleting temporary notes that have expired does not involve a change to the plant design or to how the plant is operated. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

Deleting temporary notes that have expired does not result in a relaxation of any limit associated with the performance of systems required to mitigate postulated accidents, nor does it reduce any of the requirements for maintaining those systems. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John C. McClure, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Section Chief: David Terao.

R. E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: September 30, 2004, as supplemented on May 28, 2005.

Description of amendment request: The proposed amendment would revise the information in the Updated Final Safety Analysis Report regarding the application of leak-before-break methodology to the accumulator A and B lines and the pressurizer surge line. The application of leak-before-break methodology would permit the exclusion of these lines from the evaluation of dynamic effects associated with postulated high energy line breaks.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previous[ly] evaluated?

Response: No.

The proposed changes use an approved fracture mechanics methodology, in accordance with 10 CFR [Part] 50, Appendix A, GDC [General Design Criterion] -4 to demonstrate that the probability of fluid system rupture for these lines attached to the Reactor Coolant System is extremely low under conditions associated with the design basis for the piping.

The proposed changes do not adversely affect accident initiators or precursors nor significantly alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not adversely alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed changes do not increase the types and amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupation/public radiation exposures. The proposed changes do not affect the probability of an accident occurring since they reflect a change in plant design basis that is consistent with current Regulations. The proposed changes cannot increase the consequences of postulated accidents since LOCA [loss-of-coolant accident] and methods containment analysis will not be changed. Therefore, the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not create the possibility of a new or different kind of accident, since it simply provides an analytical justification for demonstrating that the probability of a fluid system rupture is extremely small. Leak-before-break justifications per GDC–4 still require that ECCS [emergency core cooling system], containment, and EQ [environmental qualification] requirements be maintained consistent with the original postulated accident assumptions—only protection from dynamic effects is modified.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes apply very conservative approved analytical methods to demonstrate that the probability of a fluid system rupture is very low. This analysis justifies differences in protection from dynamic effect [and] is associated with these extremely low probability ruptures. For overall ECCS, containment, and EQ requirements, there will be no changes to the licensing basis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Daniel F. Stenger, Ballard Spahr Andrews & Ingersoll, LLP, 601 13th Street, NW., Suite 1000 South, Washington, DC 20005.

NRC Section Chief: Richard J. Laufer.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: March 8, 2005.

Description of amendment request: The amendments proposed by Southern Nuclear Operating Company (SNC) would revise the Technical Specifications (TS) to delete Function 11, Reactor Coolant Pump (RCP) Breaker Position, in TS 3.3.1, ''Reactor Trip System (RTS) Instrumentation.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated in the Updated Final Safety Analysis Report (UFSAR). All of the safety analyses have been evaluated for impact. The elimination of RCP Breaker Position reactor trip will not initiate any accident; therefore, the probability of an accident has not been increased. An evaluation of dose consequences, with respect to the proposed changes, indicates there is no impact due to the proposed changes and all acceptance criteria continue to be met. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any previously evaluated?

No. The proposed changes do not create the possibility of a new or different kind of accident than any accident already evaluated in the UFSAR. No new accident scenarios, failure mechanisms or limiting single failures are introduced as a result of the proposed changes. The changes have no adverse effects on any safety-related system. Therefore, all accident analyses criteria continue to be met and these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

No. The proposed changes do not involve a significant reduction in a margin of safety. All analyses that credit the RCS Low Flow reactor trip function have been reviewed and no changes to any inputs are required. The evaluation demonstrated that all applicable acceptance criteria are met. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201.

NRC Section Chief: Evangelos C. Marinos.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: June 2, 2005.

Description of amendment request: The proposed amendment would change Technical Specification (TS) 3.4.6.1, ''Reactor Coolant System Leakage Detection Systems,'' to specifically require only one containment radioactivity monitor (particulate channel) to be operable in Modes 1, 2, 3 and 4. Additionally, corresponding changes to the Surveillance Requirement (SR) 4.4.6.1 and 4.4.6.2.1, ''Reactor Coolant System Operational Leakage,'' are also requested.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change has been evaluated and determined to not increase the probability or consequences of an accident previously evaluated. The proposed change does not make any hardware changes and does not alter the configuration of any plant system, structure or component (SSC). The proposed change only removes the containment atmosphere gaseous radioactivity monitor as an option for meeting the operability requirement for TS 3.4.6.1, and correspondingly from the requirements of SR 4.4.6.1 and 4.4.6.2.1.a. Therefore, the probability of occurrence of an accident is not increased. The TS will continue to require diverse means of leakage detection equipment, thus ensuring that leakage due to cracks would continue to be identified prior to breakage and the plant shutdown accordingly. Additionally, the proposed change is not modeled in the South Texas Project probabilistic risk assessment and has no impact on core damage frequency or large early release frequency. Therefore, the consequences of an accident are not increased.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve the use or installation of new equipment and the currently installed equipment will not be operated in a new or different manner. No new or different system interactions are created and no new processes are introduced. The proposed changes will not introduce any new failure mechanisms, malfunctions, or accident initiators not already considered in the design and licensing bases. The proposed change does not affect any SSC associated with an accident initiator. Based on this evaluation, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not make any alteration to any RCS leakage detection components. The proposed change only removes the gaseous channel of the containment atmosphere radioactivity monitor as an option for meeting the operability requirement for TS 3.4.6.1, and correspondingly from the requirements of SR 4.4.6.1 and 4.4.6.2.1.a. The proposed amendment continues to require diverse means of leakage detection equipment with capability to promptly detect RCS leakage. Although not required by TS, additional diverse means of leakage detection capability are available. Based on this evaluation, the proposed change does not involve a significant reduction in a margin of safety.

Based upon the NRC staff's review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: A. H. Gutterman, Esq., Morgan, Lewis & Bockius, 1111 Pennsylvania Avenue, NW., Washington, DC 20004.

NRC Section Chief: David Terao.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 27, 2005.

Description of amendment request: The proposed amendment would revise the applicability for Items 18.A and 18.B of Technical Specification (TS) Table 3.3–1, ''Reactor Trip System Instrumentation,'' and TS Table 4.3–1, ''Reactor Trip System Instrumentation Surveillance Requirements.'' This change will add a footnote that indicates that the Mode 1 applicability is limited to operation above the P–9 (50-percent rated thermal power) value. Additionally, the action for an

inoperable turbine stop valve closure channel is being revised to be consistent with the design of this function. Finally, an option consistent with the latest standard TSs (NUREG–1431, Revision 3) is added to permit a reduction in thermal power to below the P–9 interlock within 10 hours for an inoperable turbine stop valve closure channel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes revise the applicability and actions for inoperable reactor trip functions from a turbine trip event. These changes do not alter these functions physically or how they are maintained. By clarifying the proper applicability and enhancing the actions for these functions the availability of these trips and compensatory measures for inoperable conditions are improved. The availability change implements the required conditions for turbine trip operability that are consistent with their ability to perform the reactor trip functions. The action changes correct inappropriate requirements for minimum channels to be operable and the allowance to bypass channels in consideration of the logic design for the turbine stop valve closure channels. The change to allow power reduction as an alternative to tripping an inoperable channel for the turbine stop valve closure channels, provides a more conservative response than currently allowed.

Since these changes will not affect the ability of these trips to perform the initiation of reactor trips when appropriate, the offsite dose consequences for an accident will not be impacted. Equally, the potential to cause an accident is not affected because no plant system or component has been altered by the proposed changes. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes only affect the applicability and action requirements for the turbine trip functions. This does not affect any physical features of the plant or the manner in which these functions are utilized. The proposed applicability will require the functions to be operable when they are able to perform their trip functions. The actions will handle inoperable channels such that their safety function will be satisfied or the unit will be placed in a condition that does not require these trip functions. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not alter any plant setpoints or functions that are assumed to actuate in the event of postulated accidents. In fact, the proposed changes do not alter any plant feature and only alters the requirements for when the function must be operable and the actions to take should a channel become inoperable during these conditions. The proposed changes ensure the functionality of the turbine trips when assumed in the analysis and provides actions for inoperable channels that preserve the safety functions for accident mitigation. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Section Chief: Michael L. Marshall, Jr.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee Date of amendment request: April 27, 2005.

Description of amendment request: The proposed amendment would relocate a number of technical specification (TS) requirements to the Technical Requirements Manual (TRM).

The proposed amendment would relocate the provisions for TS 3.1.3.4 (Rod Drop Time), TS 3.3.2 (Movable Incore Detectors), TS 3.3.3.4 (Meteorological Instrumentation), TS 3.4.7 (Reactor Coolant System Chemistry), TS 3.4.11 (Reactor Coolant System Head Vents), TS 3.7.2 (Steam Generator Pressure and Temperature Limitations), TS 3.7.10 (Sealed Source Contamination), TS 3.9.5 (Refueling Operations Communications), and TS 3.9.6 (Manipulator Crane).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change only relocates requirements to TRM that are not required to be included in the TSs in accordance with 10 CFR 50.36. Changes to the TRM require evaluations and reviews in accordance with 10 CFR 50.59 to ensure that the health and safety of the public is not adversely affected. The proposed relocation retains the current TS requirements and only alters the location of these provisions. This relocation cannot affect the probability or consequences of an accident as this is only an administrative revision that will not alter any plant equipment or processes. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Since the proposed change only relocates the current TS requirements without change, there is not a potential for a change in the accident generation potential. This change will not alter plant components, systems, or operating practices. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change relocates specifications that do not meet the threshold for inclusion in the TSs as defined in 10 CFR 50.36. This change will not alter the requirements for these functions or plant setpoints or functions that maintain the margins of safety. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Section Chief: Michael L. Marshall, Jr.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consderation Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the

action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Brunswick County, North Carolina

Date of amendment request: May 17, 2005.

Brief description of amendment request: The amendments replace the existing requirement of Technical Specification 3.4.5, ''RCS [Reactor Coolant System] Leakage Detection Instrumentation,'' Required Action D.1, to enter Limiting Condition for Operation (LCO) 3.0.3 if required leakage detection systems are inoperable with the requirement to be in Mode 3 within 12 hours and Mode 4 within 36 hours.

Date of publication of individual notice in ***Federal Register:*** June 13, 2005 (70 FR 34161).

Expiration date of individual notice: June 27, 2005 (for comments); August 12, 2005 (for hearing requests).

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading–rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by email to *pdr@nrc.gov*.

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: February 24, 2005.

Brief description of amendment: The amendment revised the Technical Specifications, Section 3.1.1, ''Protective Instrumentation Requirements,'' notes aa and bb, correcting missed wording which led to incorrect statements of the as-designed service water pump and reactor building closed cooling water system pump trip conditions. The amendment also made an editorial correction to pages 3.6–1 and 3.6–2.

Date of Issuance: June 23, 2005.

Effective date: June 23, 2005 and shall be implemented within 60 days of issuance.

Amendment No.: 255.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 29, 2005 (70 FR 15941). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated June 23, 2005.

No significant hazards consideration comments received: No.

AmerGen Energy Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1 (TMI–1), Dauphin County, Pennsylvania

Date of application for amendment: October 21, 2004, as supplemented January 4, 2005.

Brief description of amendment: The amendment deletes the Technical Specification (TS) requirements to submit monthly operating reports and annual occupational radiation exposure reports. The change is consistent with Revision 1 of the Nuclear Regulatory Commission (NRC) approved Industry/Technical Specifications Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–369, ''Removal of Monthly Operating Report and Occupational Radiation Exposure Report.'' This TS improvement was published in the **Federal Register** on June 23, 2004 (69 FR 35067), as part of the Consolidated Line Item Improvement Process.

Date of issuance: June 17, 2005.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 254.

Facility Operating License No. DPR–50. Amendment revised the TSs.

Date of initial notice in ***Federal Register:*** April 12, 2005 (70 FR 19114). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 17, 2005.

No significant hazards consideration comments received: No.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: July 13, 2004, as supplemented on April 21, 2005.

Brief description of amendments: The amendments revised License Condition 2.E of each unit's operating license by replacing the current wording with wording from Generic Letter (GL) 86–10, ''Implementation of Fire Protection Requirements.''

Date of issuance: June 15, 2005.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 273 and 250.

Renewed Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the operating licenses.

Date of initial notice in ***Federal Register:*** December 7, 2004 (69 FR 70715). The supplement dated April 21, 2005, provided additional information that clarified the application, did not expand the scope of the application as

originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated June 15, 2005.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: January 27, 2005.

Brief Description of amendments: The amendments revised respective Technical Specifications (TS) testing frequency for the surveillance requirement (SR) in TS 3.1.4, ''Control Rod Scram Times.'' The change revises the test frequency of SR 3.1.4.2, control rod scram time testing, from ''120 days cumulative operation in MODE 1'' to ''200 days cumulative operation in MODE 1.''

Date of issuance: May 31, 2005.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment Nos.: 236 and 264.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 15, 2005 (70 FR 12745). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 31, 2005.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket Nos. 50–245, 50–336, and 50–423, Millstone Power Station, Unit Nos. 1, 2, and 3, New London County, Connecticut

Date of application for amendments: December 21, 2004.

Brief description of amendments: The amendments eliminate requirements for annual Occupational Radiation Exposure Reports, annual reports regarding challenges to pressurizer relief and safety valves, and Monthly Operating Reports.

Date of issuance: June 13, 2005.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 114, 286, and 223.

Facility Operating License Nos. DPR–21, DPR–65, and NPF–49: The Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 12, 2005 (70 FR 19114). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 13, 2005.

No significant hazards consideration comments received: No.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: March 22, 2004, as supplemented by letters dated February 8 and April 7, 2005.

Brief description of amendments: The amendments revised the Technical Specifications (TS) 3.3.2, ''Engineered Safety Features Actuation System Instrumentation,'' and TS 3.3.6, ''Containment Air Release and Addition Isolation Instrumentation,'' to permit an 18-month surveillance interval for certain Westinghouse Type AR slave relays and for certain Potter and Brumfield MDR-Series slave relays.

Date of issuance: May 24, 2005.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 224 and 219.

Renewed Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 14, 2004 (69 FR 55468). The supplements dated February 8 and April 7, 2005, provided additional information that clarified the application, did not expand the scope of the March 22, 2004, application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 24, 2005.

No significant hazards consideration comments received: No.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: June 10, 2004, as supplemented by letter dated January 31, 2005.

Brief description of amendments: The amendments revised the Technical Specifications to extend the interval between local leakage rate tests of the containment purge and vent valves with resilient seals (that is, in the containment purge system, hydrogen purge system, and containment air release and addition system).

Date of issuance: June 10, 2005.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 225 and 222.

Renewed Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 21, 2004 (69 FR 76487).

The supplement dated January 31, 2005, provided additional information that clarified the application, did not expand the scope of the June 10, 2004, application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 10, 2005.

No significant hazards consideration comments received: No

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: May 12, 2004, as completely superseded by application dated July 8, 2004, and supplemented by letters dated October 14, 2004, and January 19, March 7, and April 7, 2005.

Brief description of amendment: The Index is deleted from the Technical Specifications.

Date of issuance: June 22, 2005.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 260.

Facility Operating License No. NPF–6: Amendment deletes the Technical Specifications Index.

Date of initial notice in ***Federal Register:*** August 31, 2004 (69 FR 53106). The supplements dated October 14, 2004, and January 19, March 7, and April 7, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 22, 2005.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of application for amendments: October 21, 2004.

Brief description of amendments: The amendment deletes the Technical Specification (TS) requirements to submit monthly operating reports and annual occupational radiation exposure reports. The change is consistent with Revision 1 of NRC-approved Technical Specifications Task Force (TSTF) 369, ''Elimination of Requirements for Monthly Operating Reports and Occupational Radiation Exposure Reports.'' This TS improvement was published in the **Federal Register** (69 FR 35067) on June 23, 2004, as part of the Consolidated Line Item Improvement Process.

Date of issuance: June 14, 2005.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendments Nos.: 254 and 257.

Renewed Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** April 12, 2004 (70 FR 19116). The Commission's related evaluation of the amendments are contained in a Safety Evaluation dated June 14, 2005.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: September 15, 2004.

Brief description of amendments: The amendments deleted the technical specification (TS) requirements related to hydrogen and oxygen monitors. The TS changes support implementation of the revisions to Title 10 of the Code of Federal Regulations (10 CFR) Section 50.44, ''Combustible Gas Control for Nuclear Power Reactors,'' that became effective on October 16, 2003. The changes are consistent with Revision 1 of the NRC-approved Industry/Technical Specifications Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–447, ''Elimination of Hydrogen Recombiners and Change to Hydrogen and Oxygen Monitors.''

Date of issuance: June 14, 2005.

Effective date: June 14, 2005.

Amendment Nos.: 226/221.

Facility Operating License Nos. DPR–29 and DPR–30: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** February 1, 2005 (70 FR 5243).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 14, 2005.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: August 2, 2004.

Brief description of amendment: This amendment deleted Technical Specification 6.8.4.c, ''Post-Accident Sampling,'' and the related requirements to maintain a Post-Accident Sampling System.

Date of issuance: June 10, 2005.

Effective date: As of the date of issuance and shall be implemented within 120 days.

Amendment No.: 264.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* October 12, 2004 (69 FR 60682).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 10, 2005.

No significant hazards consideration comments received: No.

FPL Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: October 22, 2004, as supplemented by letter dated December 16, 2004.

Description of amendment request: The amendment revised the Seabrook Station, Unit No. 1 Technical Specifications (TSs) to allow for individual entry into the limiting condition for operation (LCO) for each instrument, and extends the allowed outage times for LCOs 3.3.3.6.a and 3.3.3.6.b.

Date of issuance: June 15, 2005.

Effective date: As of its date of issuance, and shall be implemented within 30 days.

Amendment No.: 103.

Facility Operating License No. NPF–86: The amendment revised the TSs.

*Date of initial notice in **Federal Register:*** November 2, 2004 (69 FR 63560). The December 16, 2004 supplement provided clarifying information that did not change the scope of the proposed amendment as described in the original notice of proposed action published in the **Federal Register**, and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 15, 2005.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: May 5, 2005, as supplemented June 9, 2005.

Brief description of amendment: The amendment revises the Facility Operating License and Technical Specifications to modify the auxiliary feed water (AFW) pump suction protection requirements and change the design basis as described in the Updated Safety Analysis Report to revise the functionality of the discharge pressure switches to provide pump runout protection, which requires operator actions to restore the AFW pumps for specific post-accident recovery activities.

Date of issuance: June 20, 2005.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 183.

Facility Operating License No. DPR–43: Amendment revised the Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register:*** May 13, 2005 (70 FR 25619). The supplement dated June 9, 2005, provided clarifying information that did not change the scope of the May 5, 2005 application, nor the initial proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 20, 2005.

No significant hazards consideration comments received: No.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: September 30, 2004.

Brief description of amendments: The amendments revise Technical Specifications related to the reactor coolant pump flywheel inspection program by increasing the inspection interval from current 10 years to 20 years.

Date of issuance: June 10, 2005.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 118/118.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 1, 2005 (70 FR 9998).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 10, 2005.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: September 12, 2003, as supplemented by letters dated November 20, 2003, March 30, April 20, May 7, May 27, August 18, and November 3, 2004, and February 17, 2005.

Brief description of amendment: These amendments revise the Technical Specifications to incorporate a full-scope application of an alternate source term methodology in accordance with Title 10 of the Code of Federal Regulations, Section 50.67.

Date of issuance: June 15, 2005.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 240 and 221.

Renewed Facility Operating License Nos. NPF–4 and NPF–7: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 9, 2003 (68 FR 68672). The supplements dated November 20, 2003, March 30, April 20, May 7, May 27, August 18, and November 3, 2004, and February 17, 2005, contained clarifying information only and did not change the initial no significant hazards consideration determination or expand the scope of the initial application.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 15, 2005.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: August 30, 2004.

Brief description of amendment: These amendments revise the Technical Specifications by extending the inspection interval for reactor coolant pump flywheels to 20 years.

Date of issuance: June 15, 2005.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 241 and 222.

Renewed Facility Operating License Nos. NPF–4 and NPF–7: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 15, 2005 (70 FR 12751).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 15, 2005.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: August 30, 2004.

Brief Description of amendments: These amendments revise the Technical Specifications by extending the inspection interval for reactor coolant pump flywheels to 20 years.

Date of issuance: June 21, 2005.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 242 and 241.

Renewed Facility Operating License Nos. DPR–32 and DPR–37: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 15, 2005 (70 FR 12751).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 21, 2005.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcment or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by email to *pdr@nrc.gov*.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and electronically on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If there are problems in accessing the document, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737, or by e-mail to pdr@nrc.gov. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical—primarily concerns/issues relating to technical and/or health and safety matters discussed or referenced in the applications.

2. Environmental—primarily concerns/issues relating to matters discussed or referenced in the environmental analysis for the applications.

3. Miscellaneous—does not fall into one of the categories outlined above.

As specified in 10 CFR 2.309, if two or more petitioners/requestors seek to co-sponsor a contention, the petitioners/requestors shall jointly designate a representative who shall have the authority to act for the petitioners/requestors with respect to that contention. If a petitioner/requestor seeks to adopt the contention of another sponsoring petitioner/requestor, the petitioner/requestor who seeks to adopt the contention must either agree that the sponsoring petitioner/requestor shall act as the representative with respect to that contention, or jointly designate with the sponsoring petitioner/requestor a representative who shall have the authority to act for the petitioners/requestors with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov*; or (4) facsimile

[1] To the extent that the applications contain attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel and discuss the need for a protective order.

transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by email to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer or the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(I)–(viii).

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: June 16, 2005, as supplemented June 19, 2005.

Description of amendment request: The amendment revises the Technical Specifications to remove the requirement to have an operable containment spray flow path capable of taking suction from the containment sump.

Date of issuance: June 21, 2005.

Effective date: June 21, 2005.

Amendment No.: 184.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration (NSHC): No. The Commission's related evaluation of the amendment, finding of emergency circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated June 21, 2005.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

NRC Section Chief: L. Raghavan.

Dated in Rockville, Maryland, this 27th day of June 2005.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 05–12987 Filed 7–1–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Model Application Concerning Technical Specifications for Combustion Engineering Plants To Risk-Inform Requirements Regarding Selected Required Action End States Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has prepared a model application related to the revision of Combustion Engineering (CE) plant required action end state requirements in technical specifications (TS). The purpose of this model is to permit the NRC to efficiently process amendments that propose to revise CE TS required action end state requirements. Licensees of nuclear power reactors to which the model applies may request amendments utilizing the model application.

DATES: The NRC staff issued a **Federal Register** notice (70 FR 23238, May 4, 2005) that provided a model safety evaluation (SE) and a model no significant hazards consideration (NSHC) determination relating to changing CE TS required action end state requirements. The NRC staff hereby announces that the model SE and NSHC determination may be referenced in plant-specific applications to adopt the changes. The staff has posted a model application on the NRC Web site to assist licensees in using the consolidated line item improvement process (CLIIP) to revise the CE TS required action end state requirements. The NRC staff can most efficiently consider applications based upon the model application if the application is submitted within a year of this **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: William Reckley, Mail Stop: O7D1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1323.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, ''Consolidated Line Item Improvement Process for Adopting Standard Technical Specification Changes for Power Reactors,'' was issued on March 20, 2000. The CLIIP is intended to improve the efficiency of NRC licensing processes. This is accomplished by processing proposed changes to the standard TS (STS) in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. The CLIIP directs the NRC staff to evaluate any comments received for a proposed change to the STS and to either reconsider the change or to proceed with announcing the availability of the change for proposed adoption by licensees. Those licensees opting to apply for the subject change to TS are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information. Each amendment application made in response to the notice of availability will be processed and noticed in accordance with applicable rules and NRC procedures.

This notice involves the revision of CE TS required action end state requirements. This proposed change was proposed for incorporation into the STS by participants in the Technical Specification Task Force (TSTF) and is designated TSTF–422, Revision 1. TSTF–422 can be viewed on the NRC Web site (*http://www.nrc.gov*).

Applicability

This proposed change to revise CE TS required action end state requirements is applicable to licensees for CE PWRs who have adopted or will adopt, in conjunction with the proposed change, technical specification requirements for a Bases control program consistent with the TS Bases Control Program described in Section 5.5 of the applicable vendor's STS.

To efficiently process the incoming license amendment applications, the staff requests each licensee applying for the changes addressed by TSTF–422 using the CLIIP to provide the information identified in the model application posted on the NRC Web site.

Public Notices

In a notice in the **Federal Register** dated May 4, 2005 (70 FR 23238), the

staff requested comment on the use of the CLIIP to process requests to revise the CE TS regarding required action end state requirements.

TSTF–422, as well as the NRC staff's safety evaluation and model application, may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the ADAMS Public Library component on the NRC Web site, (the Electronic Reading Room).

The staff did not receive any comments following the notice published on May 4, 2005 (70 FR 23238), soliciting comments on the model SE and NSHC determination related to TSTF–422, Revision 1. The NRC staff has not made any changes to the previously published model SE and NSHC determination related to TSTF–422, Revision 1. The staff finds that the previously published models remain appropriate references and has chosen not to republish the model SE and model NSHC determination in this notice. As described in the model application prepared by the staff, licensees may reference in their plant-specific applications to adopt TSTF–422, the SE and NSHC determination previously published in the **Federal Register** (70 FR 23238; May 4, 2005).

Dated in Rockville, Maryland, this 23rd day of June 2005.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Section Chief, Technical Specifications Section, Operating Improvements Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

For Inclusion on Technical Specification Web Page

The following example of an application was prepared by the NRC staff to facilitate the use of the consolidated line item improvement process (CLIIP). The model provides the expected level of detail and content for an application to adopt TSTF–422, Revision 1, ''Risk-Informed Modifications to Selected Required Action End States,'' for Combustion Engineering Plants using CLIIP. Licensees remain responsible for ensuring that their actual application fulfills their administrative requirements as well as NRC regulations.

U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555.

Subject: Plant Name

Docket No. 50–

Application for Technical Specification Improvement Regarding Risk-Informed Modifications to Selected Required Action End States for Combustion Engineering Plants

Gentlemen:

In accordance with the provisions of 10 CFR 50.90 of Title 10 of the Code of Federal Regulations (10 CFR), [LICENSEE] is submitting a request for an amendment to the technical specifications (TS) for [PLANT NAME, UNIT NOS.].

The proposed amendment would revise the Combustion Engineering (CE) TS requirements related to Required Action End States. The change is consistent with NRC-approved Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–422, Revision 1, ''Risk-informed Modifications to Selected Required Action End States.'' The availability of this TS improvement was announced in the **Federal Register** on [DATE] ([ ] FR [ ]) as part of the consolidated line item improvement process (CLIIP).

Attachment 1 provides a description of the proposed change and confirmation of applicability.

Attachment 2 provides the existing TS pages marked-up to show the proposed change.

[LICENSEE] requests approval of the proposed license amendment by [DATE], with the amendment being implemented [BY DATE OR WITHIN X DAYS].

In accordance with 10 CFR 50.91, a copy of this application, with attachments, is being provided to the designated [STATE] Official.

I declare under penalty of perjury under the laws of the United States of America that I am authorized by [LICENSEE] to make this request and that the foregoing is true and correct. [Note that request may be notarized in lieu of using this oath or affirmation statement].

If you should have any questions regarding this submittal, please contact [ ].

Sincerely,

Name, Title

Attachments:

1. Description and Assessment
2. Proposed Technical Specification Changes

cc: NRR Project Manager
Regional Office
Resident Inspector
State Contact

ATTACHMENT 1—Description and Assessment

1.0 INTRODUCTION

The proposed license amendment revises the requirements in Combustion Engineering (CE) Technical Specification (TS) requirements related to Required Action End States. The changes are consistent with NRC approved Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–422, Revision 1, ''Risk-informed Modifications to Selected Required Action End States.'' The availability of this technical specification improvement was announced in the **Federal Register** on [DATE] as part of the consolidated line item improvement process (CLIIP).

2.0 DESCRIPTION OF PROPOSED AMENDMENT

Consistent with the NRC-approved TSTF–422, Revision 1, the proposed TS changes include:

- Revised TS [3.3.5 (analog)], ''Engineering Safety Features Actuation Signal (ESFAS) Logic and Manual Trip''
- Revised TS [3.3.6 (digital)], ''ESFAS Logic and Manual Trip''
- Revised TS [3.3.8 (digital)], ''Containment Purge and Isolation Signal (CPIS)''
- Revised TS [3.3.8 (analog), 3.3.9 (digital)], ''Control Room Isolation Signal (CRIS)''
- Revised TS [3.3.9 (analog)], ''Chemical and Volume Control System (CVCS) Isolation Signal''
- Revised TS [3.3.10 (analog)], ''Shield Building Filtration Actuation Signal''
- Revised TS [3.4.6], ''Reactor Coolant System (RCS) Loops—MODE 4''
- Revised TS [3.5.4], ''Refueling Water Tank''
- Revised TS [3.6.2], ''Containment Air Locks''
- Revised TS [3.6.3], ''Containment Isolation Valves''
- Revised TS [3.6.4], ''Containment Pressure''
- Revised TS [3.6.5], ''Containment Air Temperature''
- Revised TS [3.6.6A], ''Containment Spray and Cooling Systems (Atmospheric and Dual)'' Credit taken for iodine removal by the Containment Spray System
- Revised TS [3.6.6B], ''Containment Spray and Cooling Systems (Atmospheric and Dual)'' Credit not taken for iodine removal by the Containment Spray System
- Revised TS [3.6.11], ''Shield Building (Dual)''
- Revised TS [3.7.7], ''Component Cooling Water System''
- Revised TS [3.7.8], ''Service Water System''
- Revised TS [3.7.9], ''Ultimate Heat Sink''
- Revised TS [3.7.10], ''Essential Chill Water''
- Revised TS [3.7.11], ''Control Room Emergency Air Cleanup System (CREACS)''
- Revised TS [3.7.12], ''Control Room Emergency Air Temperature Control System (CREATCS)''
- Revised TS [3.7.13], ''Emergency Core Cooling System Pump Room Exhaust Air Cleanup System (ECCS PREACS)''
- Revised TS [3.7.15], ''Penetration Room Exhaust Air Cleanup System (PREACS)''
- Revised TS [3.8.1], ''AC Sources—Operating''
- Revised TS [3.8.1], ''AC Sources—Operating''
- Revised TS [3.8.4], ''DC Sources—Operating''
- Revised TS [3.8.7], ''Inverters—Operating''

Proposed revisions to the TS Bases are also included in this application. As discussed in the NRC's model safety evaluation, adoption of the revised TS Bases associated with TSTF–422, Revision 1 is an integral part of

implementing this TS improvement. The changes to the affected TS Bases pages will be incorporated in accordance with the TS Bases Control Program.

3.0 BACKGROUND

The background for this application is adequately addressed by the NRC Notice of Availability published on [DATE]([ ] FR [ ]), the NRC Notice for Comment published on May 4, 2005 (70 FR 23238), and TSTF–422, Revision 1.

4.0 REGULATORY REQUIREMENTS AND GUIDANCE

The applicable regulatory requirements and guidance associated with this application are adequately addressed by the NRC Notice of Availability published on [DATE]([ ] FR [ ]), the NRC Notice for Comment published on May 4, 2005 (70 FR 23238), and TSTF–422, Revision 1.

5.0 TECHNICAL ANALYSIS

[LICENSEE] has reviewed the safety evaluation (SE) published on May 4, 2005 (70 FR 23238) as part of the CLIIP Notice for Comment. This included the NRC staff's SE supporting the changes associated with TSTF–422, Revision 1. [LICENSEE] has concluded that the justifications presented in the TSTF proposal and the SE prepared by the NRC staff are applicable to [PLANT, UNIT NOS.] and justify this amendment for the incorporation of the changes to the [PLANT] TS.

6.0 REGULATORY ANALYSIS

A description of this proposed change and its relationship to applicable regulatory requirements and guidance was provided in the NRC Notice of Availability published on [DATE]([ ] FR [ ]), the NRC Notice for Comment published on May 4, 2005 (70 FR 23238), and TSTF–422, Revision 1.

6.1 LIST OF REGULATORY COMMITMENTS

The following table identifies those actions committed to by [LICENSEE] in this document. Any other statements in this submittal are provided for information purposes and are not considered to be regulatory commitments. Please direct questions regarding these commitments to [CONTACT NAME].

Regulatory commitments	Due date/event
[LICENSEE] will establish the Technical Specification Bases for the revised specifications as adopted with the applicable license amendment.	[Complete, implemented with amendment OR within X days of implementation of amendment]
[LICENSEE] will follow the guidance established in Section 11 of NUMARC 93–01, ''Industry Guidance for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants,'' Nuclear Management and Resource Council, Revision 3, July 2000.	[Ongoing, or implement with amendment]
[LICENSEE] will follow the guidance established in Revision 00 of WCAP–16364–NP, ''Implementation Guidance for Risk Informed Modification to Selected Required Action End States at Combustion Engineering NSSS Plants (TSTF–422),'' Westinghouse, November 2004.	[Implement with amendment, when TS Required Action End State remains within the APPLICABILITY of TS]

7.0 NO SIGNIFICANT HAZARDS CONSIDERATION

[LICENSEE] has reviewed the proposed no significant hazards consideration determination published on May 4, 2005 (70 FR 23238) as part of the CLIIP. [LICENSEE] has concluded that the proposed determination presented in the notice is applicable to [PLANT] and the determination is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

8.0 ENVIRONMENTAL EVALUATION

[LICENSEE] has reviewed the environmental consideration included in the model SE published on May 4, 2005 (70 FR 23238) as part of the CLIIP. [LICENSEE] has concluded that the staff's findings presented in that model SE are applicable to [PLANT] and the determination is hereby incorporated by reference for this application.

9.0 PRECEDENT

This application is being made in accordance with the CLIIP. [LICENSEE] is not proposing variations or deviations from the TS changes described in TSTF–422, Revision 1, or the NRC staff's model SE published on May 4, 2005 (70 FR 23238).

10.0 REFERENCES

Federal Register notices:

Notice for Comment published on May 4, 2005 (70 FR 23238)

Notice of Availability published on [DATE]([ ] FR [ ])

ATTACHMENT 2—PROPOSED TECHNICAL SPECIFICATION CHANGES (MARK-UP)

ATTACHMENT 3—PROPOSED TECHNICAL SPECIFICATION PAGES

ATTACHMENT 4—PROPOSED TECHNICAL SPECIFICATION BASES PAGES (MARK-UP)

[FR Doc. E5–3486 Filed 7–1–05; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting

July 21, 2005, Public Hearing

TIME AND DATE: 2 p.m., Thursday, July 21, 2005.

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Hearing open to the Public at 2 p.m.

PURPOSE: Public Hearing in conjunction with each meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation.

Procedures

Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m., Friday, July 15, 2005. The notice must include the individual's name, title, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request to participate an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m., Friday, July 15, 2005. Such statements must be typewritten, double-spaced, and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda for the hearing identifying speakers, setting forth the subject on which each participant will speak, and the time allotted for each presentation. The agenda will be available at the hearing.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

CONTACT PERSON FOR INFORMATION: Information on the hearing may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via e-mail at *cdown@opic.gov*.

Dated: June 30, 2005.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 05–13300 Filed 6–30–05; 3:09 pm]

BILLING CODE 3210–01–M

OFFICE OF PERSONNEL MANAGEMENT

Personnel Demonstration Project; Alternative Personnel Management System for the U.S. Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Notice of modification to the Department of Commerce Personnel Management Demonstration Project.

SUMMARY: The Office of Personnel Management (OPM) has authority to conduct demonstration projects that experiment with new and different human resources management concepts to determine whether changes in policies and procedures result in improved Federal human resources management. OPM approved a demonstration project covering several operating units of the U.S. Department of Commerce (DoC). OPM must approve all modifications to approved demonstration project plans. This notice proposes to further expand the coverage of the demonstration project to include two bargaining units contained within organizations already included in the project. This notice also announces the realignment of the Space Environment Center (SEC), Boulder, Colorado, from the Office of Atmospheric Research (OAR) of the National Oceanic and Atmospheric Administration (NOAA) to the National Weather Service (NWS) of NOAA located in Boulder, Colorado. This notice also adds several new occupational series used in the project and identifies changes to the **Federal Register** notice document Volume 68, Number 180, on page 54506, dated Wednesday, September 17, 2003. These changes do not require waivers.

DATES: This notice modifying the DoC Demonstration Project may be implemented upon publication.

FOR FURTHER INFORMATION CONTACT: Department of Commerce: Joan Jorgenson, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Room 5014, Washington, DC 20230, (202) 482–4233. Office of Personnel Management: Jill Rajaee, U.S. Office of Personnel Management, 1900 E Street, NW., Room 7667, Washington, DC 20415, (202) 606–0836.

SUPPLEMENTARY INFORMATION:

1. Background

The Office of Personnel Management (OPM) approved the Department of Commerce (DoC) Demonstration Project and published the final plan in the **Federal Register** Volume 62, Number 247, Part II, on Wednesday, December 24, 1997. The project was implemented on March 29, 1998, and modified in the **Federal Register** on Thursday, September 30, 1999, Volume 64, Number 189 (Notices)(Pages 52810–52812) and on Tuesday, August 12, 2003, Volume 68, Number 155 (Notices)(Pages 47948–47949). OPM approved a request to extend the DoC Demonstration Project for five years as stated in an administrative letter from OPM, dated February 14, 2003. The project was approved for expansion in **Federal Register** notice Volume 68, Number 180, dated Wednesday, September 17, 2003 (Notices) (Pages 54505–54507) to include an additional 1,505 employees.

Authority: 5 U.S.C. 4703; 5 CFR 470.31.5.

Office of Personnel Management.

Dan G. Blair,

Acting Director.

Table of Contents

I. Executive Summary
II. Basis for Project Plan Modification
III. Changes to the Project Plan

I. Executive Summary

The Department of Commerce (DoC) Demonstration Project utilizes many features similar to those implemented by the National Institute of Standards and Technology (NIST) demonstration project in 1988. The DoC Demonstration Project supports several key objectives: To simplify the classification system for greater flexibility in classifying work and paying employees; to establish a performance management and rewards system for improving individual and organizational performance; and to improve recruitment and retention to attract highly qualified candidates. The project is designed to test whether the interventions of the NIST project, which is now a permanent alternative personnel system, could be successful in other DoC environments. The current participating organizations include the Office of the Chief Financial Officer and Assistant Secretary for Administration (CFO/ASA), the Technology Administration, the Bureau of Economic Analysis, the Institute for Telecommunication Sciences, and three units of the National Oceanic and Atmospheric Administration: Office of Oceanic and Atmospheric Research, National Marine Fisheries Service, and the National Environmental Satellite, Data, and Information Service.

II. Basis for Project Plan Modification

(1) Employees of two bargaining units within the Office of the Chief Financial Officer and Assistant Secretary for Administration (CFO/ASA) have requested participation in the DoC Demonstration Project. The Washington Printing and Graphic Communications Union (WPGC), Local 1–C of the Graphic Communications International Union, AFL-CIO, has requested inclusion. This unit consists of all employees engaged in printing and production work, in the Publications and Graphics Division, Office of Administrative Services (OAS), located in Washington, DC. The American Federation of Government Employees, Local 2186, AFL-CIO, has requested inclusion. This unit consists of Police Officers and Security Guards in the Office of Security (OSY), located in Boulder, Colorado. Appropriate consultations have been conducted with officials of both locals, and all employees have received a specific briefing on the demonstration project. Management will also notify the employee organizations representing these employees and provide all employees with a copy of this **Federal Register** notice upon publication.

(2) The Space Environment Center (SEC) currently consists of 50 employees who are participating in the project whose duty location is Boulder, Colorado. The SEC is an organizational component of the Office of Atmospheric Research (OAR), which is a component of the National Oceanic and Atmospheric Administration (NOAA). In order to improve organizational efficiency, NOAA realigned the SEC from OAR to the National Weather Service (NWS), another organizational component of NOAA. The duty location of these employees remains Boulder, Colorado. Appropriate consultations with the National Weather Service Employees Organization (NWSEO) were conducted. All employees of the Space Environment Center have received a specific briefing on this realignment of the demonstration project. Management also notified the employee organizations representing these employees and will provide all employees with a copy of this **Federal Register** notice upon publication.

No other organizational components of NWS are participating in the project. The SEC remains a separate and distinct organization consisting solely of employees participating in the project.

(3) In the **Federal Register** notice Volume 68, Number 180, on page 54506,

dated Wednesday, September 17, 2003, the following corrections are noted:

On page 54506, in C. Changes to the Plan (1) Section II. E: Participating Employees, move the series 0083, Police, and the series 0085, Security Guard, from the Administrative (ZA) Career Path to the Support (ZS) Career Path. Move the series 0350, Equipment Operator, from the Scientific and Engineering Technician (ZT) Career Path to the Support (ZS) Career Path. Move the series 0150, Geography, and the series 0170, History, from the Administrative (ZA) Career Path to the Scientific and Engineering (ZP) Career Path. Move the series 0963, Legal Instruments Examining, from the Administrative (ZA) Career Path to the Support (ZS) Career Path.

The changes to the placement of these series in different career paths will have no impact on the pay, series, or pay band classification of employees in these series. Employees have been notified of these changes, and management will provide a copy of this approved **Federal Register** notice to the affected employees and to the employee organizations representing these employees.

III. Changes to the Project Plan

The following discussion refers readers to the substantive changes to the project plan.

(1) Section II. D. Participating Organizations. Add:

National Weather Service (NWS) to the participating organizations on behalf of the 50 reorganized employees.

DoC has realigned an organization within the Office of Atmospheric Research (OAR) containing 50 employees already included in the DoC Demonstration Project to NWS. This realignment will not increase the total number of employees covered by the DoC Demonstration Project beyond the 5,000 statutory limit. The total number of employees currently covered by the project is 4,285.

NWS, a major subcomponent of NOAA, provides weather, hydrologic, and climate forecasts and warnings for the United States, its territories, adjacent waters, and ocean areas, for the protection of life and property and the enhancement of the national economy. NWS data and products form a national information database and infrastructure which can be used by other Governmental agencies, the private sector, the public, and the global community.

The dominant occupation within NWS is Meteorologist. Other key occupations are Meteorologist Technician, Physical Scientist, and Hydrologist.

(2) Section II. E: Participating Employees.

The following bargaining units are added to Table 4—Bargaining Unit Coverage.

Operating unit	Location	Union local
CFO/ASA	Boulder, Co	AFGE 2186
CFO/ASA	Washington, DC	WPGC 1–C

(3) Section II. E: Participating Employees

The following series are added to Table 2.

Administrative (ZA) Career Path

0132	Intelligence Series.
0299	Human Resources Management Student Trainee Series.
1099	Information and Arts Student Trainee Series.
1199	Business and Industry Student Trainee Series.
1499	Library and Archives Student Trainee Series.
1699	Equipment and Facilities Management Student Trainee.
1899	Investigation Student Trainee Series.
2099	Supply Student Trainee Series.
2199	Transportation Student Trainee Series.

[FR Doc. 05–13071 Filed 7–1–05; 8:45 am]

BILLING CODE 6325–43–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10130]

Montana Disaster # MT–00001 Declaration of Economic Injury

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Montana, dated 06/23/2005.

Incident: Closure of Highway 212, Beartooth Highway caused by landslides.

Incident Period: 05/20/2005 and continuing.

DATES: Effective Date: 06/23/2005.

EIDL Loan Application Deadline Date: 03/23/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 3, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration on 06/23/2005, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Carbon Park, Stillwater

Contiguous Counties:

Montana

Big Horn, Gallatin, Golden Valley, Meagher, Sweet Grass, Yellowstone

Wyoming

Big Horn Park

The Interest Rate is: 4.000.

The number assigned to this disaster for economic injury is 101300.

The States which received an EIDL Declaration # are Montana, Wyoming

(Catalog of Federal Domestic Assistance Number 59002)

Dated: June 23, 2005.

Hector V. Barreto,

Administrator.

[FR Doc. 05–13150 Filed 7–1–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 5126]

30-Day Notice of Proposed Information Collection: DS–11, Application for a U.S. Passport, OMB Number 1405–0004

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Application For a U.S. Passport.
- *OMB Control Number:* 1405–0004.
- *Type of Request:* Extension.
- *Originating Office:* CA/PPT/FO/FC.
- *Form Number:* DS–11.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 6,600,000 per year.
- *Estimated Number of Responses:* 6,600,000 per year.
- *Average Hours Per Response:* 1 hour and 25 minutes.
- *Total Estimated Burden:* 9,350,000 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to obtain or retain a benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from July 5, 2005.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- *E-mail: Katherine_T._Astrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD-ROM submissions):* The Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20520.
- *Fax:* 202–395–6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from, Susan Cowlishaw, 2100 Pennsylvania Ave. 3rd Floor, Washington, DC 20037, who may be reached on 202–261–8957 or at *Cowlishawsc@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

The information collected on the DS–11 is used to facilitate the issuance of passports to U.S. citizens and non-citizen nationals. The primary purpose of soliciting the information is to establish citizenship, identity, and entitlement to the issuance of a United States passport or related service, and to properly administer and enforce the laws pertaining to issuance thereof.

Methodology

Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the Application For A U.S. Passport. Passport applicants can either download the form from the Internet or obtain one from an Acceptance Facility/Passport Agency. The form must be completed, signed in the presence of a designated acceptance agent, and then submitted along with the applicant's citizenship and identity documentation.

Dated: June 17, 2005.

Ann Barrett,

Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 05–13105 Filed 7–1–05; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 5125]

30-Day Notice of Proposed Information Collection: DS–5504, U.S. Passport Re-Application Form, OMB Control Number 1405–0160

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* U.S. Passport Re-Application Form.
- *OMB Control Number:* 1405–0160.
- *Type of Request:* New collection.
- *Originating Office:* CA/PPT/FO/FC.
- *Form Number:* DS–5504.
- *Respondents:* Individuals or households.
- *Estimated Number of Respondents:* 50,000 per year.
- *Estimated Number of Responses:* 50,000 per year.
- *Average Hours Per Response:* 30 minutes.
- *Total Estimated Burden:* 25,000 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to obtain or retain a benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from July 5, 2005.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- *E-mail: Katherine_T._Astrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD–ROM submissions):* 725 17th Street, NW., Washington, DC 20503.
- *Fax:* 202–395–6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from, Susan Cowlishaw (2100 Pennsylvania Ave., NW., 3rd Floor, Washington, DC 20037), who may be reached on 202–261–8957 or at *Cowlishawsc@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

The information collected on the DS–5504 is used to facilitate the issuance of passports to U.S. citizens and nationals. The U.S. Passport Re-Application Form is being introduced because, with the introduction of the ''electronic passport,'' it will no longer be possible to amend valid U.S. passports. Instead of seeking an amendment, a passport holder whose name has changed; who needs correction of descriptive information on the data page of the passport; or who wishes to obtain a fully-valid passport after obtaining a full-fee one-year emergency passport abroad would be permitted to re-apply for a new passport at no charge within one year of the date of issuance of the original passport. The electronic passport will contain a chip that contains the information from the data page of the passport. Since the data page and the information contained on the chip must match, the above situations will require that new passports be issued.

Methodology

Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the U.S. Passport Re-Application Form. Passport applicants can either download the form from the Internet or obtain one from an Acceptance Facility/Passport Agency. The form must be completed and then signed. The form is then submitted along with the original passport and relevant documentation supporting the applicant's name change, citizenship, and/or biographical facts.

Dated: June 17, 2005.

Ann Barrett,

Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 05–13106 Filed 7–1–05; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 5123]

30-Day Notice of Proposed Information Collection: DS–3053; Statement of Consent or Special Circumstances: Issuance of a Passport to a Minor Under Age 14, OMB Control Number 1405–0129

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Statement of Consent or Special Circumstances: Issuance of a Passport to a Minor Under Age 14.
- *OMB Control Number:* 1405–0129.
- *Type of Request:* Extension of a currently approved collection.
- *Originating Office:* Bureau of Consular Affairs, Department of State, Passport Services, Office of Field Operations, Field Coordination Division (CA/PPT/FO/FC).
- *Form Number:* DS–3053.
- *Respondents:* Individuals or households.
- *Estimated Number of Respondents:* 525,000 annually.
- *Estimated Number of Responses:* 525,000 annually.
- *Average Hours Per Response:* 1 hour.
- *Total Estimated Burden:* 525,000 hours annually.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to obtain or retain a benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from July 5, 2005.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- *E-mail: Katherine_T._Astrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD–ROM submissions):* Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.
- *Fax:* 202–395–6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from, Susan Cowlishaw, (2100 Pennsylvania Ave., 3rd Floor, Washington, DC 20037) who may be reached on 202–261–8957 or at *Cowlishawsc@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of Proposed Collection

The Statement of Consent or Special Circumstances: Issuance of a Passport to a Minor Under Age 14 is used by the parent(s) or legal guardian(s) of a minor U.S. citizen or non-citizen national under the age of 14 to document the written notarized consent to issuance of a U.S. passport to the minor of a parent or legal guardian who is not present at the time the application is made, or to document the existence of exigent or special family circumstances. This form is used in conjunction with Form DS–11, Application for a U.S. Passport or Registration.

Methodology

Passport Services collects the information from U.S. citizens or non-citizen nationals when they voluntarily complete and submit the Statement of Consent or Special Circumstances: Issuance of a Passport to a Minor Under Age 14. Passport applicants can either download the form from the Internet or pick one up from an Acceptance Facility/Passport Agency. The form must be completed and then signed in the presence of a notary. The notary will complete his/her portion of the form and affix the notary seal. The form is then submitted along with the Form DS–11 Application for a U.S. Passport.

Dated: June 23, 2005.

Florence Fultz,

Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 05–13107 Filed 7–1–05; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 5122]

30-Day Notice of Proposed Information Collection: DS–82, Application for a U.S. Passport by Mail, OBM Control Number 1405–0020

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Application for a U.S. Passport by Mail.
- *OMB Control Number:* 1405–0020.
- *Type of Request:* Extension.
- *Originating Office:* CA/PPT/FO/FC.
- *Form Number:* DS–82.
- *Respondents:* Individuals or households.
- *Estimated Number of Respondents:* 2,900,000 per year.
- *Estimated Number of Responses:* 2,900,000 per year.
- *Average Hours Per Response:* 40 minutes.
- *Total Estimated Burden:* 1,933,333 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to obtain or retain a benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from July 5, 2005.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- *E-mail:* *Katherine_T._Astrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD–ROM submissions):* Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.
- *Fax:* 202–395–6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from, Susan Cowlishaw (2100 Pennsylvania Ave. NW., 3rd Floor, Washington, DC 20037), who may be reached on 202–261–8957 or at *Cowlishawsc@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

The information collected on the DS–82 is used to facilitate the issuance of passports to U.S. citizens and non-citizen nationals. The primary purpose of soliciting the information is to establish citizenship, identity, and entitlement to the issuance of the United States passport or related service, and to properly administer and enforce the laws pertaining to issuance thereof.

Methodology

Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the Application for a U.S. Passport by Mail. Passport applicants can either download the form from the Internet or obtain one from an Acceptance Facility/Passport Agency. The form must be completed, signed and then submitted along with the applicant's previous U.S. passport.

Dated: July 17, 2005.

Ann Barrett,

Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 05–13108 Filed 7–1–05; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 5121]

30-Day Notice of Proposed Information Collection: DS–4085, Application for Additional Visa Pages, OBM Control Number 1405–0159

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Application for Additional Visa Pages.
- *OMB Control Number:* 1405–0159.
- *Type of Request:* New collection.
- *Originating Office:* CA/PPT/FO/FC.
- *Form Number:* DS–4085.
- *Respondents:* Individuals or households.
- *Estimated Number of Respondents:* 30,000 per year.
- *Estimated Number of Responses:* 30,000 per year.
- *Average Hours per Response:* 20 minutes.
- *Total Estimated Burden:* 10,000 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to obtain or retain a benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from July 5, 2005.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at (202) 395–4718. You may submit comments by any of the following methods:

- E-mail: *Katherine_T._Astrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- Mail (paper, disk, or CD–ROM submissions): Office of Foreign Missions, 725 17th Street, NW., Washington, DC 20503.
- Fax: (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from, Susan Cowlishaw (2100 Pennsylvania Ave., NW., 3rd Floor, Washington, DC 20037), who may be reached on (202) 261–8957 or at *Cowlishawsc@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection:

The Application for Additional Visa Pages (DS–4085) Form has been developed to replace the Amendment and Validation Application (DS–19) Form. With the introduction of the ''electronic passport,'' it will no longer be possible to amend U.S. passports. The DS–4085 has been developed to serve one of the functions of Form DS–19. Applicants will use the DS–4085 Form to add additional visa pages to their valid U.S. passports. The electronic passport will contain a chip that stores information from the data page of the passport. The information on the data page and that contained on the chip must match. The addition of visa pages will not change information on the data page or alter the chip.

Methodology:

Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the Application for Additional Visa Pages Form. Passport applicants can either download the form from the Internet or obtain one from an Acceptance Facility/Passport Agency. The form must be completed and then signed. The form is then submitted along with the original passport.

Dated: June 17, 2005.

Ann Barrett,

Acting, Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 05–13109 Filed 7–1–05; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 5124]

30-Day Notice of Proposed Information Collection: Forms DS–573, DS–574, DS–575, and DS–576, Overseas Schools—Grant Request Automated Submissions Program (GRASP), OMB Control No. 1405–0036

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Overseas Schools Grant Request Automated Submissions Program (GRASP).
- *OMB Control Number:* 1405–0036.
- *Type of Request:* Extension of a currently approved collection.
- *Originating Office:* A/OPR/OS.
- *Form Number:* DS–573, DS–574, DS–575, DS–576.
- *Respondents:* Recipients of grants.
- *Estimated Number of Respondents:* 190.
- *Estimated Number of Responses:* 190.
- *Average Hours Per Response:* 1.50.
- *Total Estimated Burden:* 285 hours.
- *Frequency:* Annually.
- *Obligation to Respond:* Required to retain a benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from July 5, 2005.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- *E-mail: Katherine_T._Astrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD–ROM submissions):* Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.
- *Fax:* 202–395–6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Keith Miller, Office of Overseas Schools, Room H–328, 2401 E Street, NW., Washington, DC 20522–0132, who may be reached on 202–261–8200 or at *millerkd2@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

The Office of Overseas Schools of the Department of State (A/OPR/OS) is responsible for determining that adequate educational opportunities exist at Foreign Service Posts for dependents of U.S. Government personnel stationed abroad, and for assisting American-sponsored overseas schools to demonstrate U.S. educational philosophy and practice. The information gathered enables A/OPR/OS to advise the Department and other foreign affairs agencies regarding current and constantly changing conditions, and enables A/OPR/OS to make judgments regarding assistance to schools for the improvement of educational opportunities.

Methodology

Information is collected via electronic media.

Dated: June 20, 2005.

Paula S. Lader,

Deputy Director, Bureau of Administration, Department of State.

[FR Doc. 05–13111 Filed 7–1–05; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Material Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Delmer Billings, Office of Hazardous Materials Exemptions and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4535.

Key to ''Reason for Delay''

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.
4. Staff review delayed by other priority issues or volume of exemption applications.

Meaning of Application Number Suffixes

N—New application.
M—Modification request.
X—Renewal.
PM—Party to application with modification request.

Issued in Washington, DC, on June 28, 2005.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Safety Exemptions & Approvals.

NEW EXEMPTION APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
13183–N	Becton Dickinson, Sandy, UT	4	08/31/2005
13281–N	The Dow Chemical Company, Midland, MI	4	08/31/2005
13266–N	Luxfer Gas Cylinders, Riverside, CA	4	07/31/2005
13302–N	FIBA Technologies, Inc., Westboro, MA	4	07/31/2005
13341–N	National Propane Gas Association, Washington, DC	3	07/31/2005
13314–N	Sunoco Inc., Philadelphia, PA	4	08/31/2005
13309–N	OPW Engineered Systems, Lebanon, OH	4	08/31/2005
13347–N	ShipMate, Inc., Torrance, CA	4	08/31/2005
13346–N	Stand-By-Systems, Inc., Dallas, TX	1	07/31/2005
14037–N	Air Products & Chemicals, Inc., Allentown, PA	4	08/31/2005
14038–N	Dow Chemical Company, Midland, MI	1	08/31/2005
14010–N	Varsal, LLC, Warminster, PA	4	08/31/2005
13999–N	Kompozit-Praha s.r.o., Dysina u Plzne, Czech Republic, CZ	4	07/31/2005
13958–N	Department of Defense, Fort Eustis, VA	1	08/31/2005
13957–N	T.L.C.C.I, Inc., Franklin, TN	4	08/31/2005
13858–N	US Ecology Idaho, Inc. (USEI), Grand View, ID	1	08/31/2005
13582–N	Linde Gas LLC (Linde), Independence, OH	4	07/31/2005
13563–N	Applied Companies, Valencia, CA	4	08/31/2005
13547–N	CP Industries, McKeesport, PA	4	07/31/2005

MODIFICATION TO EXEMPTIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
7277–M	Structural Composites Industries, Pomona, CA	4	08/31/2005
10019–M	Structural Composites Industries, Pomona, CA	4	08/31/2005
10915–M	Luxfer Gas Cylinders (Composite Cylinder Division), Riverside, CA	1	07/31/2005
10319–M	Amtrol, Inc., West Warwick, RI	4	07/31/2005
13327–M	Hawk FRP LLC, Ardmore, OK	1	07/31/2005
7774–M	Pipe Recovery Systems, Inc., Houston, TX	4	08/31/2005
13488–M	FABER INDUSTRIES SPA, (U.S. Agent: Kaplan Industries, Maple Shade, NJ)	4	08/31/2005
12988–M	Air Products & Chemicals, Inc., Allentown, PA	4	08/31/2005
12284–M	The American Traffic Safety Services Assn. (ATSSA), Fredericksburg, VA	1	07/31/2005
6263–M	Amtrol, Inc., West Warwick, RI	4	08/31/2005
11579–M	Dyno Nobel, Inc., Salt Lake City, UT	4	07/31/2005
11241–M	Rohm and Haas Co., Philadelphia, PA	1	07/31/2005
7280–M	Department of Defense, Ft. Eustis, VA	4	07/31/2005
10878–M	Tankcon FRP Inc., Boisbriand, Qc	1, 3	08/31/2005
8162–M	Structural Composites Industries, Pomona, CA	4	08/31/2005
8718–M	Structural Composites Industries, Pomona, CA	4	08/31/2005

NEW EXEMPTION APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
9649–X	U.S. Department of Defense, Fort Eustis, VA	1, 3	07/31/2005

[FR Doc. 05–13125 Filed 7–1–05; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Meeting of the President's Advisory Panel on Federal Tax Reform

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice advises all interested persons of a public meeting of the President's Advisory Panel on Federal Tax Reform.

DATES: The meeting will be held on Wednesday, July 20, 2005, and will begin at 8 a.m.

ADDRESSES: The meeting will be held at the Renaissance Hotel Washington DC, 999 9th Street, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: The Panel staff at (202) 927–2TAX (927–2829) (not a toll-free call) or email *info@taxreformpanel.gov* (please do not send comments to this box). Additional

information is available at *http://www.taxreformpanel.gov*.

SUPPLEMENTARY INFORMATION:

Purpose: The July 20 meeting is the tenth meeting of the Advisory Panel. At this meeting, the Panel will discuss issues associated with reform of the tax code.

Comments: Interested parties are invited to attend the meeting; however, no public comments will be heard at the meeting. Any written comments with respect to this meeting may be mailed to The President's Advisory Panel on Federal Tax Reform, 1440 New York Avenue, NW., Suite 2100, Washington, DC 20220. All written comments will be made available to the public.

Records: Records are being kept of Advisory Panel proceedings and will be available at the Internal Revenue Service's FOIA Reading Room at 1111 Constitution Avenue, NW., Room 1621, Washington, DC 20024. The Reading Room is open to the public from 9 a.m. to 4 p.m., Monday through Friday except holidays. The public entrance to the reading room is on Pennsylvania Avenue between 10th and 12th streets. The phone number is (202) 622–5164 (not a toll-free number). Advisory Panel documents, including meeting announcements, agendas, and minutes, will also be available on *http://www.taxreformpanel.gov*.

Dated: June 30, 2005.

Mark S. Kaizen,

Designated Federal Officer.

[FR Doc. 05–13255 Filed 7–1–05; 8:45 am]

BILLING CODE 4811–33–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee July 2005 Public Meeting

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting and Public Forum scheduled for July 28, 2005, at the American Numismatic Association's World's Fair of Money®. The purpose of this meeting is to advise the Secretary of the Treasury on themes and designs pertaining to the coinage of the United States and for other purposes.

Date: July 28, 2005.

Time: 2:30 p.m. to 6 p.m. (Public Meeting followed by Public Forum).

Location: Moscone Center, 747 Howard Street, San Francisco, CA 94103.

Subject: Review American Eagle Platinum Proof Coin designs and other business.

Interested persons should call (202) 354–7502 for the latest update on meeting time and room location.

The CCAC was established to:

- Advise the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advise the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Make recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: Madelyn Simmons Marchessault, United States Mint Liaison to the CCAC; 801 9th Street, NW., Washington, DC 20220; or call (202) 354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration or addressing the CCAC at the Public Forum is invited to submit request and/or materials by fax to the following number: (202) 756–6830.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: June 29, 2005.

Henrietta Holsman Fore,

Director, United States Mint.

[FR Doc. 05–13180 Filed 7–1–05; 8:45 am]

BILLING CODE 4810–37–P

Corrections

Federal Register

Vol. 70, No. 127

Tuesday, July 5, 2005

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20572; Airspace Docket No. 05–ACE–9]

Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Valentine, NE

Correction

In rule document 05–9435 beginning on page 24940 in the issue of Thursday, May 12, 2005, make the following correction:

§71.1 [Corrected]

On page 24940, in § 71.1, in the third column, under the heading ''**ACE NE E2 Valentine, NE**'', in the second line, ''42°51′128″N.,'' should read ''42°51′28″N.,''.

[FR Doc. C5–9435 Filed 7–1–05; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20573; Airspace Docket No. 05–ACE–10]

Modification of Class E Airspace; Parsons, KS

Correction

In rule document 05–9434 appearing on page 24939 in the issue of Thursday, May 12, 2005, the docket number is corrected to read as set forth above.

[FR Doc. C5–9434 Filed 7–1–05; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21337; Airspace Docket No. 05–ACE–16]

Proposed Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Storm Lake, IA

Correction

In proposed document 05–12378 beginning on page 36085 in the issue of Wednesday, June 22, 2005, make the following corrections:

§71.1 [Corrected]

1. On page 36086, in § 71.1, in the third column, the heading ''**ACE IA 32 Storm Lake, IA**'' should read ''**ACE IA E2 Storm Lake, IA**''.

2. On the same page, in the same column, under the same heading, in the 12th line, ''nothr'' should read ''north''.

[FR Doc. C5–12378 Filed 7–1–05; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2005–20616; Airspace Docket No. 05–ANM–04]

RIN 2120–AA66

Amendment to Restricted Area 2211 Blair Lakes; AK

Correction

In rule document 05–11761 appearing on page 34650 in the issue of Wednesday, June 15, 2005, make the following correction:

§73.22 [Corrected]

On page 34650, in § 73.22, in the third column, under the heading **''R-2211 Blair Lakes, AK [Amended]''**, in the fourth line, ''147°32′8″ W.;'' should read ''147°32′08″ W.;''.

[FR Doc. C5–11761 Filed 7–1–05; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
July 5, 2005

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 36 and 91

Stage 4 Aircraft Noise Standards; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 36 and 91

[Docket No.: FAA–2003–16526]

RIN 2120–AH99

Stage 4 Aircraft Noise Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new noise standard for subsonic jet airplanes and subsonic transport category large airplanes. This noise standard ensures that the latest available noise reduction technology is incorporated into new aircraft designs. This noise standard, Stage 4, applies to any person submitting an application for a new airplane type design on and after January 1, 2006. The standard may be chosen voluntarily prior to that date. This noise standard is intended to provide uniform noise certification standards for Stage 4 airplanes certificated in the United States and those airplanes that meet the new International Civil Aviation Organization Annex 16 Chapter 4 noise standard.

DATES: *Effective Date:* These amendments become effective August 4, 2005. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 4, 2005.

FOR FURTHER INFORMATION CONTACT: Laurette Fisher, Office of Environment and Energy (AEE–100), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3561; facsimile (202) 267–5594.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the Office of Rulemaking's Web page at *http://www.faa.gov/avr/arm/index.cfm;* or

(3) Accessing the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

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

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact its local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at *http://www.faa.gov/avr/arm/sbrefa.htm,* or by e-mailing us at *-AWA-SBREFA@faa.gov.*

Background

On December 1, 2003, the FAA published a Notice of Proposed Rulemaking (NPRM) proposing the Stage 4 noise standard (68 FR 67330). A brief history of the FAA's regulation of aircraft noise since 1969 was presented in the preamble of the NPRM.

The new Stage 4 noise standard will apply to any person filing an application for a new airplane type design on and after January 1, 2006. As stated in the NPRM, the adoption of a new noise standard for new aircraft designs is not intended to signal the start of any rulemaking or other proceeding aimed at phasing out the production or operation of current aircraft models. Currently, there are no Federal regulations restricting the operations of Stage 3 airplanes, and the FAA has made no decision whether to seek such restrictions.

Much of the background for the development of a Stage 4 noise standard has taken place in the international arena and through the work of the International Civil Aviation Organization (ICAO). The environmental activities of the ICAO are largely undertaken through the Committee on Aviation Environmental Protection (CAEP), which was established by the ICAO in 1983, and which superseded the Committee on Aircraft Noise and the Committee on Aircraft Engine Emissions. The CAEP assists the ICAO in formulating new policies and adopting new standards on aircraft noise and aircraft engine emissions. The United States is an active member in the CAEP activities. There is at least one U.S. representative participating on each of the CAEP working groups.

On June 27, 2001, at its 163rd session, the ICAO unanimously approved the adoption of the new Chapter 4 noise standard in Annex 16. The new noise standard will apply to any application for new type designs submitted on or after January 1, 2006, for countries that use Annex 16 as their noise certification basis.

Discussion of Comments

The FAA received 71 comments in response to the NPRM. The scope of the comments indicates that many commenters are unfamiliar with the issues of aircraft noise certification and how noise certification relates to local aircraft operations. These topics will be discussed briefly as part of this disposition of the comments.

Weight Limits

Several commenters state that the new Stage 4 limits should apply to aircraft that weigh less than 75,000 pounds, indicating that these aircraft remain a significant noise problem. Several of these comments were submitted as form letters, or individual letters that used the same blocks of text.

FAA response: The proposed Stage 4 standard does apply to aircraft under 75,000 pounds. The applicability of § 36.1 does not restrict the scope of the Stage 4 standard by aircraft weight. The FAA suspects that the commenters are confusing the certification standards of part 36 with the operational limitations imposed in part 91. The 75,000 pound weight cutoff is used in operating rules as a means of distinguishing aircraft, but it does not apply to the requirement to meet Stage 4 noise levels at the time of certification testing under part 36.

The differences between aircraft certification and aircraft operating requirements are often confusing to the public, but the two represent very different parts of the FAA's regulatory responsibilities. Aircraft *noise certification testing* is conducted when a new aircraft is introduced (type certification), or an existing model aircraft is modified (supplemental type certification) in a manner that would produce an acoustical change, such as changes in size, configuration, engines, etc. Each aircraft model is noise certificated to operate up to its

maximum weight. An aircraft is tested at this maximum weight and must meet the noise standards for an aircraft of its weight according to the formulas adopted in part 36.

Aircraft *operations* are noise-limited under a completely different set of regulations, 14 CFR part 91. For example, when the FAA phased out the operation of Stage 2 airplanes over 75,000 pounds, it was the regulations of part 91 that were amended in 1991 for compliance by 2000. The certification standards of part 36 that determined how much noise a Stage 3 aircraft could produce had been adopted in 1977 and remained consistent as the operational rules got stricter.

When the FAA seeks to decrease noise levels produced by future aircraft, we amend the certification rules to introduce the quieter standard. The initial establishment of a new noise standard allows time for manufacturers to adjust engine and airframe designs to meet it. In reality, manufacturers are constantly adjusting their designs as technology evolves. As a consequence, an aircraft newly certificated this year meets the Stage 3 requirements of part 36, but it may be significantly quieter than an aircraft certificated 15 years ago because of advances in technology. Both aircraft are considered Stage 3 because the requirement is a ''not to exceed'' standard that sets a maximum noise level only. Until the agency lowers the maximum by setting a different certification standard, in this case the proposed Stage 4, no manufacturer can designate its aircraft as quieter than Stage 3.

This method of setting and maintaining certification standards does not allow for the FAA to suddenly lower the Stage 3 maximum to eliminate older aircraft that just meet the standard, whether they were originally manufactured or hushkitted to their Stage 3 level, as was suggested in the comments from the LAX Community Noise Roundtable, the Oakland Airport Community Noise Management Forum, and the San Francisco International Airport/Community Roundtable. Such a change would introduce a different system of aircraft noise certification, and would require a detailed analysis of the costs imposed by such a change.

Some confusion may have arisen with the proposed rule because the FAA did include a change in the operating rules of part 91. The rule change is intended only to allow for the operation of quieter Stage 4 airplanes once they are certificated. As written, the current part 91 regulations are exclusionary; an airplane over 75,000 pounds, may be operated in the contiguous United States only if it is Stage 3. To prevent a misinterpretation that would prohibit the operation of a quieter Stage 4 airplane, the regulation was changed to include Stage 3 or Stage 4 airplanes as eligible for operation in the contiguous United States. The proposed change in the operational rules would not restrict the operating status of any airplane flying today; it was proposed only to allow the operation of quieter airplanes once they are produced and designated as Stage 4.

No change is required to the proposed rules as a result of these comments, and the applicability of the Stage 4 standard remains unchanged in the final rule. Similarly, the proposed changes to the operational rules of Part 91 are adopted as proposed.

Standards for Stage 4

At least a dozen commenters suggest that the 10 decibel (dB) reduction that represents Stage 4 is not enough as a new standard. Commenters variously suggest reductions of 14 to 20dB from Stage 3 as the new Stage 4 standard. Several commenters indicate that the proposed 10dB reduction is a misrepresentation of the ''actual'' decrease in noise that can be expected because the number represents a cumulative reduction over the three phases of flight tested (flyover, lateral, and approach) at certification, and they presume that no more than 3dB will actually be accomplished at any given point. These commenters also indicate that the FAA should be getting input from individuals before new standards are decided upon internationally, in this case, before the U.S. presents its position to the ICAO and an international agreement is reached.

FAA Response: The FAA acknowledges that the proposed 10dB reduction represented by Stage 4 is a cumulative reduction for the three measurements. While this is a new way of expressing the total, the process of noise measurement at the three designated points has not changed, and no changes to this method were proposed.

As discussed above, the United States, as a member of ICAO, agreed to the designation of ICAO Chapter 4 as a 10dB cumulative reduction from Chapter 3 noise levels. The adoption of a new standard by ICAO is neither simple nor brief, includes significant participation by the United States, and included input from a wide cross-section of federal agencies and public interest groups through the long-established Intergovernmental Group on International Aviation (IGIA). The members of ICAO are well qualified to consider the technological possibilities and financial burdens associated with changes of this magnitude. As one commenter noted, one airports group in the United States had suggested a larger reduction to ICAO and it was rejected; the comments that suggest similar reductions here are not new arguments.

Consequently, it is unrealistic to think that the FAA would now propose a domestic standard that exceeds the one it agreed to and was adopted by ICAO, expecting that it could be done without significant financial and international trade impact. The United States helped develop and agreed to adopt the ICAO standard because it recognizes the global impact of aviation. Aircraft noise is a concern of every ICAO member state. The solution, however, is not for the United States to propose an arbitrarily more stringent standard outside of the international process.

In objecting to the Chapter 4 standard as too little, the Alliance of Residents Concerning O'Hare, Inc. (AReCO), suggests a reduction scale that extends to a 23dB reduction for new airplanes produced after 2015. AReCO's proposal is based on an entirely new certification framework. Instead of the ''meets or doesn't meet'' standard that represents current aircraft noise certification worldwide, AReCO's method would impose operational restrictions on aircraft that don't meet certain noise criteria, using a complex formula that considers an aircraft's maximum range and takeoff weight to determine its payload, including the amount of fuel it would be allowed to carry. This proposal is well beyond the scope of the NPRM. While AReCO would like to see a Stage 4 standard with greater reductions, its proposal eradicates the historical distinction between aircraft certification and operations, of which noise is only a minor part. Moreover, AReCO's proposal does not address the practical aspects of aviation operations, the costs inherent in such a change in methodology, the costs imposed by the proposed framework, and the limits on the regulatory authority of the FAA in restricting commercial aircraft operations.

On a related issue, several commenters indicated that a greater reduction is warranted because, as the FAA noted in the NPRM, many of the airplanes in production today can meet the proposed Stage 4 standard with little adjustment. As noted previously, airplanes manufactured today are not required to be as quiet as many of them are; their noise levels at certification are well below Stage 3 but are not allowed to be called anything other than Stage 3. Commenters who suggest that the Stage

4 standard is not strict enough because it fails to place a significant compliance burden on the industry, fail to give credit to manufacturers that have already worked to reduce noise before being required to do so. Noise reduction technology does not come without cost and additional operating expense over the average 30-year life of an airplane. None of the commenters that suggested stricter limits presented any information suggesting how these reductions might be accomplished, how they apply to current technology, how much they would cost, or the amount of benefit that would be generated by stricter limits. The FAA cannot adopt a stricter standard simply based on some generalized idea that the industry should absorb the cost, regardless of what it might be.

Standards Related to Operational Restrictions

Some commenters suggest both a higher reduction and a retroactive application of it to older airplanes. As noted above, certification standards only become applicable to older airplanes when the operational rules force them to be either modified to meet the new operational rules, or removed from service. The FAA has not proposed the operational phaseout of Stage 3 airplanes over 75,000 pounds.

In several instances, commenters adamantly request that the FAA restrict the operation of aircraft under 75,000 pounds. Such comments are beyond the scope of this rulemaking, which proposes only the establishment of a Stage 4 noise certification standard. The FAA has no current plan to restrict the operation of aircraft under 75,000 pounds.

Incorporation by Reference

Four commenters (and many of the form letters) took issue with the FAA's proposed incorporation by reference (IBR) of the ICAO Chapter 4 noise levels. They criticized the FAA for the limited availability of the ICAO document (because ICAO charges for its publications), indicating that the proposed rule cannot be analyzed fully without it. One commenter refers to IBR as a ''vague status'' that forces legal interpretation of the document to stay with the FAA. AReCO calls IBR a ''questionable practice'' and states that there is ''no good reason'' to use it. AReCO also states that it believes that IBR is used to ''reference a document that is of a changing nature'' to avoid future rule changes when the underlying IBR document changes, but that goal is defeated in the proposed rule since a specific document is identified. AReCO also charges that IBR removes public access to the regulations and leaves them in the hands of only corporate bodies that have the documents in their possession. Two commenters express a general disapproval with IBR that appear to echo the more detailed comments. General comments in the form letters also referred to IBR as inappropriate.

FAA Response: The comments indicate a lack of understanding of the reasons for using incorporation by reference (IBR) generally, and the FAA's goal in using it in this specific instance.

The differences between aircraft certificated to U.S. Stage 3 and those certificated to ICAO Chapter 3 are slight, but they have proved significant. The FAA has been tasked with assisting air carriers that encounter problems when operating overseas that go back to these differences. Further, the FAA has been committed to and has invested significant resources in the international harmonization of aircraft noise certification standards and methods as a means of reducing the burdens and costs associated with certification testing. These goals can be hampered by minor language differences.

The proposed Stage 4 standard represents a new approach by the FAA in noise certification. While the United States agreed to the maximum noise levels that define ICAO Chapter 4, the FAA was faced with balancing the Chapter 4 language with U.S. publication requirements and the framework and technical language of Part 36. The FAA was concerned that as differences accrued, it would again be forced to resolve questions by a foreign authority whether an aircraft meets or is equivalent to Chapter 4.

The FAA proposed the adoption of the Stage 4 standard by incorporating by reference some parts of the actual text of ICAO Annex 16 Chapter 4 to ensure identicality in the noise standard, and to make clear the intent of the United States to recognize the ICAO standard. Incorporation by reference is a time-tested technique for the FAA to adopt technical language and standards that it would otherwise have to restate completely without any benefit and with substantial risk of mistake, conversion errors and misinterpretation.

While adoption of a document that is not readily available could be viewed as problematic, the Chapter 4 standard comprises one printed page, and the FAA did its best to restate the content in the preamble to the NPRM. The FAA concluded that a review of the document by someone not using it for actual noise certification purposes would not reveal anything not stated in the NPRM. In fact, the paucity of the Chapter 4 document led the FAA to include a broader preamble explanation of the proposed standard than a mere reading of the document could provide.

The use of IBR in this instance is entirely appropriate for adopting technical language and standards. When the FAA actually incorporates a document in a final rule, a copy of the incorporated document is included with the rule, and is placed on file permanently and is available for inspection at the Federal Register. This is a requirement for every incorporated document precisely to prevent the situation that regulatory standards be adopted using provisions in documents available to a select few. Use of IBR does not avoid future rule changes. To change a rule that uses an incorporated document, an agency must undertake full rulemaking to introduce a later version, since it adopts a different standard.

To the extent that the commenter believes that incorporation by reference changes the legal status of an incorporated document, the FAA disagrees. The agency knows of no such status granted to incorporated documents other than that the portions incorporated become part of the overall regulation, subject to the same legal review.

A review of the comments did cause the FAA to examine its IBR proposal more closely, however, and we discovered a problem that has to do with the way the Chapter 4 standard is stated. When ICAO adopted Chapter 4 into Annex 16, it did so as an ''add on'' to Chapter 3, using the maximum noise levels stated in Chapter 3 and reducing them. Adoption of the Chapter 4 document alone would not provide a complete regulatory basis for a certification applicant trying to comply with it, since Chapter 3 would be an unincorporated basis. Consequently, the FAA has changed the final rule to more specifically incorporate the noise levels of Annex 16 Chapter 4, Paragraph 4.4, Maximum Noise Levels, and those of Chapter 3, Paragraph 3.4, Maximum Noise Levels, on which they are based.

The FAA has also determined from the comments that proposed § 36.105(a) could be misinterpreted to change the requirements for noise certification for aircraft certificated to Annex 16 in their country of origin. No intent to change the certification requirements of bilateral airworthiness agreements was intended, The regulations seek the recognition of the operational equivalency of Stage 4 and Chapter 4 airplanes, and encourage other certification authorities to make similar

findings. Accordingly, paragraph (a) of the proposed regulation has been eliminated in the final rule.

The FAA is sensitive to the concern that too much incorporation by reference potentially weakens its own regulatory standards. In choosing to state the Stage 4 standard by minimal references to Annex 16 Chapters 3 and 4, the agency has not in any manner diluted its regulatory authority or standards. Rather, the FAA is seeking to minimize any perceived differences between aircraft certificated in the United States and elsewhere. This is a significant first step in worldwide acceptability. With the adoption of Chapter 4 noise levels and the addition of statements in aircraft flight manuals, the FAA seeks to lead the call for the worldwide operational acceptance of Stage 4/Chapter 4 aircraft as indistinguishable.

Moreover, the incorporated document will only be used by a handful of aircraft manufacturers worldwide, which makes it even more appropriate for incorporation. The IBR process and access to the document do not change the fact that the United States already agreed to the standard it contains. The same commenters who object to IBR already acknowledge what standard it contains, even if they disagree as to its propriety. Disagreeing with the noise levels represented by the Stage 4 standard should not be confused with the form of its adoption into the regulations.

The FAA concludes that the benefits of incorporating parts of Chapter 4 far outweigh any benefit that could be imagined by restatement of it into part 36. The FAA is choosing to incorporate limited sections of the international standard intact and eliminate the discrepancies that would accompany the agency's having to maintain the part 36 format, serving no purpose in practice.

Annex 16 Amendment Level and References

The Boeing Company comments that it appreciates the FAA's efforts toward adopting uniform noise certification standards. In furtherance of this objective, Boeing requests that the FAA adopt Amendment 8 to Annex 16, rather than Amendment 7 as proposed. A review of Amendment 8 indicates that the changes do not affect the noise levels of Chapter 3 or Chapter 4 that are being incorporated in this final rule. Most of the changes to Amendment 8 are minor technical changes in Appendix 2 (which is also being incorporated as an alternate method of compliance testing), and the rest are more recent revisions to the material that would appear in Advisory Circulars and other guidance material that will be issued after the final rule is adopted.

FAA Response: The FAA agrees that adoption of the later amendment might better serve the purposes of harmonization. However, to use Amendment 8 in our incorporation by reference, we would be forced to wait for ICAO to actually publish that amendment, which is not expected until November 2005. In lieu of waiting for publication of Amendment 8, we are issuing this rule using Amendment 7, as proposed in the NPRM.

The comment from Transport Canada suggests several changes to the references for Annex 16, including elimination of the designation ''Third Edition,'' and only making reference to Amendment 7 once. Transport Canada also suggests that the FAA not include aircraft flight manual (AFM) language in Section 36.105, and proposes changes to the language regarding type certifications applied for before January 1, 2006.

FAA Response: The FAA cannot accept the suggestions of Transport Canada. Regulatory publication requirements dictate that the FAA fully identify a document being incorporated; the FAA must reference the ''Third Edition'' of Annex 16, and its Amendment level, since that is the title on the cover of the current document. Similarly, the FAA's decision to put a date range on optional Stage 4 certification before 2006 is the result of previous dates in the regulations that require more consistency than a simple ''before'' date could supply in this instance.

Finally, the inclusion of AFM language was intentional for Stage 4. The FAA is hoping by its inclusion to avoid future disagreements about the noise level of individual airplanes when they are operating outside the country of original certification. This kind of help has been requested by U.S. air carriers, but was not available as an option until the FAA made the decision to state the equivalency of Stage 4 with Chapter 4, as discussed above. The inclusion of this language is supported by the Air Transport Association in its comment, agreeing that the language ''should minimize the mischief'' that can occur when some ICAO member States fail to recognize the noise certification of some aircraft.

Effective Date for New Certification

The proposed rule states that aircraft certificated after January 1, 2006, must comply with the Stage 4 standard. One commenter indicated that it was an ''unreasonable procrastination'' by the FAA, especially as it relates to the phaseout of Stage 3 airplanes (which the FAA has not proposed). Another commenter states that the date is the ''ICAO imposed * * * requirement on only new engines produced after 2006, with no retroactive actions applied to the existing fleet * * *.''

FAA Response: Comments concerning the proposed effective date for new certification reflect the same misunderstanding of the noise certification framework noted above. This rule deals with aircraft certification and does not change current noise operating rules. Before the FAA would consider any new operational limits, we would examine phasing out the production of noisier airplanes. A new regulatory standard cannot be imposed overnight without significant economic impact; in this case, it will be approximately one year from the date this rule is effective, which would be short in the context of new aircraft design standards if the efforts had not already been the topic of continued international coordination through ICAO. The date proposed for new certification is the same one used in Chapter 4; it applies to new aircraft certification, not simply engines. Aircraft engines do not by themselves receive a noise stage designation; they must be paired and tested with an airframe to undergo noise certification testing. Further, no certification standard has ever been applied retroactively to operating airplanes unless it is mandated through the operating rules.

Derivative Aircraft

Congressman Anthony Weiner comments that the proposed rule fails to close the ''derivative loophole'' that would allow for an aircraft certificated after January 1, 2006, to meet only Stage 3 noise levels.

FAA Response: The term ''derivative'' airplane has no formalized definition, and is not used in Title 14. It is often used colloquially to refer to a later model of an already certificated aircraft. The concept and the practice have existed for the last 50 years; it is the nature of certification standards. Nor is the concept limited to noise certification, and any discussion of limiting still-undefined ''derivatives'' would necessarily involve considerable airworthiness and production certification issues that are not the subject of this rulemaking, which is limited to new type designs.

Further, while it is true that a manufacturer could choose to maintain Stage 3 approval for a newer version

aircraft model after January 1, 2006, it would likely incur a competitive disadvantage. At some point, Stage 3 airplanes will be considered old technology, and given the significant cost of an aircraft, an investment in a Stage 3 derivative will be of lesser value once Stage 4 aircraft are a commercial option. However, it remains the choice of the manufacturer to continue producing already certificated versions of airplanes, and newer versions whose modifications do not cause it to need a new type certificate.

Cessation of Stage 3 Aircraft Production

The Raleigh Durham Airport Authority states that this rulemaking should be expanded to mandate that all subsonic jet and large transport category aircraft produced after January 1, 2006 be required to meet Stage 4 standards, even if type certificated before that date, and cites as precedent a 1973 action by the FAA that required airplanes manufactured after that time to meet Stage 2 noise levels.

FAA Response: The comment illustrates the confusion noted previously, but reiterates a point made earlier. The FAA's actions regarding the establishment of Stage 2 standards cannot be directly compared to its actions now. In the late 1960's, the FAA was authorized to regulate aircraft noise. When part 36 was established, it simply divided the then-current fleet of aircraft into those that met a certain noise standard, and those that exceeded it. These two categories would eventually become known as Stage 1 and Stage 2, but they were not called that at the time. When the FAA proposed new noise limits in 1977, we indicated that the regulations would recognize three categories of aircraft noise, and the Stage 1, 2, and 3 designations came into being. It was at that time that the FAA began the pattern of declaring a limit for a new lower standard, mandating a date for new certification applicants to begin applying the standard (both of which we are accomplishing here), and eventually phasing out the operation of the noisier airplanes.

Commenters criticize the FAA that the process took almost 25 years to eliminate Stage 2 airplanes over 75,000 pounds. Failure to accomplish these tasks in an orderly and time-sensitive fashion would have dramatic economic consequences, and undermine the ability to purchase newer, quieter aircraft, further delaying the benefits of their addition to the U.S. fleet. However, the FAA is required to consider both the costs and benefits of every change to the regulations. Noise regulation can be an extraordinarily expensive burden when forced too fast. As illustrated in the phaseout of Stage 2 airplanes, which was mandated by Congress, even a small change in compliance dates could cause exponential cost increases when airplanes are forced into early retirement. The fact that quieter airplanes are technologically feasible does not translate to a case for rapid disposal of everything currently operating or indeed still being produced. To insist on such an approach is to deny the economic realities of the industry and the regulatory cost-benefit requirements that the FAA must meet when proposing stricter noise standards.

ICAO Economic Analysis

In its comment, AReCO takes issue with the ICAO/CAEP assessment of the costs and benefits associated with the Chapter 4 standard. AReCO states that ICAO accounts only for the airline industry costs, and not the costs to ''airports, noise impacted citizens and taxpayers.'' AReCO claims that reliance on the analysis means ''the decision on Stage 4 noise specifications is inherently flawed,'' and notes that the FAA should abandon the incorporation of any part of Chapter 4 ''because the basis of the costs/benefits of the decision making process were incomplete and inadequate.''

FAA Response: The FAA included the ICAO/CAEP economic analysis of Chapter 4 in the NPRM for this rule simply as background. It was included to show that economic analysis is conducted outside of the U.S. regulatory process and was used in the decision to make the Chapter 4 standard 10dB quieter than Chapter 3. As a member of ICAO/CAEP, the United States participated in the process, but at no time did the FAA ever consider that analysis a replacement for the one required when the agency proposes a rule.

The FAA conducted the economic analyses of the proposed rule as required. Commenters such as AReCO do not appear to understand that the evaluation was limited to what the rule proposed, that is, a consideration of the costs imposed by the adoption of the Stage 4 standard on aircraft type certificated in the United States after January 1, 2006. The only costs of this regulation would be on those who have to comply with it ''the manufacturers of new aircraft that seek new type certificates after that date. There will be a net benefit to airports and citizens in terms of quieter aircraft built to the new, more stringent standard, because the alternative is to leave the current Stage 3 standard in place.

Environmental v. *Economic Analysis*

Several commenters noted that the NPRM devoted considerably more space to the evaluation of the economic impact of the proposed rule than it did for the environmental analysis, and one commenter objects to the Environmental Analysis finding that the proposed rule qualifies for a categorical exclusion.

FAA Response: The FAA conducted all of the economic analyses required. As explained above, the only costs were found to be on the entities that must comply with the rule, manufacturers of aircraft. The type of analysis conducted for the environmental portion occurred because the categorical exclusion applies—the rule is seen as having a positive environmental effect (quieter future airplanes). The adoption of the Stage 4 standard, with its stricter noise requirement, will have no negative effect on the environment, so no further analysis is required. The required Environmental Analysis does not mandate an agency to compare a proposed rule to one or more alternatives that might have a different environmental impact, as the commenters appear to suggest. Rather, similar to the economic analysis, the potential environmental impact of the rule is analyzed only for its differences with the current requirements.

Outside the Scope of the NPRM

Approximately 35 commenters are residents of the area near Santa Monica airport, and sent form letters or letters that used identical blocks of text. Most of these comments take issue with the applicability of the proposed rule on aircraft under 75,000 pounds, the lack of a proposed phaseout of Stage 3 aircraft, and the U.S. negotiations at ICAO, all of which have been addressed above. Many of these commenters also state personal objections to the amount of business aviation air traffic at Santa Monica Airport, and the noise and pollution it generates.

FAA Response: The FAA is aware of the issues raised by the southern California residents and others regarding their local airports, but this rule is not intended to address any of those issues. This rule will apply to aircraft of less than 75,000 pounds when they are type certificated, but it does not affect the operation of any aircraft of any weight. Accordingly, all comments concerning local airport noise and emissions issues and a change in the operating status of airplanes weighing less than 75,000 pounds are considered beyond the scope of the rulemaking and will not be addressed further.

Summary of Changes to the Final Rule

There are no substantive changes being made to the final rule. The following is a summary of the differences between the proposed and final rule.

1. We are specifying that the incorporated parts of Annex 16 are Chapter 3, Paragraph 3.4, Chapter 4, Paragraph 4.4, and Appendix 2, as they appear in Amendment 7.

2. We are splitting the text of § B36.1 into two parts for clarity. The first two sentences of the paragraph are general; the last two are limited to Stage 4 certification. Some confusion arose when this was not immediately recognized. This is a format change only.

3. The definition of ''Chapter 4 Noise Level'' is clarified by including a more specific reference to the incorporated paragraph of Annex 16. The definition proposed in § 91.851 included a statement about equivalency which does not belong in a definition; that sentence was removed so that the definitions in part 36 and part 91 for the term are the same.

4. Section 36.6 (e) and Section A36.1.4 have been updated to include the correct address where docket material may be viewed.

5. Paragraph (a) of proposed § 36.105 has been removed. Confusion was expressed as to whether the inclusion of the equivalency statement in Part 36 changed the methods or requirements for noise certification approval of aircraft certificated under Annex 16. As indicated in the discussion above, no such change was intended to the existing certification procedures in place under current bilateral airworthiness agreements, and the paragraph was removed to eliminate any confusion. The balance of the section is adopted as proposed as a single paragraph.

Except for these editorial changes, the rule is adopted as proposed.

Authority for This Rulemaking

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44715, Controlling aircraft noise and sonic boom. Under that section, the FAA is charged with prescribing regulations to measure and abate aircraft noise. This regulation is within the scope of that authority since it sets a new maximum noise limit for aircraft that are type certificated after January 1, 2006, and represents the FAA's continuing effort to abate the effects of aircraft noise on the public.

Paperwork Reduction Act

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

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there is no new information collection associated with this rule.

International Compatibility

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

Economic Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency proposing or adopting a regulation to proceed only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation.)

However, for regulations with an expected minimal impact the above-specified analyses are not required. The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If we determine that the expected impact is so minimal that the final regulation does not warrant a full evaluation, a statement to that effect and the basis for it is included in the final regulation.

This final rule will establish a new Stage 4 noise standard for subsonic jet airplanes and subsonic transport category large airplanes. The noise standard will apply to applicants for a new type design submitted on or after January 1, 2006. The noise standard will provide noise certification standards for Stage 4 airplanes certificated in the United States that will be consistent with those airplanes certificated under the International Civil Aviation Organization Annex 16 Chapter 4 noise standards and would ensure that the best available, economically reasonable, and technologically practicable noise reduction technologies will be incorporated into the aircraft design. The final rule was developed by assessing the feasibility and availability of the best noise abatement technologies (*i.e.*, best practices) for turbojet powered and propeller-driven large airplanes. The stringency alternatives were judged against the database of current and projected airplanes that incorporate the best practices. The aviation industry is currently producing airplanes that can meet the Stage 4 standards. All but four aircraft currently being produced are expected to be able to meet the final rule's standards. The FAA found that under current industry practice three of the four airplane configurations that do not meet the Stage 4 noise standard have one or more other configurations that do so. The remaining configuration corresponds to an airplane that was type certified in 1981. In 2006, when the proposed rule becomes effective, all new type designs for subsonic jet airplanes and subsonic transport category large airplanes will be able to incorporate noise reduction technologies to meet the Stage 4 noise standard. Therefore, the expected impact of the final rule will be minimal, if any, cost. The final rule could impose weight and engine constraints on certain aircraft configurations. The FAA called for comments from entities that could be negatively impacted as a result of any weight and engine constraint; however, the FAA received no comments mentioning any negative impact as a result of weight and engine constraints.

The FAA has determined that this rule will impose only minimal costs or other economic impacts on any

individual or entity; consequently, no economic evaluation was prepared.

Regulatory Flexibility Determination

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

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

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

In view of the minimal cost impact of the final rule, the FAA has determined that this final rule would have no significant economic impact on a substantial number of small entities. Consequently, the FAA certifies that the rule would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Analysis

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

Unfunded Mandates Reform Act

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

This final rule does not contain such a mandate. The requirements of Title II do not apply.

Environmental Analysis

In accordance with FAA Order 1050.1E, the FAA has determined that this action is categorically excluded from environmental review under section 102(2)(c) of the National Environmental Policy Act (NEPA). This action is categorically excluded under FAA Order 1050.1E, Chapter 3, Paragraph 312f, which covers regulations ''excluding those which if implemented may cause a significant impact on the human environment.'' This rule establishes a new quieter noise standard to be known as Stage 4. To reduce noise at its source, this new noise standard is ten decibels lower than the current Stage 3 standard. The FAA notes that the 10 decibel reduction is cumulative *i.e.*, the arithmetic sum of the reductions at each of the three measurement points at flyover, lateral, and approach. This action would apply to any person filing an application for a new airplane type design on and after January 1, 2006. Finally, this action does not impose a phase-out or any other operating limitations to the current fleet. It qualifies for a categorical exclusion because no significant impacts to the environment are expected to result from its finalization or implementation and no extraordinary circumstances exist as prescribed under Chapter 3, paragraph 304 of Order 1050.1E.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

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

List of Subjects in 14 CFR Parts 36 and 91

Aircraft, Incorporation by reference, Noise control, Reporting and recordkeeping requirements.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations as follows:

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. 106(g), 40113, 44701–44702, 44704, 44715; sec. 305, Pub. L. 96–193, 94 Stat. 50, 57; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902.

§ 36.1 Applicability and definitions.

■ 2. Amend § 36.1 by adding new paragraphs (f)(9), (f)(10), and (f)(11) to read as follows:

* * * * *

(f)(9) A ''Stage 4 noise level'' means a noise level at or below the Stage 4 noise limit prescribed in section B36.5(d) of appendix B of this part.

(f)(10) A ''Stage 4 airplane'' means an airplane that has been shown under this part not to exceed the Stage 4 noise limit prescribed in section B36.5(d) of appendix B of this part.

(f)(11) A ''Chapter 4 noise level'' means a noise level at or below the maximum noise level prescribed in Chapter 4, Paragraph 4.4, Maximum Noise Levels, of the International Civil Aviation Organization (ICAO) Annex 16, Volume I, Amendment 7, effective March 21, 2002. [Incorporated by reference, see § 36.6].

* * * * *

■ 3. Amend § 36.6 by redesignating paragraph (e)(3) as (e)(4), adding paragraphs (c)(3), (d)(3), and (e)(3), and revising paragraph (e)(1) to read as follows:

§ 36.6 Incorporation by reference.

* * * * *

(c) * * *

(3) International Standards and Recommended Practices entitled ''Environmental Protection, Annex 16 to

the Convention on International Civil Aviation, Volume I, Aircraft Noise'', Third Edition, July 1993, Amendment 7, effective March 21, 2002.

(d) * * *

(3) *ICAO publications.* International Civil Aviation Organization (ICAO), Document Sales Unit, 999 University Street, Montreal, Quebec H3C 5H7, Canada.

(e) * * *

(1) U.S. Department of Transportation, Docket Management System, 400 7th Street, SW., Room PL 401, Washington, DC.

(2) * * *

(3) 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.*

* * * * *

■ 4. Amend § 36.7 by adding paragraph (e)(4) and (f) to read as follows:

§ 36.7 Acoustical change: Transport category large airplanes and jet airplanes.

* * * * *

(e) * * *

(4) If an airplane is a Stage 3 airplane prior to a change in type design, and becomes a Stage 4 after the change in type design, the airplane must remain a Stage 4 airplane.

(f) *Stage 4 airplanes.* If an airplane is a Stage 4 airplane prior to a change in type design, the airplane must remain a Stage 4 airplane after the change in type design.

■ 5. Amend § 36.103 by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 36.103 Noise limits.

* * * * *

(b) Type certification applications between November 5, 1975 and December 31, 2005. If application is made on or after November 5, 1975, and before January 1, 2006, it must be shown that the noise levels of the airplane are no greater than the Stage 3 noise limit prescribed in section B36.5(c) of appendix B of this part.

(c) Type certification applications on or after January 1, 2006. If application is made on or after January 1, 2006, it must be shown that the noise levels of the airplane are no greater than the Stage 4 noise limit prescribed in section B36.5(d) of appendix B of this part. Prior to January 1, 2006, an applicant may seek voluntary certification to Stage 4. If Stage 4 certification is chosen, the requirements of § 36.7(f) of this part will apply.

■ 6. Add new § 36.105 to read as follows:

§ 36.105 Flight Manual Statement of Chapter 4 equivalency.

For each airplane that meets the requirements for Stage 4 certification, the Airplane Flight Manual or operations manual must include the following statement: ''The following noise levels comply with part 36, Appendix B, Stage 4 maximum noise level requirements and were obtained by analysis of approved data from noise tests conducted under the provisions of part 36 Amendment (insert part 36 amendment number). The noise measurement and evaluation procedures used to obtain these noise levels are considered by the FAA to be equivalent to the Chapter 4 noise level required by the International Civil Aviation Organization (ICAO) in Annex 16, Volume I, Appendix 2, Amendment 7, effective March 21, 2002.'' [Incorporated by reference, see § 36.6].

Appendix A to Part 36—[Amended]

■ 7. Amend § A36.1 by adding paragraph A36.1.4 to read as follows:

§ A36.1 Introduction.

* * * * *

A36.1.4 For Stage 4 airplanes, an acceptable alternate for noise measurement and evaluation is Appendix 2 to the International Civil Aviation Organization (ICAO) Annex 16, Environmental Protection, Volume I, Aircraft Noise, Third Edition, July 1993, Amendment 7, effective March 21, 2002. [Incorporated by reference, see § 36.6].

* * * * *

Appendix B to Part 36—[Amended]

■ 8. Revise § B36.1 to read as follows:

§ B36.1 Noise measurement and evaluation.

(a) The procedures of Appendix A of this part, or approved equivalent procedures, must be used to determine noise levels of an airplane. These noise levels must be used to show compliance with the requirements of this appendix.

(b) For Stage 4 airplanes, an acceptable alternative for noise measurement and evaluation is Appendix 2 to the International Civil Aviation Organization (ICAO) Annex 16, Environmental Protection, Volume I, Aircraft Noise, Third Edition, July 1993, Amendment 7, effective March 21, 2002. [Incorporated by reference, see § 36.6].

■ 9. Amend § B36.5 by adding paragraph (d) to read as follows:

§ B36.5 Maximum noise levels.

* * * * *

(d) For any Stage 4 airplane, the flyover, lateral, and approach maximum noise levels are prescribed in Chapter 4, Paragraph 4.4, Maximum Noise Levels, and Chapter 3, Paragraph 3.4, Maximum Noise Levels, of the International Civil Aviation Organization (ICAO) Annex 16, Environmental Protection, Volume I, Aircraft Noise, Third Edition, July 1993, Amendment 7, effective March 21, 2002. [Incorporated by reference, see § 36.6].

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 10. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506, 46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat 1180).

■ 11. Amend § 91.851 by adding new definitions for ''Stage 4 noise level'', ''Stage 4 airplane,'' and ''Chapter 4 noise level,'' in alphabetical order to read as follows:

§ 91.851 Definitions.

* * * * *

Chapter 4 noise level means a noise level at or below the maximum noise level prescribed in Chapter 4, Paragraph 4.4, Maximum Noise Levels, of the International Civil Aviation Organization (ICAO) Annex 16, Volume I, Amendment 7, effective March 21, 2002. The Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 approved the incorporation by reference of this document, which can be obtained from the International Civil Aviation Organization (ICAO), Document Sales Unit, 999 University Street, Montreal, Quebec H3C 5H7, Canada. Also, you may obtain documents on the Internet at *http://www.ICAO.int/eshop/index.cfm*. Copies may be reviewed at the U.S. Department of Transportation, Docket Management System, 400 7th Street, SW., Room PL 401, Washington, DC 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.*

Stage 4 noise level means a noise level at or below the Stage 4 noise limit prescribed in part 36 of this chapter.

Stage 4 airplane means an airplane that has been shown not to exceed the Stage 4 noise limit prescribed in part 36 of this chapter. A Stage 4 airplane complies with all of the noise operating rules of this part.

■ 12. Revise § 91.853 to read as follows:

§ 91.853 Final compliance: Civil subsonic airplanes.

Except as provided in § 91.873, after December 31, 1999, no person shall operate to or from any airport in the contiguous United States any airplane subject to § 91.801(c) of this subpart, unless that airplane has been shown to comply with Stage 3 or Stage 4 noise levels.

■ 13. Amend § 91.855 by revising paragraph (a) to read as follows:

§ 91.855 Entry and nonaddition rule.

* * * * *

(a) The airplane complies with Stage 3 or Stage 4 noise levels.

* * * * *

■ 14. Section 91.859 is added to read as follows:

§ 91.859 Modification to meet Stage 3 or Stage 4 noise levels.

For an airplane subject to § 91.801(c) of this subpart and otherwise prohibited from operation to or from an airport in the contiguous United States by § 91.855, any person may apply for a special flight authorization for that airplane to operate in the contiguous United States for the purpose of obtaining modifications to meet Stage 3 or Stage 4 noise levels.

Issued in Washington, DC, on May 27, 2005.

Marion Blakey,

Administrator.

[FR Doc. 05–13076 Filed 7–1–05; 8:45 am]

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Recruitment, relocation, and retention incentives; supervisory differentials; and extended assignment incentives; comments due by 7-12-05; published 5-13-05 [FR 05-09550]

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Maine; Open for comments until further notice; published 2-17-04 [FR 04-03374]

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Bombardier; comments due by 7-14-05; published 6-14-05 [FR 05-11709]
Cirrus Design Corp.; comments due by 7-14-05; published 6-9-05 [FR 05-11456]
McDonnell Douglas; comments due by 7-11-05; published 6-14-05 [FR 05-11710]
Pilatus Aircraft Ltd.; comments due by 7-13-05; published 6-14-05 [FR 05-11703]
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Transport category airplanes—
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VOR Federal airways; comments due by 7-11-05; published 5-25-05 [FR 05-10376]
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05; published 4-11-05 [FR 05-07088]

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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 "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 483/P.L. 109–16

To designate a United States courthouse in Brownsville, Texas, as the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse". (June 29, 2005; 119 Stat. 338)

S. 643/P.L. 109–17

To amend the Agricultural Credit Act of 1987 to reauthorize State mediation programs. (June 29, 2005; 119 Stat. 339)

H.R. 1812/P.L. 109–18

Patient Navigator Outreach and Chronic Disease Prevention Act of 2005 (June 29, 2005; 119 Stat. 340)

H.R. 3021/P.L. 109–19

TANF Extension Act of 2005 (July 1, 2005; 119 Stat. 344)

H.R. 3104/P.L. 109–20

Surface Transportation Extension Act of 2005, Part II (July 1, 2005; 119 Stat. 346)

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1	(869–056–00001–4)	5.00	Jan. 1, 2005
2	(869–056–00002–2)	5.00	Jan. 1, 2005
3 (2003 Compilation and Parts 100 and 101)	(869–052–00002–7)	35.00	[1] Jan. 1, 2004
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6	(869–056–00008–1)	10.50	Jan. 1, 2005
7 Parts:			
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210–299	(869–056–00012–0)	62.00	Jan. 1, 2005
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17.96–17.99(h)	(869–052–00212–7)	61.00	Oct. 1, 2004
17.99(i)–end and 17.100–end	(869–052–00213–5)	47.00	Oct. 1, 2004
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2004, through January 1, 2005. The CFR volume issued as of January 1, 2004 should be retained.

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