Federal Register

7–26–05 Tuesday
Vol. 70 No. 142 July 26, 2005

Pages 43017–43256

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WHEN: Tuesday, August 16, 2005
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741–6008

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Rules and Regulations

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

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19534; Directorate Identifier 2004–NM–99–AD; Amendment 39–14198; AD 2005–15–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model A300 C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes); and Model A310–200 and –300 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus airplane models, as specified above. This AD requires modifying the thermal insulation system of certain fuselage frames, and modifying the fuselage drainage system. This AD also requires revising the FAA-approved maintenance inspection program to include inspections for corrosion or cracking in the subject areas. This AD is prompted by reports of corrosion in the lower part of the pressure bulkhead at certain fuselage frames. We are issuing this AD to prevent accumulation of condensation in the insulation blankets of certain fuselage frames, which could cause corrosion that could result in reduced structural integrity of the fuselage and consequent rapid decompression of the airplane.

DATES: This AD becomes effective August 30, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of August 30, 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–2004–19534; the directorate identifier for this docket is 2004–NM–99–AD.

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

SUPPLEMENTARY INFORMATION: The FAA proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with an AD for certain Airbus Model A300 B2 and B4 series airplanes; Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called A300–600 series airplanes); and Model A310–200 and –300 series airplanes. That proposed AD was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on May 18, 2005 (70 FR 28491). The supplemental NPRM proposed to require modifying the thermal insulation system of certain fuselage frames, and modifying the fuselage drainage system. The supplemental NPRM also proposed to require revising the FAA-approved maintenance inspection program to include inspections for corrosion or cracking in the subject areas.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been submitted on the supplemental NPRM or on the determination of the cost to the public. Comments submitted on the original NPRM were addressed in the supplemental NPRM.

Explanation of Change to Applicability

We have revised the applicability of this 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, at an average labor rate of $65 per work hour.

Action	Models	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Modifying the Thermal Insulation System	A300 B2/B4 series	5	$567	$892	23	$20,516
Modifying the Thermal Insulation System	A300–600 series	4	567	827	116	95,932
Modifying the Thermal Insulation System	A310–200 and –300 series	4	567	827	47	38,869
Modifying the Fuselage Drainage System	A300 B2/B4 series	38	1,857	4,327	23	99,521
Modifying the Fuselage Drainage System	A300–600 series	36	1,378	3,718	116	431,288
Modifying the Fuselage Drainage System	A310–200 and –300 series	27	1,451	3,206	47	150,682

Action	Models	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Maintenance Program Revision	All		(1)	65	186	12,090

[1] None.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–15–09 Airbus: Amendment 39–14198. Docket No. FAA–2004–19534; Directorate Identifier 2004–NM–99–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective August 30, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 B2–1A, B2–1C, B2K–3C, B4–2C, B4–103, and B4–203 airplanes; A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; and A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; certificated in any category; except those on which both Airbus Modifications 5946 and 8057 were done during production.

Unsafe Condition

(d) This AD was prompted by reports of corrosion in the lower part of the pressure bulkhead at fuselage frames (FR) 39 and 54. We are issuing this AD to prevent accumulation of condensation in the insulation blankets of certain fuselage FRs, which could cause corrosion that could result in reduced structural integrity of the fuselage and consequent rapid decompression 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 of Thermal Insulation and Fuselage Drainage Systems

(f) Within 22 months after the effective date of this AD, modify the thermal insulation system of applicable fuselage frames and modify the fuselage drainage system, by doing all actions in the Accomplishment Instructions of the applicable service bulletins specified in Table 1 of this AD.

TABLE 1.—RELEVANT SERVICE BULLETINS

For Airbus models—	Modify the thermal insulation system according to Airbus Service Bulletin—	And modify the fuselage drainage system according to Airbus Service Bulletin—
A300 B2–1A, B2–1C, B2K–3C, B4–2C, B4–103, and B4–203.	A300–21–0116, Revision 03, dated January 29, 2004.	A300–53–0201, Revision 05, dated July 15, 2004.
A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F.	A300–21–6025, Revision 02, dated January 29, 2004.	A300–53–6008, Revision 05, dated July 15, 2004.
A310–203, –204, –221, –222, –304, –322, –324, and –325.	A310–21–2041, Revision 03, dated January 29, 2004.	A300–53–2027, Revision 04, dated July 15, 2004.

Modifications Accomplished According to Previous Issues of Service Bulletins

(g) Modifications accomplished before the effective date of this AD according to the service bulletins listed in Table 2 are considered acceptable for compliance with the corresponding action specified in paragraph (f) of this AD.

TABLE 2.—ADDITIONAL SERVICE BULLETINS

Models	Airbus Service Bulletin	Revision level	Date
A300 B2–1A, B2–1C, B2K–3C, B4–2C, B4–103, and B4–203	A300–21–116	1	March 24, 1992.
A300 B2–1A, B2–1C, B2K–3C, B4–2C, B4–103, and B4–203	A300–21–0116	02	June 13, 2003.
A300 B2–1A, B2–1C, B2K–3C, B4–2C, B4–103, and B4–203	A300–53–0201	04	May 2, 2003.
A300 B4–601, B4–603, B4–620, B4–622, B4–605R, F4–605R, F4–622R, B4–622R, and C4–605R Variant F.	A300–21–6025	01	June 13, 2003.
A300 B4–601, B4–603, B4–620, B4–622, B4–605R, F4–605R, F4–622R, B4–622R, and C4–605R Variant F.	A300–53–6008	02	August 10, 1989.
A300 B4–601, B4–603, B4–620, B4–622, B4–605R, F4–605R, F4–622R, B4–622R, and C4–605R Variant F.	A300–53–6008	03	November 6, 1990.
A300 B4–601, B4–603, B4–620, B4–622, B4–605R, F4–605R, F4–622R, B4–622R, and C4–605R Variant F.	A300–53–6008	04	April 28, 2003.
A310–203, –204, –221, –222, –304, –322, –324, and –325	A310–21–2041	1	December 10, 1990.
A310–203, –204, –221, –222, –304, –322, –324, and –325	A310–21–2041	02	June 13, 2003.
A310–203, –204, –221, –222, –304, –322, –324, and –325	A310–53–2027	2	November 6, 1990.
A310–203, –204, –221, –222, –304, –322, –324, and –325	A310–53–2027	03	May 2, 2003.

Maintenance Program Revision

(h) Within 90 days after doing the actions required by paragraph (f) of this AD, or within 90 days after the effective date of this AD, whichever is later: Incorporate into the FAA-approved maintenance inspection program repetitive detailed inspections for corrosion or cracking of fuselage structure from FR 38.2 to 39, and at FR 54, as applicable, as described in Airbus Maintenance Planning Document Task Numbers 538295–0603–1 (for Airbus Model A300 B2–1A, B2–1C, B2K–3C, B4–2C, B4–103, and B4–203 airplanes), and 531531–01–1 and 531533–01–1 (for Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, F4–605R, F4–622R, B4–622R, and C4–605R Variant F airplanes; and A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes). Then, thereafter, comply with the applicable requirements.

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.''

Alternative Methods of Compliance (AMOCs)

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

Related Information

(j) French airworthiness directive 2003–317(B), dated August 20, 2003, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use the service information that is 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 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 3.—MATERIAL INCORPORATED BY REFERENCE

Airbus Service Bulletin	Revision level	Date
A300–21–0116	Revision 03	January 29, 2004.
A300–21–6025	Revision 02	January 29, 2004.
A300–53–0201	Revision 05	July 15, 2004.
A300–53–6008	Revision 05	July 15, 2004.
A310–21–2041	Revision 03	January 29, 2004.
A310–53–2027	Revision 04	July 15, 2004.

Issued in Renton, Washington, on July 13, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–14397 Filed 7–25–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19175; Directorate Identifier 2003–NM–246–AD; Amendment 39–14197; AD 2005–15–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100B SUD, –200B, –300, –400, and –400D Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 747–100B SUD, –200B, –300, –400, and –400D series airplanes. This AD requires repetitive inspections for cracking in fuselage stringers 8L, 8R, 10L, and 10R at body stations 460, 480, and 500 frame locations; and repair if necessary. This AD is prompted by findings of cracking in fuselage stringers 8L, 8R, 10L, and 10R at body stations 460, 480, and 500 frame locations. We are issuing this AD to detect and correct fatigue cracking in certain fuselage stringers, which, if left undetected, could result in fuselage skin cracking that reduces the structural integrity of the skin panel, and consequent rapid depressurization of the airplane.

DATES: This AD becomes effective August 30, 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 30, 2005.

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

Docket: The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Washington, DC. This docket number is FAA–2004–19175; the directorate identifier for this docket is 2003–NM–246–AD.

FOR FURTHER INFORMATION CONTACT: Nick Kusz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6432; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for certain Boeing Model 747–100B SUD, –200B, –300, –400, and –400D series airplanes. That action, published in the **Federal Register** on September 28, 2004 (69 FR 57884), proposed to require repetitive inspections for cracking in fuselage stringers 8L, 8R, 10L, and 10R at body stations 460, 480, and 500 frame locations; and repair if necessary.

Comments

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

Support for the Proposed AD

One commenter concurs with the FAA's compliance recommendations specified in the proposed AD. A second commenter, the manufacturer, requested that the compliance time be changed to match the referenced service bulletin; the commenter later submitted a comment stating that it reanalyzed the data and now concurs with the compliance time specified in the proposed AD.

Request for Clarification of the Compliance Time

One commenter states that paragraph (f) of the proposed AD specifies repeating the inspection at intervals not to exceed 3,000 flight cycles until the optional terminating action is accomplished. The commenter adds that the referenced service bulletin recommends inspections at specific thresholds that equate to a 3,000-flight-cycle interval, until the airplane accumulates 25,000 flight cycles. The commenter also notes that the referenced service bulletin recommends that airplanes having more than 25,000 total flight cycles be inspected at intervals not to exceed 2,000 flight cycles, and adds that the proposed AD does not seem to address this situation. The commenter asks that the preamble in the proposed AD clearly specify that the 3,000-flight-cycle interval cited in paragraph (f) replaces the threshold values in the referenced service bulletin.

Although we acknowledge the commenter's concern, the difference in compliance times was explained in the proposed AD. In the section titled ''Differences Between the Proposed AD and Service Information'' of the preamble of the proposed AD, we define the difference in compliance times, as follows: ''The manufacturer reanalyzed the service problem and has advised the FAA that the reanalysis has resulted in threshold and repetitive inspection intervals different from the service bulletin. This resulted in simplified initial thresholds and an increased number of flight cycles between repetitive inspections.'' That section of the preamble of the proposed AD is not restated in the final rule; therefore, we made no change to the final rule in this regard.

Request for Optional Open-Hole and Surface High Frequency Eddy Current (HFEC) Inspections To Extend Repetitive Inspection Intervals

One commenter states that, subsequent to the release of the referenced service bulletin, Boeing advised the commenter of optional open-hole and surface HFEC inspections that could be performed in addition to the specified detailed inspections. The commenter adds that these optional inspections would allow extending the repetitive inspection interval to 4,000 flight cycles, until the accumulation of 25,000 total flight cycles on the airplane. The commenter asks that the FAA consult with Boeing about this alternative inspection process and, if appropriate, include that option in the final rule.

Although we acknowledge that the optional inspections may be a viable alternative to the detailed inspections, we have confirmed with the manufacturer that while an open-hole and surface HFEC inspection may be accomplished, there are no existing procedures available. Therefore, we do not agree to add the optional inspections and extend the repetitive inspection interval in this final rule. Paragraph (i) of this AD provides affected operators the opportunity to apply for an alternative method of compliance (AMOC) and to present data to justify adding the optional inspections and extending the repetitive inspection interval. In addition, if the referenced service information is revised to add the optional inspections, we may approve it as an AMOC to the final rule, if appropriate. We have made no change to the final rule in this regard.

Request To Change Costs of Compliance Section

One commenter states that the proposed AD cites 3 work hours for accomplishing the inspection, and uses this estimate to determine the cost of compliance. The commenter notes that although 3 hours to accomplish the inspection is valid, no consideration is given for access and restoration, which can require up to 61 work hours for each airplane per the referenced service information. The commenter adds that it is inappropriate and unrealistic to cite a cost of compliance that fails to account for access and restoration when such tasks do not occur frequently enough to warrant them as negligible. The commenter asks that the cost of compliance be recalculated to include the work hours for access and restoration.

We do not agree to change the work hours in this AD. This number represents the time necessary to perform only the action actually required by the AD. The action in this final rule reflects only the direct costs of the specific required action (inspection) based on the best data available from the manufacturer. The cost analysis in AD rulemaking actions typically does not include incidental costs such as the time required to gain access and close up, time necessary for planning, or time necessitated by other administrative actions. Those incidental costs, which may vary significantly among operators, are almost impossible to calculate. We have made no change to the final rule in this regard.

Conclusion

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

Costs of Compliance

This AD will affect about 243 Boeing Model 747–100B SUD, –200B, –300, –400, and –400D series airplanes worldwide. 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	3	$65	None	$195	69	$13,455

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):

2005–15–08 Boeing: Amendment 39–14197. Docket No. FAA–2004–19175; Directorate Identifier 2003–NM–246–AD.

Effective Date

(a) This AD becomes effective August 30, 2005.

Affected ADs

(b) None.

Applicability: (c) This AD applies to certain Boeing Model 747–100B SUD, –200B, –300, –400, and –400D series airplanes; certificated in any category; as listed in Boeing Alert Service Bulletin 747–53A2484, dated June 26, 2003.

Unsafe Condition

(d) This AD was prompted by findings of cracking in fuselage stringers 8L, 8R, 10L, and 10R at body station 460, 480, and 500 frame locations. We are issuing this AD to detect and correct fatigue cracking in the specified fuselage stringers, which, if left undetected, could result in fuselage skin cracking that reduces the structural integrity of the skin panel, and consequent rapid depressurization 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

(f) Do a detailed inspection for cracking in fuselage stringers 8L, 8R, 10L, and 10R at body station 460, 480, and 500 frame locations, in accordance with Part 1 of the Accomplishment Instructions in Boeing Alert Service Bulletin 747–53A2484, dated June 26, 2003. Do the inspections at the applicable time specified in paragraph (f)(1) or (f)(2) of this AD. Repeat the inspection thereafter at intervals not to exceed 3,000 flight cycles until the requirements of paragraph (h) of this AD are accomplished.

(1) For airplanes with 19,000 total flight cycles or less as of the effective date of this AD: Prior to the accumulation of 8,000 total flight cycles or within 2,000 flight cycles after the effective date of this AD, whichever is later, not to exceed 20,000 total flight cycles.

(2) For airplanes with more than 19,000 total flight cycles as of the effective date of this AD: Within 1,000 flight cycles after the effective date of this AD.

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

Repair

(g) If any cracking is found during any inspection required by paragraph (f) of this AD: Before further flight, repair the affected stringer in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2484, dated June 26, 2003. Repair terminates the repetitive inspections required by paragraph (f) of this AD for only the repaired stringer/frame location.

Optional Terminating Action

(h) Installing new frame clips and new doublers, and repairing as applicable, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2484, dated June 26, 2003, terminates the repetitive inspections required by this AD.

Alternative Methods of Compliance (AMOCs)

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

Material Incorporated by Reference

(j) You must use Boeing Alert Service Bulletin 747–53A2484, dated June 26, 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC. To review copies of the service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on July 13, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–14396 Filed 7–25–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–359–AD; Amendment 39–14201; AD 2005–15–12]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F Airplanes

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

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes, that requires performing a functional test of the exterior emergency control handle assemblies of the forward passenger doors, and corrective actions, if necessary. This action is necessary to prevent failure of the forward passenger doors to operate properly in an emergency condition, which could delay an emergency evacuation and possibly result in injury to passengers and flightcrew. This action is intended to address the identified unsafe condition.

DATES: Effective August 30, 2005.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of August 30, 2005.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Ken Sujishi, Aerospace Engineer, Cabin Safety/Mechanical and Environmental Systems Branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5353; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on April 22, 2005 (70 FR 20842). That action proposed to require performing a functional test of the exterior emergency control handle assemblies of the forward passenger doors, and corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Change Description of Functional Test Criteria

One commenter requests that we revise certain criteria in the functional test description from ''noisy operation or binding'' to ''binding.'' The commenter asserts that ''noisy operation'' is not quantifiable and should not be used to define acceptable parameters of door operation. The commenter states that ''binding'' is a quantifiable metric that is sufficient to determine satisfactory door operation.

We do not agree with this request. Despite the commenter's assertion, ''noisy operation'' is a test parameter that is widely used to determine proper operation of mechanisms. If a mechanism is soundless or has a sound that is typical when operating in an acceptable manner, any such mechanism which produces an unusual sound when operated requires investigation to determine if it is in need of repair. In this case, the check for ''noisy operation'' within the functional test procedure is intended to reveal whether or not a door is approaching a binding condition and requires replacing the steel bearings with

bearings made from corrosion-resistant material as specified in the service information. We have not changed the final rule in this regard.

Explanation of Change to Table Designation

The table in paragraph (c) of the proposed AD was erroneously identified as ''Table 2—Boeing Service Bulletins.'' In fact, there is only one table in the proposed AD; therefore, we have reidentified this table as ''Table 1—Boeing Service Bulletins'' in paragraph (c) of the final rule. This change has no effect on the technical content of this AD or on the determination of the cost to the public.

Explanation of Change to Service Information Citations

The Boeing service information was not cited properly in paragraph (a) of the proposed AD; those citations were incomplete. Therefore, so operators can determine which service bulletin applies to which affected airplanes, we have included complete citations for Boeing Service Bulletin MD11–52–046, Revision 3, dated October 27, 2004; and Boeing Service Bulletin DC10–52–221, Revision 2, dated October 27, 2004; in paragraph (a) of the final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, except with the changes discussed above.

Cost Impact

There are approximately 604 airplanes of the affected design in the worldwide fleet. The FAA estimates that 396 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $25,740, or $65 per airplane, per operation.

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

Authority for This Rulemaking

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

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2005–15–12 McDonnell Douglas: Amendment 39–14201. Docket 2001–NM–359–AD.

Applicability: Model MD–11 and MD–11F airplanes; as identified in Boeing Service Bulletin MD11–52–046, Revision 3, dated October 27, 2004; and Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F airplanes; as identified in Boeing Service Bulletin DC10–52–221, Revision 2, dated October 27, 2004; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the forward passenger doors to operate properly in an emergency condition, which could delay an emergency evacuation and possibly result in injury to passengers and flightcrew, accomplish the following:

Functional Test

(a) Within 6,000 flight hours or 18 months after the effective date of this AD, whichever occurs later, perform a functional test of the exterior emergency control handle assemblies of the forward passenger doors, by doing all actions specified in Accomplishment Instructions of Boeing Service Bulletin MD11–52–046, Revision 3, dated October 27, 2004 (for Model MD–11 and MD–11F airplanes); or Boeing Service Bulletin DC10–52–221, Revision 2, dated October 27, 2004 (for Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F airplanes); as applicable.

(1) If the functional test reveals no noisy operation or binding: At intervals not to exceed 6,000 flight hours or 18 months, whichever occurs later, repeat the functional test until the terminating action of paragraph (b) of this AD has been accomplished.

(2) If any functional test required by this AD reveals noisy operation or binding: Prior to further flight, replace the steel bearings with bearings made from corrosion-resistant material, in accordance with the applicable service bulletin.

Optional Terminating Action

(b) Accomplishment of the actions required by paragraph (a)(2) of this AD constitutes terminating action for the repetitive tests required by paragraph (a)(1) of this AD.

Actions Accomplished per Previous Issues of Service Bulletins

(c) Actions accomplished before the effective date of this AD in accordance with the Boeing service bulletins listed in Table 1 of this AD are considered acceptable for

compliance with the requirements of paragraph (a) of this AD.

TABLE 1.—BOEING SERVICE BULLETINS

Boeing service bulletin	Revision	Date of issue
DC10–52–221	Original	November 5, 2001.
DC10–52–221	01	May 6, 2002.
MD11–52–046	Original	November 5, 2001.
MD11–52–046	01	May 6, 2002.
MD11–52–046	02	October 8, 2002.

Alternative Methods of Compliance

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

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions must be done in accordance with Boeing Service Bulletin DC10–52–221, Revision 2, dated October 27, 2004; or Boeing Service Bulletin MD11–52–046, Revision 3, dated October 27, 2004, as applicable. This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of this service information, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). To inspect copies of this service information, go to the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or to the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(f) This amendment becomes effective on August 30, 2005.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–14392 Filed 7–25–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21023; Directorate Identifier 2004–NM–262–AD; Amendment 39–14196; AD 2005–15–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320–111 Airplanes and Model A320–200 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A320–111 airplanes and Model A320–200 series airplanes. This AD requires installing insulator and cable ties to the electrical cables of the S routes at the gaps in the raceway in the wing trailing edge and the wing tip and wing root areas. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent injection of high voltage current into the low voltage wiring that passes through the fuel tanks, which could result in a possible fuel tank explosion.

DATES: Effective August 30, 2005.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of August 30, 2005.

ADDRESSES: You may examine the 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., Nassif Building, Room PL–401, Washington, DC.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this 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:

Examining the Docket

You may 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 street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Airbus Model A320–111 airplanes and Model A320–200 series airplanes. That NPRM was published in the **Federal Register** on April 21, 2005 (70 FR 20724). That NPRM proposed to require installing insulator and cable ties to the electrical cables of the S routes at the gaps in the raceway in the wing trailing edge and the wing tip and wing root areas.

Comments

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

Support for the Proposed AD

One commenter supports the NPRM.

Explanation of Change to Applicability

We have revised the applicability of this 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 received, and determined that air safety and the public interest require adopting the AD with the change described above.

Costs of Compliance

This AD affects about 54 airplanes of U.S. registry. The actions take about 35 work hours per airplane, at an average labor rate of $65 per work hour. Required parts cost about $0 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is $122,850, or $2,275 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 and placed it in the AD docket. 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2005–15–07 Airbus: Amendment 39–14196. Docket No. FAA–2005–21023; Directorate Identifier 2004–NM–262–AD.

Effective Date

(a) This AD becomes effective August 30, 2005.

Affected ADs

(b) None.

Applicability: (c) This AD applies to Airbus Model A320–111 airplanes; and Model A320–211, –212, –214, –231, –232, and –233 airplanes; certificated in any category; except those modified in production by Airbus Modification 22626.

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 injection of high voltage current into the low voltage wiring that passes through the fuel tanks, which could result in a possible 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, install insulator and cable ties to the electrical cables of the S routes at the gaps in the raceway in the wing trailing edge and the wing tip and wing root areas, in accordance with Airbus Service Bulletin A320–24–1062, Revision 05, dated June 27, 2002.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(h) French airworthiness directive F–2004–173, dated October 27, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(i) You must use Airbus Service Bulletin A320–24–1062, Revision 05, dated June 27, 2002, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at 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 July 13, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–14391 Filed 7–25–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21137; Directorate Identifier 2002–NM–86–AD; Amendment 39–14200; AD 2005–15–11]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 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 BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. This AD requires repetitive detailed and specialized inspections to detect fatigue damage in the fuselage, replacement of certain bolt assemblies, and corrective actions if necessary. This AD results from a review of primary airframe fatigue test results and a Maintenance Steering Group 3 (MSG–3) analysis. We are issuing this AD to detect and correct fatigue damage of the fuselage, door, engine nacelle, empennage, and wing structures, which could result in reduced structural integrity of the airplane.

DATES: Effective August 30, 2005.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in the AD as of August 30, 2005.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC.

Contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171, for service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the AD docket on the Internet at *http://www.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 street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. That NPRM was published in the **Federal Register** on May 9, 2005 (70 FR 24326). That NPRM proposed to require repetitive detailed and specialized inspections to detect fatigue damage in the fuselage, replacement of certain bolt assemblies, and corrective actions if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

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, per inspection cycle	Number of U.S.-registered airplanes	Fleet cost
Inspections of the door structure ..	17	$65	None	$1,105	57	Up to $62,985, per inspection cycle.
Inspections of the fuselage structure.	164	65	None	10,660	57	Up to $607,620, per inspection/replacement cycle.
Inspections of the engine nacelle structure.	4	65	None	260	57	Up to $14,820, per inspection cycle.
Inspections of the empennage structure.	14	65	None	910	57	Up to $51,870, per inspection cycle.
Inspections of the wing structure ..	24	65	None	1,560	57	Up to $88,920, per inspection cycle.

In summary, required actions will take about 223 work hours 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 up to $826,215, or $14,495 per airplane, 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 and placed it in the AD docket. 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 Federal Aviation Administration (FAA) amends § 39.13 by

adding the following new airworthiness directive (AD):

2005–15–11 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–14200. Docket No. FAA–2005–21137; Directorate Identifier 2002–NM–86–AD.

Effective Date

(a) This AD becomes effective August 30, 2005.

Affected ADs

(b) None.

Applicability: (c) This AD applies to all BAE Systems (Operations) Limited Model Jetstream 4101 airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by a review of primary airframe fatigue test results and a Maintenance Steering Group 3 (MSG–3) analysis. We are issuing this AD to detect and correct fatigue damage of the fuselage, door, engine nacelle, empennage, and wing structures, which could result in reduced structural integrity 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 ''the service bulletin,'' as used in this AD, means BAE Systems (Operations) Limited Service Bulletin J41–51–001, Revision 2, dated April 30, 2003.

Inspection and Corrective Actions

(g) At the compliance times specified in the ''Initial Compliance Time'' column of Tables 1, 2, 3, 4, and 5 of this AD: Do the applicable detailed inspections and specialized inspections to detect fatigue damage, and replacement of certain bolt assemblies, and any applicable corrective actions, in accordance with the Accomplishment Instructions of the service bulletin. Do any corrective action before further flight. Repeat the inspections and replacement thereafter at intervals specified in the ''Repetitive Intervals'' column of Tables 1, 2, 3, 4, and 5 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 mirrors, magnifying lenses, etc. may be necessary. Surface cleaning and elaborate procedures may be required.''

TABLE 1.—APPENDIX 1 COMPLIANCE TIMES

Part # of actions specified in appendix 1 of the service bulletin	Initial compliance time (whichever occurs later between the times in ''inspection threshold'' and ''grace period'')		Repetitive intervals
	Inspection threshold	Grace period	
1, 6	Before the accumulation of 22,500 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 3,300 flight cycles.
2	Before the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 5,200 flight cycles.
3, 5, 7	Before the accumulation of 21,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 10,000 flight cycles.
4	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 26,000 flight cycles.

TABLE 2.—APPENDIX 2 COMPLIANCE TIMES

Part # of actions specified in appendix 1 of the service bulletin	Initial compliance time (whichever occurs later between the times in ''inspection threshold'' and ''grace period'')		Repetitive intervals
	Inspection/replacement threshold	Grace period	
1, 3, 32	Within 96 months after the date of issuance of the original standard Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever occurs later.	Within 12 months after the effective date of this AD.	At intervals not to exceed 24 months.
2	Before the accumulation of 23,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 10,000 flight cycles.
4, 10, 11, 12, 13	Before the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD..	At intervals not to exceed 6,600 flight cycles.
5	Within 48 months after the date of issuance of the original standard Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever occurs later.	Within 12 months after the effective date of this AD.	At intervals not to exceed 24 months.
6	Before the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 5,400 flight cycles.
7	Before the accumulation of 22,400 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 8,200 flight cycles.
8	Before the accumulation of 19,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	
9	Before the accumulation of 23,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 2,300 flight cycles.
14	Before the accumulation of 19,700 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 4,700 flight cycles.

TABLE 2.—APPENDIX 2 COMPLIANCE TIMES—Continued

Part # of actions specified in appendix 1 of the service bulletin	Initial compliance time (whichever occurs later between the times in "inspection threshold" and "grace period")		Repetitive intervals
	Inspection/replacement threshold	Grace period	
15	Before the accumulation of 25,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 13,600 flight cycles.
16, 19, 20	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 25,800 flight cycles.
17, 21, 29, 30	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 30,000 flight cycles.
18	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 30,000 flight cycles.
22	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 16,500 flight cycles.
23	Before the accumulation of 22,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 7,400 flight cycles.
24	Before the accumulation of 23,600 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 15,700 flight cycles.
25	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 12,700 flight cycles.
26	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 21,800 flight cycles.
27	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 18,300 flight cycles.
28	Between 20,000 and 26,000 total flight cycles	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 9,500 flight cycles.
31	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 16,300 flight cycles.
33	Before the accumulation of 26,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 26,000 flight cycles.

TABLE 3.—APPENDIX 3 COMPLIANCE TIMES

Part # of actions specified in appendix 3 of the service bulletin	Initial compliance time (whichever occurs later between the times in "inspection threshold" and "grace period")		Repetitive intervals
	Inspection threshold	Grace period	
1, 2	Before the accumulation of 24,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 11,000 flight cycles.

TABLE 4.—APPENDIX 4 COMPLIANCE TIMES

Part # of actions specified in appendix 4 of the service bulletin	Initial compliance time (whichever occurs later between the times in "inspection threshold" and "grace period")		Repetitive intervals
	Inspection threshold	Grace period	
1	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 12,000 flight cycles.
2	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 30,000 flight cycles.
3, 5	Within 48 months after the date of issuance of the original standard Airworthiness Certificate or the date of the issuance of the original Export Certificate of Airworthiness, whichever occurs later.	Within 12 months after the effective date of this AD.	At intervals not to exceed 48 months.

TABLE 4.—APPENDIX 4 COMPLIANCE TIMES—Continued

Part # of actions specified in appendix 4 of the service bulletin	Initial compliance time (whichever occurs later between the times in "inspection threshold" and "grace period")		Repetitive intervals
	Inspection threshold	Grace period	
4, 6	96 months after the date of issuance of the original standard Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever occurs later.	Within 12 months after the effective date of this AD.	At intervals not to exceed 48 months.

TABLE 5.—APPENDIX 5 COMPLIANCE TIMES

Part # of actions specified in appendix 5 of the service bulletin	Initial compliance time (whichever occurs later between the times in "inspection threshold" and "grace period")		Repetitive intervals
	Inspection threshold	Grace period	
1, 7	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 30,000 flight cycles.
2, 5, 6	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 9,000 flight cycles.
3, 4	Before the accumulation of 26,000 total flight cycles and after the accumulation of 20,000 total flight cycles.	Within 500 flight cycles after the effective date of this AD.	At intervals not to exceed 7,900 flight cycles.

Repairs for Damage Beyond Service Bulletin Limits

(h) If any fatigue damage is found that exceeds the limits specified in the service bulletin: Before further flight, repair the damage according to a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority (or its delegated agent).

Previous Actions

(i) Actions done before the effective date of this AD in accordance with BAE Systems (Operations) Limited Service Bulletin J41–51–001, dated February 15, 2002; or Revision 1, dated August 7, 2002; are acceptable for compliance with the requirements of paragraphs (g) and (h) of this AD.

No Report Required

(j) Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(l) British airworthiness directive 005–02–2002 also addresses the subject of this AD.

Material Incorporated by Reference

(m) You must use BAE Systems (Operations) Limited Service Bulletin J41–51–001, Revision 2, dated April 30, 2003, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at 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 July 14, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–14390 Filed 7–25–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21590; Directorate Identifier 2005–CE–33–AD; Amendment 39–14199; AD 2005–15–10]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–34–200T, PA–34–220T, PA–44–180, and PA–44–180T Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA adopts an airworthiness directive (AD) to supersede AD 2003–11–14, which applies to certain The New Piper Aircraft, Inc. (Piper) Models PA–34–200T, PA–34–220T, PA–44–180, and PA–44–180T airplanes that have a model 91E92–1 or model 91E93–1 combustion heater fuel pump installed. AD 2003–11–14 currently requires you to do a one-time inspection of the combustion heater fuel pumps for fuel leakage. If leakage is found, repair or replace the fuel pump. This AD retains all the actions of AD 2003–11–14 and includes additional serial numbers for the Models PA–34–220T and PA–44–180 airplanes in the applicability section. This AD results from an investigation that concluded that after

the issuance of AD 2003–11–14, additional fuel pumps that did not meet the quality control (inspection or design) requirements of the AD had been installed in Models PA–34–220T and PA–44–180 airplanes. We are issuing this AD to correct quality control problems with the heater fuel pump, which could result in failure of the heater fuel pump. Such failure could lead to fire or explosion in the cockpit.

DATES: This AD becomes effective on August 26, 2005.

On June 20, 2003 (68 FR 33356, June 4, 2003), the Director of the Federal Register approved the incorporation by reference of The New Piper Aircraft, Inc. Service Bulletin No. 1127, dated February 26, 2003, and Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110A, dated March 6, 2003.

As of August 26, 2005, the Director of the Federal Register approved the incorporation by reference of the following:

—The New Piper Aircraft, Inc. Service Bulletin No. 1127B, dated April 18, 2005; and

—Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110B, dated December 20, 2004.

We must receive any comments on this AD by September 26, 2005.

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

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide Rulemaking Web Site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *Fax:* 1–202–493–2251.
- *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.

To get the service information identified in this AD, contact The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960; telephone: (772) 567–4361; facsimile: (772) 978–6584.

To view the comments to this AD, go to *http://dms.dot.gov.* The docket number is FAA–2005–21590; Directorate Identifier 2005–CE–33–AD.

FOR FURTHER INFORMATION CONTACT: Hector Hernandez, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6069; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

What events have caused this AD? Several reports of fuel leakage (resulting from a quality control problem) from the combustion heater fuel pumps installed on Piper Models PA–34–200T, PA–34–220T, PA–44–180, and PA–44–180T airplanes caused us to issue AD 2003–11–14, Amendment 39–13173 (68 FR 33356, June 4, 2003). AD 2003–11–14 currently requires you to do a one-time (quality control) inspection of the combustion heater fuel pumps for fuel leakage. If leakage is found, repair or replace the fuel pump.

Since AD 2003–11–14 was issued, there has been an investigation of two reports of fuel leakage from the combustion heater fuel pumps in December 2004. These two reports of fuel leakage were similar to those that led to the issuance of AD 2003–11–14. Improper torque was applied to the mounting screws of the fuel pump filter cover and resulted in sealing surface abnormalities such as nicks, gouges, or warping. This condition is a result of a quality control problem.

The findings of the investigation concluded that after issuance of AD 2003–11–14 additional fuel pumps that did not meet the quality control (inspection or design) requirements of the AD have been installed in Piper Models PA–34–220T and PA–44–180 airplanes. Other fuel pumps that do not meet the quality control (inspection or design) requirements may be held as spares.

What is the potential impact if FAA took no action? Quality control problems with the heater fuel pump could result in failure of the heater fuel pump. Such failure could lead to fire or explosion in the cockpit.

Is there service information that applies to this subject? Piper has issued:

—Service Bulletin No. 1127, dated February 26, 2003. This Piper service bulletin includes Kelly Aerospace Service Information Letter Bulletin No. A–110A, dated March 6, 2003; and

—Service Bulletin No. 1127B, dated April 18, 2005. This Piper service bulletin includes Kelly Aerospace Service Information Letter Bulletin No. A–110B, dated December 20, 2004

What are the provisions of this service information? These service bulletins include procedures for:

—Inspecting the combustion heater fuel pump for leaks; and

—Inspecting the sealing surface of the fuel pump.

FAA's Determination and Requirements of the AD

What has FAA decided? 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.

Since the unsafe condition described previously is likely to exist or develop on other Piper Models PA–34–200T, PA–34–220T, PA–44–180, and PA–44–180T airplanes of the same type design, we are issuing this AD to correct quality control problems with the heater fuel pump, which could result in failure of the heater fuel pump. Such failure could lead to fire or explosion in the cockpit.

What does this AD require? This AD requires you to incorporate the actions in the previously-referenced service bulletins.

In preparing this rule, we contacted type clubs and aircraft operators to get technical information and information on operational and economic impacts. We did not receive any information through these contacts. If received, we would have included a discussion of any information that may have influenced this action in the rulemaking docket.

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Comments Invited

Will I have the opportunity to comment before you issue the rule? This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–21590; Directorate Identifier 2005–CE–33–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 rule that might suggest a need to modify it. If a person contacts us through a nonwritten communication, and that contact relates to a substantive part of this 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 AD in light of those comments.

Authority for This Rulemaking

What authority does FAA have for issuing this rulemaking action? 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 AD.

Regulatory Findings

Will this AD impact various entities? 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.

Will this AD involve a significant rule or regulatory action? 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 the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) 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 FAA–2005–21590; Directorate Identifier 2005–CE–33–AD'' in your request.

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 Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2003–11–14, Amendment 39–13173 (68 FR 33356, June 4, 2003), and by adding a new AD to read as follows:

2005–15–10 The New Piper Aircraft, Inc.: Amendment 39–14199; Docket No. FAA–2005–21590; Directorate Identifier 2005–CE–33–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on August 26, 2005.

Are Any Other ADs Affected By This Action?

(b) This AD supersedes AD 2003–11–14, Amendment 39–13173.

What Airplanes Are Affected by This AD?

(c) This AD applies to the following airplane models and serial numbers that are certificated in any category, equipped with a model 91E92–1 or model 91E93–1 aircraft heater fuel pump:

(1) Group 1: The New Piper Aircraft, Inc. airplanes retained from AD 2003–11–14:

Model	Serial Nos.
PA–34–200T	34–7570002 through 34–8170092.
PA–34–220T	34–8133002 through 3449278.
PA–44–180	44–7995001 through 4496168.
PA–44–180T	44–8107001 through 44–8207020.

(2) Group 2: The New Piper Aircraft, Inc. airplanes (not included in AD 2003–11–14) added to the applicability of this AD:

Model	Serial Nos.
PA–34–220T	3449279 through 3449309.
PA–44–180	4496169 through 4496190.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of an investigation that concluded that after issuance of AD 2003–11–14, additional fuel pumps that did not meet the quality control (inspection or design) requirements of the AD were installed in Models PA–34–220T and PA–44–180 airplanes. We are issuing this AD to correct quality control problems with the heater fuel pump, which could result in failure of the heater fuel pump. Such failure could lead to fire or explosion in the cockpit.

What Must I Do To Address This Problem?

(e) *What actions must I do to address this problem for Group 1 airplanes?* To address this problem for Group 1 airplanes, you must do the following:

Actions	Compliance	Procedures
(1) Visually inspect any installed aircraft heater fuel pump (model 91E92–1 or model 91E93–1 for leakage.	Within the next 10 hours time-in-service (TIS), after June 20, 2003 (the effective date of AD 2003–11–14), unless already done.	Follow The New Piper Aircraft, Inc. Service Bulletin No. 1127, dated February 26, 2003, and Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110A, dated March 6, 2003.
(2) If any leak is found, inspect the pump sealing surface for abnormalities (for example, nicks, gouges, or warping). Correct any abnormality found. If any abnormality cannot be corrected, replace the header fuel pump.	Before further flight after the inspection required in paragraph (e)(1) of this AD.	Follow The New Piper Aircraft, Inc. Service Bulletin No. 1127, dated February 26, 2003, and Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110A, dated March 6, 2003.

Actions	Compliance	Procedures
(3) Do not install any heater fuel pump (model 91E92–1 or model 91E93–1) unless you have visually inspected the pump for leakage and corrected any abnormalities specified in paragraph (e)(2) of the AD.	As of June 20, 2003 (the effective date of AD 2003–11–14).	Follow The New Piper Aircraft, Inc. Service Bulletin No. 1127, dated February 26, 2003, and Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110A, dated March 6, 2003.

(f) *What actions must I do to address this problem for Group 2 airplanes?* To address this problem for Group 2 airplanes, you must do the following:

Actions	Compliance	Procedures
(1) Visually inspect any installed aircraft heater fuel pump (model 91E92–1 or model 91E93–1) for leakage.	Within the next 10 hours time-in-service (TIS), after August 26, 2005 (the effective date of this AD), unless already done.	Follow The New Piper Aircraft, Inc. Service Bulletin No. 1127B, dated April 18, 2005, and Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110B, dated December 20, 2004.
(2) If any leak is found, inspect the pump sealing surface for abnormalities (for example, nicks, gouges, or warping). Correct any abnormality found. If any abnormality cannot be corrected, replace the heater fuel pump.	Before further flight after the inspection required in paragraph (f)(1) of this AD.	Follow The New Piper Aircraft, Inc. Service Bulletin No. 1127B, dated April 18, 2005, and Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110B, dated December 20, 2004.
(3) Do not install any heater fuel pump (model 91E92–1 or model 91E93–1) unless you have visually inspected the pump for leakage and corrected any abnormalities specified in paragraph (f)(2) of this AD.	As of August 26, 2005 (the effective date of this AD).	Follow The New Piper Aircraft, Inc. Service Bulletin No. 1127B, dated April 18, 2005, and Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110B, dated December 20, 2004.

May I Request an Alternative Method of Compliance?

(g) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Atlanta Aircraft Certification Office (ACO). For information on any already approved alternative methods of compliance, contact Hector Hernandez, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6069; facsimile: (770) 703–6097.

Does This AD Incorporate Any Material by Reference?

(h) You must do the actions required by this AD following the instructions in The New Piper Aircraft, Inc. Service Bulletin No. 1127, dated February 26, 2003; The New Piper Aircraft, Inc. Service Bulletin No. 1127B, dated April 18, 2005; Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110A, dated March 6, 2003; and Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110B, dated December 20, 2004.

(1) On June 20, 2003 (68 FR 33356, June 4, 2003), and in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, the Director of the Federal Register approved the incorporation by reference of The New Piper Aircraft, Inc. Service Bulletin No. 1127, dated February 26, 2003, and Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110A, dated March 6, 2003.

(2) As of August 26, 2005, and in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, the Director of the Federal Register approved the incorporation by reference of The New Piper Aircraft, Inc. Service Bulletin No. 1127B, dated April 18, 2005, and Kelly Aerospace Power Systems Service Information Letter Bulletin No. A–110B, dated December 20, 2004.

(3) To get a copy of this service information, contact The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960; telephone: (772) 567–4361; facsimile: (772) 978–6584. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2005–21590; Directorate Identifier 2005–CE–33–AD.

Issued in Kansas City, Missouri, on July 14, 2005.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–14389 Filed 7–25–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21139; Directorate Identifier 2003–NM–196–AD; Amendment 39–14193; AD 2005–15–04]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–1A11 (CL–600), Model CL–600–2A12 (CL–601), and Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) 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 CL–600–1A11 (CL–600), Model CL–600–2A12 (CL–601), and Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) airplanes. This AD requires operators to assign serial numbers or part numbers to certain landing gear parts and to establish the number of landings on the parts, if necessary. This AD also requires operators to revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness to reflect the new life limits of the landing gear parts. This AD is prompted by reports that landing gear parts that have safe-life limits but do not

have serial numbers or part numbers can be removed from one landing gear and re-installed on another, making tracking difficult. We are issuing this AD to prevent life-limited landing gear parts from being used beyond their safe-life limits, which could lead to collapse of the landing gear.

DATES: Effective August 30, 2005.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of August 30, 2005.

ADDRESSES: You may examine the 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., Nassif Building, Room PL–401, Washington, DC.

Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, 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) 228–7312; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may 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 street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Bombardier Model CL–600–1A11 (CL–600), Model CL–600–2A12 (CL–601), and Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) airplanes. That NPRM was published in the **Federal Register** on May 9, 2005 (70 FR 24331). (A correction of the rule was published in the **Federal Register** on May 19, 2005 (70 FR 28988)). That NPRM proposed to require operators to assign serial numbers or part numbers to certain landing gear parts and to establish the number of landings on the parts, if necessary. That NPRM also proposed to require operators to revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness to reflect the new life limits of the landing gear parts.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Explanation of Change to Applicability

We have revised the applicability to reflect the model designations as published in the most recent type certificate data sheet.

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 assign serial numbers or part numbers to certain landing gear parts to comply with this AD.

ESTIMATED COSTS

Model	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
CL–600–1A11 (CL–600)	13	$65	None	$845	54	$45,630
CL–600–2A12 (CL–601), CL–600–2B16 (CL–601–3A and CL–601–3R).	9	65	None	585	128	74,880
CL–600–2B16 (CL604)	5	65	None	325	119	38,675

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 and placed it in the AD docket. 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2005–15–04 Bombardier, Inc. (Formerly Canadair): Amendment 39–14193. Docket No. FAA–2005–21139; Directorate Identifier 2003-NM–196-AD.

Effective Date

(a) This AD becomes effective August 30, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the Bombardier airplane models, certificated in any category, listed in Table 1 of this AD.

TABLE 1.—APPLICABILITY

Bombardier model—	As identified in Bombardier service bulletin—
CL–600–1A11 (CL–600) airplanes	600–0710, Revision 01, dated December 15, 2003.
CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A, and CL–601–3R) airplanes.	601–0546, Revision 01, dated December 15, 2003.
CL–600–2B16 (CL–604) airplanes	604–32–014, dated May 31, 2002.

Unsafe Condition

(d) This AD was prompted by reports that landing gear parts that have safe-life limits but do not have serial numbers or part numbers can be removed from one landing gear and re-installed on another, making tracking difficult. We are issuing this AD to prevent life-limited landing gear parts from being used beyond their safe-life limits, which could lead to collapse of the landing gear.

Compliance

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

Add Serial Numbers or Part Numbers

(f) At the applicable compliance time specified in paragraph (f)(1), (f)(2), or (f)(3) of this AD: Add serial numbers and part numbers, as applicable, to the parts identified in the service bulletins. Do all actions in accordance with the applicable service bulletin.

(1) For parts identified in the Bombardier Service Bulletin 600–0710, Revision 01, dated December 15, 2003; and Bombardier Service Bulletin 601–0546, Revision 01, dated December 15, 2003; as having a compliance time of ''five years for the parts listed in Part A': Within 60 months after the effective date of this AD.

(2) For parts identified in Bombardier Service Bulletin 600–0710, Revision 01, dated December 15, 2003; and Bombardier Service Bulletin 601–0546, Revision 01, dated December 15, 2003; as having a compliance time of ''ten years for the parts listed in Part B': Within 120 months after the effective date of this AD.

(3) For parts identified in the Bombardier Service Bulletin 604–32–014, dated May 31, 2002, as having a compliance time of ''no later than a calendar time of 8 years': Within 96 months after the effective date of this AD.

Note 1: The Bombardier service bulletins refer to the Messier-Dowty service bulletins in Table 2 of this AD as additional sources of service information for adding part numbers or serial numbers by vibro-peening the numbers on main landing gear (MLG) and nose landing gear (NLG) components that do not have them; and for determining the number of landings for parts without a part number or serial number on which the time since new (TSN) and cycles since new (CSN) have not been tracked.

TABLE 2.—MESSIER-DOWTY SERVICE BULLETINS

Messier-Dowty service bulletin	Model	Landing gear corresponding	Component Bombardier service bulletin(s)
M–DT SB104467009/010–32–1, dated March 19, 2001.	CL–600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	MLG side strut retraction actuator eye bolt.	600–0710 and 601–0546.
M–DT SB19090–32–4, dated March 19, 2001.	CL–600–2B16 (CL–604) airplanes	MLG shock strut	604–32–014.
M–DT SB20020–32–5, dated July 12, 2001.	CL–600–2B16 (CL–604) airplanes	NLG shock strut	604–32–014.
M–DT SB200814001–32–3, dated March 19, 2001.	CL–600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	NLG drag brace hinge pin	600–0710 and 601–0546.
M–DT SB200922001/2–32–6, dated March 19, 2001.	CL–600–1A11 (CL–600) airplanes	MLG shock strut	600–0710.
M–DT SB200924003/004–32–16, dated July 12, 2001.	CL–600–1A11 (CL–600) airplanes	NLG shock strut	600–0710.
M–DT SB6100–32–10, dated March 19, 2001.	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	MLG shock strut pin	601–0546.
M–DT SB6500–32–1, dated March 19, 2001.	CL–600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	MLG side strut retraction actuator	600–0710 and 601–0546.

TABLE 2.—MESSIER-DOWTY SERVICE BULLETINS—Continued

Messier-Dowty service bulletin	Model	Landing gear corresponding	Component Bombardier service bulletin(s)
M–DT SB7200–32–6, dated March 19, 2001.	CL–600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	NLG drag brace hinge pin	600–0710 and 601–0546.
M–DT SB7300–32–16, dated July 12, 2001.	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	NLG shock strut	601–0546.

Establish the Number of Landings

(g) At the applicable time specified in paragraph (f) of this AD: If a component does not have a serial number and the CSN or TSN were not tracked, use the formula in the applicable Messier-Dowty service bulletin in Table 2 of this AD to establish the number of landings (TSN or CSN), and record the newly calculated TSN or CSN in the aircraft log books.

Revise the Airworthiness Limitations Section (ALS)

(h) Within 30 days after the effective date of this AD, revise the ALS of the applicable Instructions for Continued Airworthiness to reflect the new life limits of the landing gear parts by inserting copies of the Canadair temporary revisions (TR) in Table 3 of this AD into the ALS of the applicable Canadair Time-Limits/Maintenance Check Manual. When the contents of the TRs are included in the general revisions of the ALS, these TRs may be removed provided the relevant information in the ALS is identical to that in the TRs.

TABLE 3.—CANADAIR TEMPORARY REVISIONS

Temporary revision	Applicable Canadair time-limits/maintenance check manual	Manual section	Model
5–116, dated April 11, 2002	PSP 605	5–10–10	CL–600–1A11 (CL–600) airplanes.
5–190, dated April 11, 2002	PSP 601–5	5–10–10	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.
5–191, dated April 11, 2002	PSP 601–5	5–10–11	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.
5–192, dated April 11, 2002	PSP 601–5	5–10–12	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.
5–2–6, dated April 11, 2002	CL–604	5–10–10	CL–600–2B16 (CL–604) airplanes.
5–204, dated April 11, 2002	PSP 601A–5	5–10–10	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.
5–205, dated April 11, 2002	PSP 601A–5	5–10–11	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.
5–206, dated April 11, 2002	PSP 601A–5	5–10–12	CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.

Parts Installation

(i) As of the effective date of this AD, no person may install on any airplane a landing gear part, unless it has had the applicable part number or serial number added in accordance with paragraph (f) of this AD; and had the number of landings established in accordance with paragraph (g) of this AD.

No Reporting Required

(j) Although the service bulletins identified in paragraph (f) of this AD specify that operators submit incorporation notices to Bombardier after each new part number or serial number and landings assigned to these parts is added, this AD does not include that action.

Actions Done in Accordance With Previous Issues of Service Bulletins

(k) Actions done before the effective date of this AD in accordance with Bombardier Service Bulletin 601–0546, dated May 31, 2002; and Bombardier Service Bulletin 600–0710, dated May 31, 2002; are acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(m) Canadian airworthiness directives CF–2003–18R1, dated January 17, 2005; CF–2003–20, dated July 24, 2003; and CF–2003–21R1, dated January 21, 2005; also address the subject of this AD.

Material Incorporated by Reference

(n) You must use the service information identified in Tables 4, 5, and 6 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 4.—BOMBARDIER SERVICE BULLETINS INCORPORATED BY REFERENCE

Bombardier Service Bulletins (including the Component Time Tracking Log Card and Attachments Listed in Table 5 of this AD)	Revision level	Date
600–0710	01	December 15, 2003.
601–0546	01	December 15, 2003.
604–32–014	Original	May 31, 2002.

TABLE 5.—MESSIER-DOWTY SERVICE BULLETINS INCORPORATED BY REFERENCE

Messier-Dowty Service Bulletin (attachments)	Date	Attached to Bombardier Service Bulletin(s)—
M–DT SB104467009/010–32–1	March 19, 2001	600–0710, 601–0546
M–DT SB19090–32–4	March 19, 2001	604–32–014
M–DT SB20020–32–5	July 12, 2001	604–32–014
M–DT SB200814001–32–3	March 19, 2001	600–0710, 601–0546
M–DT SB200922001/2–32–6	March 19, 2001	600–0710
M–DT SB200924003/004–32–16	July 12, 2001	600–0710
M–DT SB6100–32–10	March 19, 2001	601–0546
M–DT SB6500–32–1	March 19, 2001	600–0710, 601–0546
M–DT SB7200–32–6	March 19, 2001	600–0710, 601–0546
M–DT SB7300–32–16	July 12, 2001	601–0546

TABLE 6.—CANADAIR TEMPORARY REVISIONS INCORPORATED BY REFERENCE

Canadair temporary revision	Date	Applicable Canadair time-limits/maintenance check manual	Manual section
5–116	April 11, 2002	PSP 605	5–10–10
5–190	April 11, 2002	PSP 601–5	5–10–10
5–191	April 11, 2002	PSP 601–5	5–10–11
5–192	April 11, 2002	PSP 601–5	5–10–12
5–2–6	April 11, 2002	CL–604	5–10–10
5–204	April 11, 2002	PSP 601A–5	5–10–10
5–205	April 11, 2002	PSP 601A–5	5–10–11
5–206	April 11, 2002	PSP 601A–5	5–10–12

Issued in Renton, Washington, on July 11, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–14175 Filed 7–25–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–40–AD; Amendment 39–14202; AD 2005–15–13]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211–524 Series Turbofan Engines

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Rolls Royce plc (RR) RB211–524 series turbofan engines with certain part number (P/N) intermediate pressure (IP) compressor stage 5 disks installed. This AD requires new reduced IP compressor stage 5 disk cyclic limits. This AD also requires removing from service affected disks that already exceed the new reduced cyclic limit, and removing other affected disks before exceeding their cyclic limits, using a drawdown schedule. This AD results from the discovery of cracks in the cooling air hole areas of the disk front spacer arm. We are issuing this AD to prevent IP compressor stage 5 disk failure, which could result in uncontained engine failure and possible damage to the airplane.

DATES: This AD becomes effective August 30, 2005. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of August 30, 2005.

ADDRESSES: You can get the service information identified in this AD from Rolls-Royce plc, P.O. Box 31 Derby, DE248BJ, United Kingdom; telephone 011–44–1332–242424; fax 011–44–1332–249936.

You may examine the AD docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA. You may examine the service information, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; 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.*

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–

5299; telephone (781) 238–7178; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to (RR) RB211–524 series turbofan engines with certain P/N IP compressor stage 5 disks installed. We published the proposed AD in the **Federal Register** on February 2, 2005 (70 FR 5390). That action proposed to require:

- Establishing new reduced IP compressor stage 5 disk cyclic limits.
- Removing from service affected disks that already exceed the new reduced cyclic limit.
- Removing other affected disks before exceeding their cyclic limits, using a drawdown schedule.
- Allowing optional inspections at each shop visit or an on-wing eddy current inspection to extend the disk life beyond the specified life.

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

There are about 939 RR RB211–524 series turbofan engines of the affected design in the worldwide fleet. We estimate that this AD will affect about 35 engines installed on airplanes of U.S. registry. We also estimate that it will take about 8 work hours per engine to perform an inspection, and 300 work hours per engine to replace an IP compressor stage 5 disk. The average labor rate is $65 per work hour. Required parts will cost about $49,000 per engine. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $2,415,700.

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 summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''AD Docket No. 2002–NE–40–AD'' in your request.

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 Federal Aviation Administration 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:

2005–15–13 Rolls-Royce plc: Amendment 39–14202. Docket No. 2002–NE–40–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective August 30, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the Rolls-Royce plc (RR) RB211–524 series turbofan engines listed in the following Table 1, with intermediate pressure (IP) compressor stage 5 disk part numbers (P/Ns) listed in Table 2 of this AD, installed.

TABLE 1.—ENGINE MODELS AFFECTED

–524B–02	–524B–B–02	–524B3–02	–524B4–02	–524B4–D–02
–524B2–19	–524B2–B–19	–524C2–19	–524C2–B–19	–524D4–19
–524D4–B–19	–524D4X–19	–524D4X–B–19	–524D4–39	–524D4–B–39
–524G2–19	–524G2–T–19	–524G3–19	–524G3–T–19	–524H2–19
–524H2–T–19	–524H–36	–524H–T–36		

These engines are installed on, but not limited to, Boeing 747, 767, and Lockheed L–1011 airplanes.

TABLE 2.—IP COMPRESSOR STAGE 5 DISK P/NS AFFECTED

LK60130	LK65932	LK69021	LK81269	LK83282

TABLE 2.—IP COMPRESSOR STAGE 5 DISK P/NS AFFECTED—Continued

LK83283	UL12290	UL15743	UL15744	UL15745
UL19132	UL20785	UL20832	UL23291	UL25011
UL36821	UL36977	UL36978	UL36979	UL36980
UL36981	UL36982	UL36983	UL37078	UL37079
UL37080	UL37081	UL37082	UL37083	UL37084

Unsafe Condition

(d) This AD results from discovery of cracks in the cooling air hole areas of the disk front spacer arm. The actions specified in this AD are intended to prevent IP compressor stage 5 disk failure, which could result in uncontained engine failure and possible 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.

Cycle Limits

(f) Change the service cyclic limits contained in the Time Limits Manual, 05–10–01, for the IP compressor stage 5 discs installed in the engine models listed in the following Table 3, within 30 days after the effective date of this AD.

TABLE 3.—CYCLIC LIFE LIMITS WITHOUT QUALIFYING MAGNETIC PARTICLE INSPECTION (MPI) OR EDDY CURRENT INSPECTION (ECI)

Date of reduced life limit	Engine models			
	–524G2, G2–T, G3, G3–T, H2, H2–T, H–36, H–T–36	–524D4, D4–B, D4–B–39, D4X, D4X–B, D4–39 CIS	–524B2, B2–B, C2, C2–B CIS	–524B–02, B–B–02, B3–02, B4–02, B4–D–02 CIS
November 30, 2002	13,500 cycles-in-service (CIS)	16,150	16,000	16,200
April 1, 2003	13,500 CIS	13,500	13,500	14,000
December 1, 2003	12,000 CIS	13,500	13,500	14,000
December 1, 2004	11,000 CIS	13,500	12,000	12,000
December 1, 2005	11,000 CIS	12,000	12,000	12,000
December 1, 2008	7,830 CIS	8,700	8,900	9,000

Optional Inspections

(g) Before December 1, 2008, optional inspections are allowed at each shop visit or on-wing to extend the disk life. Guidance for these inspections is provided in paragraphs (h) or (i) of this AD.

Optional Inspections at Shop Visit

(h) Perform optional inspections at shop visit, as follows:

(1) Remove corrosion protection from IP stage 5 disk. Information on corrosion protection removal can be found in the Engine Manual.

(2) Visual-inspect and binocular-inspect the IP stage 5 disk for corrosion pitting at the cooling air holes and defender holes in the disk front spacer arm. Follow paragraph 3.C. of the Accomplishment Instructions of RR MSB No. RB.211–72–D428, Revision 3, dated June 30, 2003. Information on disk corrosion pitting limits can be found in the Engine Manual.

(i) If the disk has corrosion pitting in excess of limits, remove the disk from service.

(ii) If the disk is free from corrosion pitting, MPI the entire disk. Information on MPI can be found in the Engine Manual. If the disk passes MPI and no cracks are found, complete all other inspections, re-apply corrosion protection to disk, and return the disk to service in accordance with the cyclic limits allowed by paragraph (k) of this AD. Information on MPI limits can be found in the Engine Manual. Information on re-applying corrosion protection can be found in RR Repair FRS5900.

(iii) If the disk has corrosion pitting within limits, ECI all disk cooling air holes, defender holes, and inner and outer faces. Follow paragraph 3.D. of the Accomplishment Instructions of RR MSB No. RB.211–72–D428, Revision 3, dated June 30, 2003. Information on corrosion pitting limits can be found in the Engine Manual. If the disk passes ECI and no cracks are found, MPI the entire disk. Information on MPI can be found in the Engine Manual. If the disk passes MPI and no cracks are found, re-apply corrosion protection to disk, and return the disk to service in accordance with the cyclic limits allowed by paragraph (k) of this AD.

Optional On-Wing EC Inspections

(i) For RB211–524B2/C2 and RB211–524B4/D4 engine models, an on-wing ECI of the IP compressor stage 5 disk may be performed only once between shop visit inspections. Follow paragraphs 3.A. through 3.F. of the Accomplishment Instructions of RR SB No. RB.211–72–E148, dated March 13, 2003, and RR SB No. RB.211–72–E150, Revision 1, dated June 4, 2003, respectively, to do the ECI. If the disk passes the ECI and no cracks are found, an extension is allowed as specified in paragraph (k) of this AD.

Definition of Shop Visit

(j) For the purposes of this AD, a shop visit is defined as the separation of an engine major case flange. This definition excludes shop visits when only field maintenance type activities are performed in lieu of performing them on-wing. (*i.e.*, for purposes such as to perform an on-wing inspection of a tail engine installation on a Lockheed L–1011 airplane).

Cyclic Life Extension

(k) Disks that pass an optional inspection may remain in service after that inspection for the additional cycles listed in the following Table 4, until the next inspection, or December 1, 2008, or until the cyclic life limit published in the Time Limits Manual is reached, whichever occurs first.

TABLE 4.—CYCLIC LIFE EXTENSION

Engine models	–524G2, G2–T, G3, G3–T, H2, H2–T, H–36, H–T–36 (cycles)	–524D4, D4–B, D4–B–39, D4X, D4X–B, D4–39 (cycles)	–524B2, B2–B, C2, C2–B (cycles)	–524B–02, B–B–02, B3–02, B4–02, B4–D–02 (cycles)
Extension After Passing MPI	1,600	2,000	2,000	2,000
Extension After Passin In-Shop ECI	3,800	4,500	4,500	4,500
Extension After Passing On-Wing ECI	1,000	1,200	1,200	1,200

Disks That Have Been Intermixed Between Engine Models

(l) Information on intermixing disks between engine models can be found in the RR Time Limits Manual, 05–00–01.

Alternative Methods of Compliance

(m) 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.

Credit for Previous Inspections

(n) Inspections done using RR SB No. RB.211–72-E150, dated April 17, 2003 are acceptable in meeting the requirements of this AD.

Reporting Requirement

(o) Report findings of all inspections of the IP stage 5 disk using paragraph 3.B.(2) of the Accomplishment Instructions of RR ASB RB.211–72-D428, Revision 3, dated June 30, 2003. The Office of Management and Budget (OMB) has approved the reporting requirements specified in Paragraph 3.B. of the Accomplishment Instructions of RR ASB RB.211–72-D428, Revision 3, dated June 30, 2003, and assigned OMB control number 2120–0056.

Material Incorporated by Reference

(p) You must use Rolls-Royce plc Service Bulletins listed in Table 5 of this AD to perform the actions required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You can get a copy from Rolls-Royce plc, P.O. Box 31 Derby, DE248BJ, United Kingdom; telephone 011–44–1332–242424; fax 011–44–1332–249936. You can review copies by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; 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.*

TABLE 5.—INCORPORATION BY REFERENCE

Service bulletin	Page number shown on the page	Revision	Date shown on the page
RB.211–72–D428, including Appendices 1 through 4, dated June 30, 2003	All	3	June 30, 2003.
RB.211–72–E148 Total Pages—83	All	Original	March 13, 2003.
RB.211–72–E150 Total Pages—72	All	1	June 4, 2003.

Related Information

(q) CAA airworthiness directive 006–04–2002, dated April 2002, also addresses the subject of this AD.

Issued in Burlington, Massachusetts, on July 18, 2005.

Francis A. Favara,

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

[FR Doc. 05–14576 Filed 7–25–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30451; Amdt. No. 3127]

Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and/or Weather Takeoff Minimums for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective July 26, 2005. The compliance date for each SIAP and/or Weather Takeoff Minimums is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 26, 2005.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

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

For Purchase—Individual SIAP and Weather Takeoff Minimums copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs and Weather Takeoff Minimums mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to title 14 of the Code of Federal Regulations, part 97 (14 CFR part 97), establishes, amends, suspends, or revokes SIAPs and/or Weather Takeoff Minimums. The complete regulatory description of each SIAP and/or Weather Takeoff Minimums is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, 8260–5 and 8260–15A. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs and/or Weather Takeoff Minimums, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs and/or Weather Takeoff Minimums but refer to their depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP and/or Weather Takeoff Minimums contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs and/or Weather Takeoff Minimums. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and/or Weather Takeoff Minimums as contained in the transmittal. Some SIAP and/or Weather Takeoff Minimums amendments may have been previously issued by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP, and/or Weather Takeoff Minimums amendments may require making them effective in less than 30 days. For the remaining SIAPs and/or Weather Takeoff Minimums, an effective date at least 30 days after publication is provided.

Further, the SIAPs and/or Weather Takeoff Minimums contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and/or Weather Takeoff Minimums, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and/or Weather Takeoff Minimums and safety in air commerce, I find that notice and public procedure before adopting these SIAPs and/or Weather Takeoff Minimums are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs and/or Weather Takeoff Minimums effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on July 15, 2005.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, under title 14, Code of Federal Regulations, part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and Weather Takeoff Minimums effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

** * * Effective 1 September 2005*

Andalusia/Opp, AL, Andalusia-Opp, RNAV (GPS) RWY 29, Amdt 1
Auburn, AL, Auburn-Opelika Robert G. Pitts, RNAV (GPS) RWY 11, Orig
Auburn, AL, Auburn-Opelika Robert G. Pitts, RNAV (GPS) RWY 18, Orig
Auburn, AL, Auburn-Opelika Robert G. Pitts, RNAV (GPS) RWY 29, Orig
Auburn, AL, Auburn-Opelika Robert G. Pitts, RNAV (GPS) RWY 36, Orig
Auburn, AL, Auburn-Opelika Robert G. Pitts, VOR/DME–A, Amdt 7
Auburn, AL, Auburn-Opelika Robert G. Pitts, LOC RWY 36, Amdt 3
Auburn, AL, Auburn-Opelika Robert G. Pitts, VOR RWY 29, Amdt 10
Auburn, AL, Auburn-Opelika Robert G. Pitts, GPS RWY 28, Orig, CANCELLED
Auburn, AL, Auburn-Opelika Robert G. Pitts, NDB RWY 36, Orig–A, CANCELLED
Auburn, AL, Auburn-Opelika Robert G. Pitts, VOR/DME RNAV OR GPS RWY 36, Amdt 3A, CANCELLED
Auburn, AL, Auburn-Opelika Robert G. Pitts, Takeoff Minimums and Textual DP, Amdt 1, CANCELLED
Chalkyitsik, AK, Chalkyitsik, RNAV (GPS) RWY 3, Orig
Chalkyitsik, AK, Chalkyitsik, RNAV (GPS) RWY 21, Orig
Kaltag, AK, Kaltag, RNAV (GPS) RWY 21, Orig
Kaltag, AK, Kaltag, Takeoff Minimums and Textual DP, Orig
Kiana, AK, Bob Baker Memorial, RNAV (GPS) RWY 6, Orig
Kiana, AK, Bob Baker Memorial, RNAV (GPS) RWY 24, Orig
Kiana, AK, Bob Baker Memorial, Takeoff Minimums and Textual (DP), Orig
Chino, CA, Chino, ILS OR LOC RWY 26R, Amdt 7
Chino, CA, Chino, RNAV (GPS) RWY 26R, Orig
Fresno, CA, Fresno Yosemite International, VOR/DME OR TACAN RWY 11L, Amdt 1

Fresno, CA, Fresno Yosemite International, VOR/DME OR TACAN RWY 29R, Amdt 1
Fresno, CA, Fresno Yosemite International, NDB RWY 29R, Amdt 24, CANCELLED
Fresno, CA, Fresno Yosemite International, LOC RWY 11L, Amdt 1
Fresno, CA, Fresno Yosemite International, ILS OR LOC/DME RWY 29R, Amdt 36, ILS RWY 29R (CAT II), ILS RWY 29R (CAT III), Amdt 36
Fresno, CA, Fresno Yosemite International, RNAV (GPS) RWY 11L, Orig
Fresno, CA, Fresno Yosemite International, RNAV (GPS) RWY 11R, Orig
Fresno, CA, Fresno Yosemite International, RNAV (GPS) RWY 29L, Orig
Fresno, CA, Fresno Yosemite International, RNAV (GPS) RWY 29R, Orig
Fresno, CA, Fresno Yosemite International, GPS RWY 11L, Orig–A, CANCELLED
Fresno, CA, Fresno Yosemite International, GPS RWY 29R, Orig–A, CANCELLED
Fresno, CA, Fresno Yosemite International, Takeoff Minimums and Textual DP, Amdt 6
Washington, DC, Ronald Reagan Washington National, RNAV (GPS) RWY 33, Orig
Washington, DC, Ronald Reagan Washington National, VOR/DME RNAV or GPS RWY 33, Amdt 5C, CANCELLED
Fort Myers, FL, Southwest Florida Intl, RNAV (GPS) RWY 6, Amdt 1
Fort Myers, FL, Southwest Florida Intl, RNAV (GPS) RWY 24, Amdt 1
Savannah, GA, Savannah/Hilton Head Intl, ILS OR LOC RWY 9, Amdt 27
Savannah, GA, Savannah/Hilton Head Intl, RNAV (GPS) RWY 9, Amdt 1
Savannah, GA, Savannah/Hilton Head Intl, RNAV (GPS) RWY 18, Amdt 1
Savannah, GA, Savannah/Hilton Head Intl, RNAV (GPS) RWY 27, Amdt 1
Savannah, GA, Savannah/Hilton Head Intl, RNAV (GPS) RWY 36, Amdt 1
Hana, HI, Hana, RNAV (GPS) RWY 26, Orig
Hana, HI, Hana, Takeoff Minimums and Textual DP, Orig
Oskaloosa, IA, Oskaloosa Muni, RNAV (GPS) RWY 13, Orig
Oskaloosa, IA, Oskaloosa Muni, RNAV (GPS) RWY 31, Orig
Oskaloosa, IA, Oskaloosa Muni, NDB RWY 22, Amdt 3
Oskaloosa, IA, Oskaloosa Muni, VOR/DME RWY 31, Amdt 3
Escanaba, MI, Delta County, ILS OR LOC RWY 9, Amdt 2
Benson, MN, Benson Muni, RNAV (GPS) RWY 14, Orig
Benson, MN, Benson Muni, RNAV (GPS) RWY 32, Orig
Benson, MN, Benson Muni, Takeoff Minimums And Textual DP, Orig
Washington, MO, Washington Memorial, RNAV (GPS) RWY 15, Orig
Washington, MO, Washington Memorial, RNAV (GPS) RWY 33, Orig
Washington, MO, Washington Memorial, VOR–A, Orig
Columbus, NE, Columbus Muni, RNAV (GPS) RWY 14, Orig
Columbus, NE, Columbus Muni, RNAV (GPS) RWY 32, Orig
Columbus, NE, Columbus Muni, GPS RWY 14, ORIG–B, CANCELLED
Columbus, NE, Columbus Muni, LOC RWY 14, Amdt 7
Columbus, NE, Columbus Muni, VOR/DME RWY 32, Amdt 3
Columbus, NE, Columbus Muni, VOR RWY 32, Amdt 14
Columbus, NE, Columbus Muni, Takeoff Minimums and Textual Departure Procedure, Amdt 5
McCook, NE, McCook Muni, RNAV (GPS) RWY 12, Orig
McCook, NE, McCook Muni, RNAV (GPS) RWY 30, Orig
McCook, NE, McCook Muni, GPS RWY 12, Orig–B, CANCELLED
Norfolk, NE, Karl Stefan Memorial, ILS OR LOC RWY 1, Amdt 5
Omaha, NE, Eppley Field, RNAV (GPS) RWY 14R, Amdt 1
Omaha, NE, Eppley Field, RNAV (GPS) RWY 18, Amdt 1
Omaha, NE, Eppley Field, RNAV (GPS) RWY 32L, Amdt 1
Omaha, NE, Eppley Field, RNAV (GPS) RWY 36, Amdt 1
Claremont, NH, Claremont Muni, Takeoff Minimums and Textual DP, Amdt 2
Reno, NV, Reno/Stead, RNAV (GPS) RWY 32, Orig
Syracuse, NY, Syracuse Hancock Intl, ILS OR LOC RWY 10, Amdt 11
Syracuse, NY, Syracuse Hancock Intl, RNAV (GPS) RWY 10, Amdt 1
Syracuse, NY, Syracuse Hancock Intl, RNAV (GPS) RWY 15, Amdt 1
Syracuse, NY, Syracuse Hancock Intl, RNAV (GPS) RWY 28, Amdt 1
Syracuse, NY, Syracuse Hancock Intl, RNAV (GPS) RWY 33, Amdt 1
Syracuse, NY, Syracuse Hancock Intl, RNAV (GPS) Y RWY 10, Orig, CANCELLED
Syracuse, NY, Syracuse Hancock Intl, RNAV (GPS) Y RWY 15, Orig, CANCELLED
Aurora, OR, Aurora State, RNAV (GPS)–B, Orig
Aurora, OR, Aurora State, RNAV (GPS) RWY 17, Orig
Aurora, OR, Aurora State, RNAV (GPS) RWY 35, Orig
Aurora, OR, Aurora State, VOR/DME-A, Amdt 3
Aurora, OR, Aurora State, GPS RWY 17, Amdt 1A, CANCELLED
Aurora, OR, Aurora State, GPS RWY 35, Amdt 1B, CANCELLED
Aurora, OR, Aurora State, LOC RWY 17, Amdt 1
Aurora, OR, Aurora State, Takeoff Minimums and Textual DP, Amdt 2
Eugene, OR, Mahlon Sweet Field, RNAV (GPS) RWY 16L, Orig
Hazleton, PA, Hazleton Muni, RNAV (GPS) RWY 10, Orig
Greer, SC, Greenville-Spartanburg Intl-Roger Milliken, RADAR 1, Amdt 6
Charleston, SC, Charleston AFB/Intl, RNAV (GPS) RWY 3, Amdt 1
Charleston, SC, Charleston AFB/Intl, RNAV (GPS) RWY 15, Amdt 1
Charleston, SC, Charleston AFB/Intl, RNAV (GPS) RWY 21, Amdt 1
Charleston, SC, Charleston AFB/Intl, RNAV (GPS) RWY 33, Amdt 1
Columbia, SC, Columbia Metropolitan, RNAV (GPS) RWY 23, Amdt 1
Columbia, SC, Columbia Metropolitan, RNAV (GPS) RWY 5, Amdt 1
Alice, TX, Alice Intl, RNAV (GPS) RWY 31, Amdt 1
San Angelo, TX, San Angelo Regional/Mathis Field, RNAV (GPS) RWY 3, Amdt 1
San Angelo, TX, San Angelo Regional/Mathis Field, RNAV (GPS) RWY 21, Amdt 1
Logan, UT, Logan-Cache, RNAV (GPS) RWY 35, Amdt 1
Logan, UT, Logan-Cache, RNAV (GPS) RWY 17, Orig
Logan, UT, Logan-Cache, Takeoff Minimums And Textual DP, Amdt 7
Salt Lake City, UT, Salt Lake City Intl, ILS OR LOC RWY 16L, Amdt 2, ILS RWY 16L (CAT II), ILS RWY 16L (CAT III)
Salt Lake City, UT, Salt Lake City Intl, ILS OR LOC RWY 16R, Amdt 2, ILS RWY 16R (CAT II), ILS RWY 16R (CAT III)
Salt Lake City, UT, Salt Lake City Intl, ILS OR LOC RWY 34R, Amdt 2, ILS RWY 34R (CAT II), ILS RWY 34R (CAT III)
Salt Lake City, UT, Salt Lake City Intl, ILS OR LOC RWY 34L, Amdt 1, ILS RWY 34L (CAT II), ILS RWY 34L (CAT III)
Blacksburg, VA, Virginia Tech/Montgomery Executive, RNAV (GPS) RWY 12, Orig
Blacksburg, VA, Virginia Tech/Montgomery Executive, GPS RWY 12, Orig, CANCELLED
Dublin, VA, New River Valley, RNAV (GPS) RWY 24, Orig
Dublin, VA, New River Valley, GPS RWY 24, Orig, CANCELLED
Friday Harbor, WA, Friday Harbor, RNAV (GPS) RWY 34, Amdt 1
Gillette, WY, Gillette-Campbell County, RNAV (GPS) RWY 34, Orig
Gillette, WY, Gillette-Campbell County, RNAV (GPS) RWY 16, Orig
Gillette, WY, Gillette-Campbell County, VOR RWY 16, Amdt 7
Gillette, WY, Gillette-Campbell County, VOR/DME RWY 34, Amdt 1
Gillette, WY, Gillette-Campbell County, ILS OR LOC RWY 34, Amdt 3
Gillette, WY, Gillette-Campbell County, Takeoff Minimums And Textual DP, Amdt 3

[FR Doc. 05–14587 Filed 7–25–05; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 742, 743, 772, and 774

[Docket No. 050607153–5153–01]

RIN 0694–AD41

December 2004 Wassenaar Arrangement Plenary Agreement Implementation: Categories 1, 2, 3, 4, 5 Part I (Telecommunications), 6, 7, 8, and 9 of the Commerce Control List; Wassenaar Reporting Requirements; Definitions; and Certain New or Expanded Export Controls

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule; correction.

SUMMARY: On Friday, July 15, 2005, the Bureau of Industry and Security published a final rule that amended the Export Administration Regulations (EAR) to implement the agreement reached at the December 2004 plenary meeting of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. The July 15 final rule contained an inadvertent typographical error in the amendatory language for Export Control Classification Number 3A002, which controls general purpose electronic equipment. This document corrects that error. This rule also corrects a statement of the license requirements for deemed export license applications found in the Background section of the July 15 final rule.

DATES: This rule is effective July 26, 2005.

FOR FURTHER INFORMATION CONTACT: For questions of a general nature, contact Sheila Quarterman, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security at (202) 482–2440 or e-mail *squarter@bis.doc.gov*.

For questions of a technical nature contact:

Category 1: Bob Teer 202–482–4749.

Category 2: George Loh 202–482–3570.

Category 3: Brian Baker 202–482–5534.

Category 4 and 5 part 1: Joe Young 202–482–4197.

Category 5 part 2: Norm La Croix 202–482–4439.

Category 6: Chris Costanzo (night vision) 202–482–0718 or Wayne Hovis (lasers) 202–482–1837.

Categories 7 and 8 : Dan Squire 202–482–3710.

Categories 8 and 9: Gene Christensen 202–482–2984.

SUPPLEMENTARY INFORMATION:

Background

This document corrects two errors contained in the Bureau of Industry and Security (BIS) final rule published in the **Federal Register** on July 15, 2005 (70 FR 41094). The July 15 final rule amended the Export Administration Regulations (EAR) to implement the agreement reached at the December 2004 plenary meeting of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). Specifically, the July 15 final rule made the necessary changes to the Commerce Control List (CCL), definitions of terms used in the Export Administration Regulations (EAR), and Wassenaar reporting requirements to implement Wassenaar List revisions that were agreed upon in the December 2004 Wassenaar Arrangement Plenary Meeting. In addition, the rule adds Slovenia to the list of Wassenaar member countries in the EAR. The rule also added or expanded unilateral U.S. controls on certain items consistent with the amendments made to implement the Wassenaar Arrangement's decisions.

This document corrects an inadvertent typographical error contained in Export Control Classification Number (ECCN) 3A002 (General purpose electronic equipment, as follows (see List of Items Controlled)) on the CCL. Specifically, this document corrects paragraph 3A002.b by removing a comma that appears between the terms ''Frequency synthesizer'' and ''electronic assemblies''. The removal of the comma corrects paragraph 3A002.b in conformity with language agreed upon in the December 2004 Wassenaar Arrangement Plenary Meeting.

This document also corrects a statement of the license requirements for deemed export license applications found in the Background section of the July 15 final rule. Specifically, the Background section of the July 15 final rule included an explanation of amendments to Section 740.7 (License Exception Computers (CTP)) of the EAR. That explanation included the following statement, ''Applications for foreign nationals with temporary or permanent residence status of a third country (*i.e.*, non-U.S. and a temporary or permanent residence status other than a foreign national's country of origin) should be based on the foreign national's country of citizenship.'' This is not correctly stated; such license applications should be based on the most recently established residency.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves two collections of information subject to the PRA. One of the collections has been approved by OMB under control number 0694–0088, ''Multi-Purpose Application,'' and carries a burden hour estimate of 58 minutes for a manual or electronic submission. The other of the collections has been approved by OMB under control number 0694–0106, ''Reporting and Recordkeeping Requirements under the Wassenaar Arrangement,'' and carries a burden hour estimate of 21 minutes for a manual or electronic submission. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6883, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sheila Quarterman, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, PO Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 774

Exports, Foreign trade, Reporting and recordkeeping requirements.

■ Accordingly, part 774 of the Export Administration Regulations 915 CFR parts 730–799) is amended to read as follows:

PART 774—[CORRECTED]

■ 1. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C.

7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 69 FR 48763, 3 CFR, 2004 Comp., p. 284.

SUPPLEMENT NO. 1 TO PART 774—[AMENDED]

■ 2. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3A002 is amended by revising the ''items'' paragraph of the List of Items Controlled section, to read as follows:

3A002 General purpose electronic equipment, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: * * *

Related Definitions: * * *

Items:

a. Recording equipment, as follows, and specially designed test tape therefor:

a.1. Analog instrumentation magnetic tape recorders, including those permitting the recording of digital signals (*e.g.*, using a high density digital recording (HDDR) module), having any of the following:

a.1.a. A bandwidth exceeding 4 MHz per electronic channel or track;

a.1.b. A bandwidth exceeding 2 MHz per electronic channel or track and having more than 42 tracks; or

a.1.c. A time displacement (base) error, measured in accordance with applicable IRIG or EIA documents, of less than ''0.1 :s;

Note: Analog magnetic tape recorders specially designed for civilian video purposes are not considered to be instrumentation tape recorders.

a.2. Digital video magnetic tape recorders having a maximum digital interface transfer rate exceeding 360 Mbit/s;

Note: 3A002.a.2 does not control digital video magnetic tape recorders specially designed for television recording using a signal format, which may include a compressed signal format, standardized or recommended by the ITU, the IEC, the SMPTE, the EBU, the ETSI, or the IEEE for civil television applications.

a.3. Digital instrumentation magnetic tape data recorders employing helical scan techniques or fixed head techniques, having any of the following:

a.3.a. A maximum digital interface transfer rate exceeding 175 Mbit/s; or

a.3.b. Being ''space qualified'';

Note: 3A002.a.3 does not control analog magnetic tape recorders equipped with HDDR conversion electronics and configured to record only digital data.

a.4. Equipment, having a maximum digital interface transfer rate exceeding 175 Mbit/s, designed to convert digital video magnetic tape recorders for use as digital instrumentation data recorders;

a.5. Waveform digitizers and transient recorders having all of the following: N.B.: See also 3A292.

a.5.a. Digitizing rates equal to or more than 200 million samples per second and a resolution of 10 bits or more; and

a.5.b. A continuous throughput of 2 Gbit/s or more;

Technical Note: For those instruments with a parallel bus architecture, the continuous throughput rate is the highest word rate multiplied by the number of bits in a word. Continuous throughput is the fastest data rate the instrument can output to mass storage without the loss of any information while sustaining the sampling rate and analog-to-digital conversion.

a.6. Digital instrumentation data recorders, using magnetic disk storage technique, having all of the following:

a.6.a. Digitizing rate equal to or more than 100 million samples per second and a resolution of 8 bits or more; and

a.6.b. A continuous throughput of 1 Gbit/s or more;

b. ''Frequency synthesizer'' ''electronic assemblies'' having a ''frequency switching time'' from one selected frequency to another of less than 1 ms;

c. Radio frequency ''signal analyzers'', as follows:

c.1. ''Signal analyzers'' capable of analyzing any frequencies exceeding 31.8 GHz but not exceeding 37.5 Ghz and having a 3 dB resolution bandwidth (RBW) exceeding 10 MHz;

c.2. ''Signal analyzers'' capable of analyzing frequencies exceeding 43.5 Ghz;

c.3. ''Dynamic signal analyzers'' having a ''real-time bandwidth'' exceeding 500 kHz;

Note: 3A002.c.3 does not control those ''dynamic signal analyzers'' using only constant percentage bandwidth filters (also known as octave or fractional octave filters).

d. Frequency synthesized signal generators producing output frequencies, the accuracy and short term and long term stability of which are controlled, derived from or disciplined by the internal master frequency, and having any of the following:

d.1. A maximum synthesized frequency exceeding 31.8 GHz, but not exceeding 43.5 GHz and rated to generate a pulse duration of less than 100 ns;

d.2. A maximum synthesized frequency exceeding 43.5 GHz;

d.3. A ''frequency switching time'' from one selected frequency to another of less than 1 ms; or

d.4. A single sideband (SSB) phase noise better than $-(126 + 20 \log 10F - 20 \log 10f)$ in dBc/Hz, where F is the off-set from the operating frequency in Hz and f is the operating frequency in MHz;

Technical Note: For the purposes of 3A002.d.1., 'pulse duration' is defined as the time interval between the leading edge of the pulse achieving 90% of the peak and the trailing edge of the pulse achieving 10% of the peak.

Note: 3A002.d does not control equipment in which the output frequency is either produced by the addition or subtraction of two or more crystal oscillator frequencies, or by an addition or subtraction followed by a multiplication of the result.

e. Network analyzers with a maximum operating frequency exceeding 43.5 GHz;

f. Microwave test receivers having all of the following:

f.1. A maximum operating frequency exceeding 43.5 GHz; and

f.2. Being capable of measuring amplitude and phase simultaneously;

g. Atomic frequency standards having any of the following:

g.1. Long-term stability (aging) less (better) than $1 \times 10-11$/month; or

g.2. Being ''space qualified''.

Note: 3A002.g.1 does not control non-''space qualified'' rubidium standards.

Dated: July 21, 2005.

Eileen Albanese,

Director, Office of Exporter Services.

[FR Doc. 05–14745 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 2001C–0486] (formerly Docket No. 01C–0486)

Listing of Color Additives Exempt From Certification; Tomato Lycopene Extract and Tomato Lycopene Concentrate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of tomato lycopene extract and tomato lycopene concentrate as color additives in foods. This action is in response to a petition filed by LycoRed Natural Products Industries.

DATES: This rule is effective August 26, 2005; except as to any provisions that may be stayed by the filing of proper objections. Submit written or electronic objections and requests for a hearing by August 25, 2005. See section VIII of this document for information on the filing of objections. The Director of the Office of the **Federal Register** approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication in new 21 CFR 73.585 effective August 26, 2005.

ADDRESSES: You may submit written or electronic objections and requests for a hearing, identified by Docket No. 2001C–0486, by any of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

• Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

• E-mail: *fdadockets@oc.fda.gov*. Include Docket No. 2001C–0486 in the subject line of your e-mail message.

• FAX: 301–827–6870.

Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All objections received will be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For detailed instructions on submitting objections, see the ''Objections'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1303.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of October 30, 2001 (66 FR 54773), FDA announced that a color additive petition (CAP 1C0273) had been filed by LycoRed Natural Products Industries, c/o TC Associates, Inc., P.O. Box 285, West Boxford, MA 01885 (current address, c/o Mark R. Kaster, suite 1500, 50 South Sixth St., Minneapolis, Minnesota 55402–1498). The petition proposed to amend the color additive regulations in part 73 (21 CFR part 73) to provide for the safe use of tomato lycopene extract to color foods generally. The petition included information on two forms of tomato lycopene extract that differ primarily in concentration. The agency is listing the less concentrated form as tomato lycopene extract and the more concentrated form as tomato lycopene concentrate.

II. Identity and Manufacturing

Tomato lycopene extract is a red to dark brown viscous oleoresin containing lycopene. Lycopene is the pigment responsible for the red color of tomatoes. Tomato lycopene extract is manufactured as follows: (1) Fresh, edible varieties of tomatoes are crushed and heated at 70 to 120° C, and then centrifuged to separate the pulp from the liquid portion; (2) the tomato pulp is extracted with ethyl acetate; and (3) ethyl acetate is evaporated from the extracts, resulting in tomato lycopene extract. Tomato lycopene extract manufactured by the petitioner contains not less than 5.5 percent lycopene, which comprises not less than 70 percent of total carotenoids. Tomato lycopene concentrate is a mixture of crystalline and amorphous powder prepared from tomato lycopene extract by removing most of the tomato lipids with ethyl acetate followed by evaporating the solvent. Tomato lycopene concentrate manufactured by the petitioner contains not less than 60 percent lycopene.

III. Safety Evaluation

Lycopene is a commonly consumed food ingredient present in fresh tomatoes and in tomato-containing foods. The intake of lycopene from the petitioned use of the color additives in foods is similar to that from the consumption of tomatoes and tomato-containing foods. The agency reviewed the results of toxicological studies submitted in the petition. Based on this review, the agency concludes that there was no treatment-related toxicity from lycopene. The agency also conducted a comprehensive literature search that found no evidence of any significant toxicological effects of lycopene when consumed by humans. To further assure the purity and safety of the subject color additives, the agency is specifying in new § 73.585 that tomato lycopene extract be obtained from fresh, edible varieties of tomato and is establishing specifications for both color additives.

IV. Conclusion

Based on the data in the petition and other relevant material, FDA concludes the following: (1) The petitioned use of tomato lycopene extract and tomato lycopene concentrate as color additives in foods is safe, (2) the additives will achieve their intended technical effects, and thus, (3) the additives are suitable for this use. The agency concludes that part 73 should be amended as set forth in this document. In addition, based upon the factors listed in § 71.20(b) (21 CFR 71.20(b)), the agency concludes that certification of tomato lycopene extract and tomato lycopene concentrate is not necessary for the protection of the public health.

V. Inspection of Documents

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 71.15, the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VI. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for CAP 1C0273 (66 FR 54773, October 30, 2001). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

VII. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VIII. Objections

This rule is effective as shown in the **DATES** section of this document, except as to any provisions that may be stayed by the filing of proper objections. Any person who will be adversely affected by this regulation may file with the Division of Dockets Management (see **ADDRESSES**) written or electronic objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for

which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Incorporation by reference, Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

■ 1. The authority citation for 21 CFR part 73 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

■ 2. Section 73.585 is added to subpart A to read as follows:

§ 73.585 Tomato lycopene extract; tomato lycopene concentrate.

(a) *Identity*. (1) The color additive tomato lycopene extract is a red to dark brown viscous oleoresin extracted with ethyl acetate from tomato pulp followed by removal of the solvent by evaporation. The pulp is produced from fresh, edible varieties of the tomato by removing the liquid. The main coloring component is lycopene.

(2) The color additive tomato lycopene concentrate is a powder prepared from tomato lycopene extract by removing most of the tomato lipids with ethyl acetate and then evaporating off the solvent.

(3) Color additive mixtures made with tomato lycopene extract or tomato lycopene concentrate may contain only those diluents listed in this subpart as safe and suitable for use in color additive mixtures for coloring food.

(b) *Specifications*. (1) Tomato lycopene extract shall conform to the following specification: Lycopene, not less than 5.5 percent of oleoresin as determined by the method entitled ''Qualitative Analysis of Lycopene, Its Isomers and Other Carotenoids in Different Concentrations of Lyc-O-Mato® (Tomato Oleoresin) and in Tomato Pulp by High Performance Liquid Chromatography (HPLC),'' S.O.P. number : Lab/119/01, Revision 01, dated May 30, 2001, published by LycoRed Natural Products Industries, which is incorporated by reference, or an equivalent method. The Director of the Office of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of the method from the Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. You may inspect a copy at the Center for Food Safety and Applied Nutrition's Library, 5100 Paint Branch Pkwy., College Park, MD, 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*

(2) Tomato lycopene concentrate shall conform to the following specification: Lycopene, not less than 60 percent of oleoresin as determined by the method identified in paragraph (b)(1) of this section.

(c) *Uses and restrictions*. Tomato lycopene extract and tomato lycopene concentrate may be safely used for coloring foods generally in amounts consistent with good manufacturing practice, except that they may not be used to color foods for which standards of identity have been issued under section 401 of the act, unless the use of added color is authorized by such standards.

(d) *Labeling*. The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(e) *Exemption from certification*. Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 721(c) of the act.

Dated: July 15, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–14631 Filed 7–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Tiamulin Liquid Concentrate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for use of tiamulin concentrate solution to prepare medicated drinking water for the treatment of swine dysentery and swine pneumonia.

DATES: This rule is effective July 26, 2005.

FOR FURTHER INFORMATION CONTACT: Daniel A. Benz, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0223, e-mail: *daniel.benz@fda.gov*.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th Street Ter., St. Joseph, MO 64503, filed ANADA 200–360 that provides for use of Tiamulin Liquid Concentrate to prepare medicated drinking water for the treatment of swine dysentery and swine pneumonia. Phoenix Scientific, Inc.'s Tiamulin Liquid Concentrate is approved as a generic copy of Boehringer Ingelheim Vetmedica, Inc.'s DENAGARD (tiamulin) Liquid Concentrate approved under NADA 140–916. The ANADA is approved as of June 24, 2005, and the regulations are amended in § 520.2456 (21 CFR 520.2456) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

The regulations are also amended in § 520.2456 to reflect a more recent genus name for the causative pathogen for swine dysentery. This action is being taken to improve the accuracy of the regulations.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.2456 [Amended]

■ 2. Section 520.2456 is amended in paragraph (b) by removing ''*Sponsor*. See 000010'' and by adding in its place ''*Sponsors*. See Nos. 000010 and 059130'', and in paragraph (d)(2) by removing ''*Treponema*'' and by adding in its place ''*Brachyspira*''.

Dated: July 11, 2005.

Linda Tollefson,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 05–14696 Filed 7–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Doramectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The supplemental NADA provides for a period of protection from reinfestation with two species of external parasites following topical administration of doramectin solution on cattle.

DATES: This rule is effective July 26, 2006.

FOR FURTHER INFORMATION CONTACT: Joan C. Gotthardt, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7571, e-mail: *joan.gotthardt@fda.gov*.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed a supplement to NADA 141–095 for DECTOMAX (doramectin) Pour-On Solution for Cattle. The supplemental application provides for a period of protection from reinfestation with two species of external parasites following topical administration of doramectin solution on cattle. Specifically, the period of persistent effectiveness is 42 days for *Linognathus vituli* and 77 days for *Bovicola (Damalinia) bovis*. The supplemental NADA is approved as of June 23, 2005, and 21 CFR 524.770 is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval qualifies for 3 years of marketing exclusivity beginning June 23, 2005. Exclusivity applies only to the persistent effectiveness claims for the two species of external parasites listed previously in this document.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 524

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Section 524.770 is amended by revising paragraph (e)(2) to read as follows:

§ 524.770 Doramectin.

* * * * *

(e) * * *

(2) *Indications for use*. For treatment and control of gastrointestinal roundworms: *Ostertagia ostertagi* (adults and fourth-stage larvae), *Ostertagia ostertagi* (inhibited fourth-stage larvae), *Ostertagia lyrata* (adults), *Haemonchus placei* (adults and fourth-stage larvae), *Trichostrongylus axei* (adults and fourth-stage larvae), *Trichostrongylus colubriformis* (adults and fourth-stage larvae), *Cooperia oncophora* (adults and fourth-stage larvae), *Cooperia punctata* (adults and fourth-stage larvae), *Cooperia pectinata* (adults), *Cooperia surnabada* (adults), *Bunostomum phlebotomum* (adults), *Oesophagostomum radiatum* (adults and fourth-stage larvae), *Trichuris spp.* (adults); lungworms: *Dictyocaulus viviparus* (adults and fourth-stage larvae); eyeworms: *Thelazia gulosa* (adults), *Thelazia skrjabini* (adults); grubs: *Hypoderma bovis* and *Hypoderma lineatum*; sucking lice: *Linognathus vituli*, *Haematopinus eurysternus*, and *Solenopotes capillatus*; biting lice: *Bovicola (Damalinia) bovis*; mange mites: *Chorioptes bovis* and *Sarcoptes scabiei*; horn flies: *Haematobia irritans*; and to control infections and to protect from reinfection with *Cooperia oncophora*, *Dictyocaulus viviparus*, *Ostertagia ostertagi*, and *Oesophagostomum radiatum* for 28 days; and with *Cooperia punctata* and *Haemonchus placei* for 35 days after treatment; and to control infestations and to protect from reinfestation with *Linognathus vituli* for 42 days and with *Bovicola (Damalinia) bovis* for 77 days after treatment.

* * * * *

Dated: July 11, 2005.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 05–14630 Filed 7–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 549

[BOP–1111–F]

RIN 1120–AB11

Inmate Fees for Health Care Services

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: The Bureau of Prisons (Bureau) finalizes rules describing procedures we will follow for charging inmates fees for certain kinds of health services, as required under the Federal Prisoner Health Care Copayment Act of 2000 (Pub. L. 106–294, October 12, 2000, 114 Stat 1038, codified at 18 U.S.C. 4048).

DATES: This rule is effective on October 3, 2005. We will not implement the provisions of this rule until 30 days after we have given notice of these rules to inmates in our custody, as required by 18 U.S.C. 4048(i).

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION: Under the Federal Prisoner Health Care Copayment Act of 2000 (Pub. L. 106–294, October 12, 2000, 114 Stat 1038, codified at 18 U.S.C. 4048) (Act), the Bureau of Prisons (Bureau) may assess and collect a fee for health care services provided in connection with certain kinds of inmate health care visits. In this document, we finalize our proposed rule which was published on October 10, 2002 (67 FR 63059) describing procedures we will follow for charging inmates health service fees for certain kinds of health care services.

Response to Comments

We received 42 comments on our proposed rules. One commenter supported the rule. Eight of the comments were copies of one form letter, and another thirteen comments were copies of a second form letter. These and the other twenty commenters raised identical or similar issues. We will therefore address each issue raised.

The Fee Will Unduly Burden Family Members of Inmates

Four commenters expressed concern that the fee would unduly burden family members of inmates.

These comments failed to specify how family members of inmates would bear the ''burden'' of health service fees. If an inmate is classified as indigent and has no funds with which to pay the fee, no fee will be imposed, even though the inmate will still receive necessary health services. There is no apparent cost, therefore, to the inmate's family, who are not required to replenish the inmate's account for the purpose of paying health service fees.

The $2 Fee Is Too High

Twenty-six commenters felt that the $2 fee amount is too high for inmates. One commenter suggested that, since the statute requires that the fee be ''not less than $1.00,'' the fee should be only $1 instead of $2.

The Committee Report accompanying the Act states that ''[t]he amount of the fee is to be determined by the Director of the Bureau of Prisons through regulation.'' *H.R. Rep. No.* 106–851, at 12 (2000). Determination of the fee amount is in the Director's discretion. The Director has determined that a $2 fee is reasonable and is the smallest fee practicable when accounting for the technicalities of processing fees collected for health services.

The Bureau had initially considered a $10 fee. However, when determining the fee amount, the Bureau surveyed amounts charged by states adopting similar policies. Most states that charge a fee for health services impose between $3 and $10 for an inmate-initiated visit, such as Arizona (*Ariz. Rev. Stat.* § 31–161 (2003)), New Hampshire (*N.H. Rev. stat. Ann.* § 622:31–a (2003)), California (*Cal. Penal Code* § 5002.5 (2003)), Delaware (*Del. Code Ann.* tit.1, § 6536 (2003)), Maryland (*Md. Code Ann.*, Corr. Serv. § 2–118 (2003)), Ohio (*Ohio Rev. Code Ann.* § 5120.56 (2002)), and North Dakota (*N.D. Cent. Code* § 12–44.1–12.1 (2003)). In fact, the Bureau's fee is less than the majority of state fees charged for similar purposes.

One commenter recommended that we allow one inmate-initiated health care visit per month with no fee to defray the impact of the fee. This suggestion misunderstands the intent of the rule. Outside of institutions, individuals are not permitted one free health care visit per month. We intend this rule to more accurately reflect life outside the institution, thereby encouraging inmate fiscal responsibility.

Administrative Costs Outweigh Fee Income

Nine commenters argued that the cost to the Bureau of recordkeeping and transferring funds related to the health service fee outweighs the savings resulting from decreased sick-call visits through fee imposition.

The purpose of the rules is to decrease inmate misuse of health services and to encourage fiscal responsibility, not to increase Bureau funding. Any money gained through fees will not be retained by the Bureau. 18 U.S.C. 4048(g)(2) indicates that 75% of amounts collected must ''be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601)'' and the remaining 25% must ''be available to the Attorney General for administrative expenses incurred in carrying out this section.'' The 25% reserved for administrative expenses under this subsection goes towards administrative costs associated with dispensing fee amounts to the Crime Victims Fund, and is not kept by the Bureau.

Also, among States and localities that have imposed these fees, reductions in sick call visits from 16 to 50 percent have been realized. In a report included with the legislative history of the Act, the GAO concluded that use of a health care co-payment fee system would reduce the number of unnecessary medical visits in the Federal prison system, perhaps reducing overall visits by as much as 25 percent. *H.R. Rep. No.* 106–851, at 6 (2000), referencing *Federal Prisons: Containing Health Care Costs for an Increasing Inmate Population*, No. GAO/T GGD 00 112, at 3 (April 6, 2000).

Further, according to the legislative history of the Act, the Congressional Budget Office (CBO) expects that imposing such fees would reduce the demand for health care services from Federal prisoners. CBO determined that the reduction in demand would result in possible net savings of up to $5 million annually over the 2001–2005 period, assuming that future appropriations are reduced to reflect the lower health care costs. *H.R. Rep. No.* 106–851, at 9 (2000).

Administrative Process Ineffective to Contest Fee

One commenter felt that the administrative remedy process is ineffective (because of length of time required and the nature of medical problems) to contest a $2 health service fee.

If the nature of an inmate's medical problem requires immediate care, such as for an emergency, or if an inmate is found to be indigent, that inmate will still receive the health care he or she needs. We will not refuse to provide care for an inmate in any situation, even if the inmate contests the applicability of the fee. If an inmate decides to contest the fee through the administrative remedy process, we will not withhold health care services while the administrative remedy claim is pending resolution.

Notice of These Rules Not Given

An inmate commenter stated that there was no written or oral notice of this rule given, ''as required by statute''.

Notice to inmates of this proposed rulemaking under 18 U.S.C. 4048(j) was given to inmates, as required by the statute, as evidenced by this commenter's ability to comment. Also, we accepted comments to the proposed rulemaking approximately 2 months after the official close of the comment period on December 9, 2002. Further, we will issue the notice required by 18 U.S.C. 4048(i) 30 days before implementing the rules and policy requiring a health service fee.

Rules May Cause Further Health Problems

Twenty-eight commenters stated that if an inmate with a contagious disease fails to seek medical attention, simply to save the $2 health service fee, the Bureau may incur more healthcare costs when other inmates and staff become infected.

An inmate who is sick but chooses not to seek medical attention because he or she does not wish to pay the fee does not pose a significant health risk to other inmates or staff, nor does it pose a significant financial risk to the Bureau. The Bureau already has screening mechanisms in place that would prevent the spread of serious contagious diseases. For example, the Bureau has initial intake screening for acute, chronic, mental health and infectious diseases. Also, we require mandatory annual screening for tuberculosis and annual medical examinations for inmates employed in the food service area. Inmates with chronic illnesses such as diabetes, hypertension, thyroid disease, psychiatric illness, etc., are examined at least four times a year as a non-inmate-initiated visit which would not necessitate imposition of a health service fee.

In the Bureau's health care delivery system, each inmate is assigned to a specific health care provider who is responsible for the inmate's on-going health care needs. Each inmate is periodically evaluated by the provider, who is responsible for knowing the circumstances and situation of each of his/her patients. These periodic evaluations are staff-initiated visits which do not trigger the $2 copay fee. Also, as an example of infectious disease detection, an inmate who has been exposed to TB but does not actually have active TB will be evaluated every 90 days.

It would be difficult for an inmate to have an infectious disease for a long time without detection by either the provider assigned to that inmate or staff who interact on a daily basis with that inmate. All staff receive mandatory annual training on the signs and symptoms of infectious diseases. Any staff member can refer an inmate to health services if there appears to be a problem with the inmate's health. If a staff member notices that an inmate looks unhealthy and refers that inmate to the doctor, that visit does not trigger the $2 copay fee under the new regulations.

Rules Violate Due Process Rights

One commenter stated that to deny inmates health care without a hearing is violating their right to due process. The commenter alleges that the rules violate the Due Process Clause of the Fourteenth Amendment of the Constitution.

We believe that this commenter means to allege a violation of the Fifth Amendment to the Constitution, which constrains the power of the Federal Government to deprive any person ''of life, liberty, or property, without due process of law,'' just as the Fourteenth Amendment imposes comparable constraints on the power of the States. *See U.S. v. Balsys*, 118 S.Ct. 2218, at 2236 (1998); *Bolling* v. *Sharpe*, 74 S.Ct. 693 (1958). We therefore respond as though the comment alleged a violation of the Fifth Amendment.

Although inmates have a property interest in the funds in their inmate account, the ''process due,'' for health service fees has been found by many courts to be minimal. Courts have found that as long as inmates are notified that there will be deductions from their accounts for these types of health service fees and that there is an avenue to appeal the fees, no further process is required. *Johnson* v. *Department of Public Safety*, 885 F.Supp. 817 at 821 (D.MD. 1995); *Scott* v. *Angelone*, 771 F.Supp. 1064, 1067–68 (D. Nev.1991) (inmate was not denied due process of law when his account was charged for medical visits because he had prior notice of the policy, authorized the charges and was reimbursed for erroneous charges), *aff'd*, 980 F.2d 738 (9th Cir. 1992); *Gardner* v. *Wilson*, 959 F.Supp. 1224 at 1229 (C.D. CA. 1997); *Bailey* v. *Carter*, No. 99–4282, 2001 WL 845446 (6th Cir. 2001).

Also, inmates are not ''deprived'' of health care. If they cannot pay the fee because they are indigent, or if they require emergency treatment or otherwise fall within the exceptions listed in § 549.72, we will still provide them with necessary health services.

Rules Violate the Eighth Amendment

Fifteen commenters felt that it is unconstitutional to be charged for health services while under the Bureau's care. One stated that 18 U.S.C. 4032 guarantees Federal inmates free medical treatment, and that this rule violates the Eighth Amendment of the Constitution.

The Eighth Amendment of the Constitution prohibits cruel and unusual punishment. With respect to prison medical care, this provision requires that the government and its actors refrain from ''deliberate indifference to an inmate's serious medical needs.'' *Estelle* v. *Gamble*, 429 U.S. 97, 106, 97 S.Ct. 285, 292, 50 L.Ed.2d 251 (1976). Courts typically define ''deliberate indifference'' as treatment ''so grossly incompetent, inadequate, or excessive as to shock the conscience or to be intolerable to fundamental fairness.'' *Miltier* v. *Beorn*, 896 F.2d 848, 851 (4th Cir. 1990). *See also Rogers* v. *Evans*, 792 F.2d 1052, 1058 (11th Cir. 1986).

The Bureau's co-pay rules do not represent treatment that ''shocks the conscience.'' The rules contain several exceptions to avoid imposing unnecessary hardship on indigent, or seriously ill inmates. Our intent is that the rules will only repeatedly affect those inmates who abuse prison medical services with frequent visits for minor complaints. Also, because no inmate will be refused treatment for an inability to pay, our rules will not result in a denial of care, even for inmates who abuse the system.

Several courts have concluded that co-pay requirements for prison medical services are constitutional. Similar policies have been challenged and upheld under the Eighth Amendment. *See Johnson* v. *Department of Public Safety*, 885 F.Supp. 817 at 820–821 (D.MD. 1995); *Gardner* v. *Wilson*, 959 F.Supp. 1224 at 1227–1228 (C.D. Cal. 1997); *Martin* v. *DeBruyn*, 880 F.Supp. 610 at 612 (N.D. Ind. 1995); *Bailey* v. *Carter*, No. 99–4282, 2001 WL 845446 (6th Cir. 2001); *Shapley* v. *Nevada Bd.*

of State Prison Comm'rs, 766 F.2d 404, 408 (9th Cir. 1985).

Rules Violate Article I of the Constitution

One commenter stated that the rule should not apply retroactively (to inmates already sentenced) but only to new inmates, because it amounts to additional punishment. This commenter appears to allege that the rules violate Article I of the Constitution, which provides that neither Congress nor any state shall pass an ex post facto law. Art. I, section 9, cl. 3; Art. I, section 10, cl. 1.

Courts have stated that ''the constitutional prohibition on ex post facto laws applies only to penal statutes which disadvantage the offender affected by them.'' *Collins* v. *Youngblood*, 497 U.S. 37, 41, 110 S.Ct. 2715, 2718, 111 L.Ed.2d 30 (1990). Generally, an ex post facto law ''punishes as a crime an act previously committed, which was innocent when done, which makes more burdensome the punishment for a crime, after its commission, or which deprives one charged with crime of any defense available according to law at the time when the act was committed * * *.'' *Collins*, 497 U.S. at 42, 110 S.Ct. at 2719 (quoting *Beazell* v. *Ohio*, 269 U.S. 167, 169–70, 46 S.Ct. 68, 68–69, 70 L.Ed. 216 (1925)); *see also Gardner* v. *Wilson*, 959 F.Supp. 1224 at 1230 (C.D. Cal. 1997).

Our rule is not an ex post facto law. It is not a criminal statute which disadvantages a criminal offender. These rules do not redefine inmates' crimes or increase inmates' punishment for criminal acts. Also, we do not intend to apply this rule retroactively to events occurring before the date of effectiveness; instead, we will apply the rule only to qualifying health care visits that occur well after inmates have been given notice of this rule, as required by the Act (18 U.S.C. 4048(i)).

Current Medical Care Is Unsatisfactory

Twenty-two commenters complained that the current level of medical care is unsatisfactory.

The healthcare mission of the Bureau of Prisons is to provide appropriate and necessary medical, dental and mental health services to inmates by professional staff. All BOP institutions operate outpatient ambulatory care clinics which are accredited by the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO), the nation's predominant standards-setting and accrediting body in health care.

Each BOP facility has a Health Services Department, typically staffed with a physician(s) and several mid-level providers, such as physician assistants and nurse practitioners, along with technical and administrative staff. Most Health Services Departments conduct ''sick-call'' four or more days per week for the entire inmate population, and all have 24 hour emergency coverage. All inmates entering our facilities are thoroughly screened by medical staff for physical and mental health conditions, and are monitored thereafter through follow-up appointments and chronic care clinics, as necessary. Inmates who cannot be medically managed as outpatients in our correctional facilities may be designated to one of the BOP's Federal Medical Centers, located throughout the country.

Staff Will Abuse Rules

Two commenters argued that there is potential for staff to abuse the rules by refusing to refer an inmate for a health service visit or by charging them even when they are exempt from the fee under the rule.

Bureau staff are held to the highest standard of professionalism. Although it is arguable that there is always potential for abuse of any rule or staff requirement, the Bureau conducts program reviews and quality control inspections frequently to ensure staff compliance with rules and policy. If an inmate is aggrieved by what he or she perceives as staff abuse of the rules, that inmate should take advantage of our administrative remedy procedures (28 CFR part 542).

DC Interstate Corrections Compact

Thirteen commenters felt that imposing fees on D.C. Code felony offenders violates the Interstate Corrections Compact, D.C. Code § 24.1001, Article I, Article III(A)(1)–(6).

The Interstate Corrections Compact, Article III(a)(1)–(6) does not apply to the Bureau. The Compact addresses arrangements made between the District of Columbia or the Federal Government and any State, and does not impose direct obligations on the Federal Government. Instead, it describes that such arrangements must provide for several points of inmate care, such as ''payments to be made to the receiving State or to the Federal government, by the sending State for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs, or treatment not reasonably included as part of normal maintenance.''

The Compact, therefore, does not require that the Federal Government pay the cost of inmate maintenance, nor does it preclude inmate health service fees. The Compact only requires that any contract between the State and the Federal Government for the care of State inmates must address the subject of payment for health care. Therefore, this rule does not violate the Compact.

Issues Not Covered in Rules

Four commenters stated that there is no definition of ''indigent'' for the purposes of this rule. Bureau policy will define ''indigent'' inmates as those who had a trust fund account balance of less than $6 for the thirty days before the date of the health service provided.

One commenter complained that the rules do not specifically address dental care. The Bureau's policy that will accompany these rules and be accessible in inmate law libraries will state that health services include medical, mental health and dental care services.

Another commenter stated that there is no definition of ''emergency'' situations in which no fee is imposed. Bureau policy defines ''emergency'' situations as the delivery of care that is ''medically mandatory,'' deemed necessary to maintain or treat a life-threatening illness or injury. Health Services employees are aware of that longstanding definition and will use it to determine whether to charge a fee.

The same commenter stated that there is no definition of ''chronic infectious disease'' for which no health service fee is paid. Again, Bureau policy will state that examples of health care services based on staff referrals, follow-up treatment for chronic conditions, and preventive health care include: Blood pressure checks, glucose monitoring, insulin injections, TB testing, vaccinations, and patient education, etc. We do not place this definition in the rule text because any illness defined as ''chronic infectious disease'' may at any time be no longer considered chronic or infectious, due to frequent breakthroughs in medical research.

For the aforementioned reasons, we adopt the proposed rule, published on October 10, 2002, at 67 FR 63059, as final without change. Please note that this rule is effective and we will begin to implement it on October 3, 2005. We will not implement the provisions of this rule until 30 days after we have given notice of these rules to inmates in our custody, as required by 18 U.S.C. 4048(i)

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'', section 1(b), Principles of Regulation. The Director, Bureau of

Prisons has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

BOP has assessed the costs and benefits of this rule as required by Executive Order 12866 Section 1(b)(6) and has made a reasoned determination that the benefits of this rule justify its costs. The benefits of encouraging inmates to be more responsible for their own health care and reducing inmate abuse of the Bureau's health care system outweigh any perceived costs of imposing the health service fees.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications for which we would prepare a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local and tribal governments, or the private sector, to spend $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

List of Subjects in 28 CFR Part 549

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

■ Under rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we amend 28 CFR part 549 as follows.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 549—MEDICAL SERVICES

■ 1. Revise the authority citation for 28 CFR 549 to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4014, 4042, 4045, 4081, 4082, (Repealed in part as to offenses committed on or after November 1, 1987), 4241–4247, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

■ 2. Add a new Subpart F to read as follows:

Subpart F—Fees for Health Care Services

Sec.
549.70 Purpose and scope.
549.71 Inmates affected.
549.72 Services provided without fees.
549.73 Appealing the fee.
549.74 Inmates without funds.

§ 549.70 Purpose and scope.

(a) The Bureau of Prisons (Bureau) may, under certain circumstances, charge you, an inmate under our care and custody, a fee for providing you with health care services.

(b) Generally, if you are an inmate as described in § 549.71, you must pay a fee for health care services of $2.00 per health care visit if you:

(1) Receive health care services in connection with a health care visit that you requested, (except for services described in § 549.72); or

(2) Are found responsible through the Disciplinary Hearing Process to have injured an inmate who, as a result of the injury, requires a health care visit.

§ 549.71 Inmates affected.

This subpart applies to:

(a) Any individual incarcerated in an institution under the Bureau's jurisdiction; or

(b) Any other individual, as designated by the Director, who has been charged with or convicted of an offense against the United States.

§ 549.72 Services provided without fees.

We will not charge a fee for:

(a) Health care services based on staff referrals;

(b) Staff-approved follow-up treatment for a chronic condition;

(c) Preventive health care services;

(d) Emergency services;

(e) Prenatal care;

(f) Diagnosis or treatment of chronic infectious diseases;

(g) Mental health care; or

(h) Substance abuse treatment.

§ 549.73 Appealing the fee.

You may seek review of issues related to health service fees through the Bureau's Administrative Remedy Program (see 28 CFR part 542).

§ 549.74 Inmates without funds.

You will not be charged a health care service fee if you are considered indigent and unable to pay the health care service fee. The Warden may establish procedures to prevent abuse of this provision.

[FR Doc. 05–14636 Filed 7–25–05; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–05–078]

RIN 1625–AA08

Special Local Regulations for Marine Events; Mill Creek, Fort Monroe, Hampton, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations during the ''Hampton Cup Regatta'' boat races, a marine event to be held August 12, 13 and 14, 2005, on the waters of Mill Creek, near Fort Monroe, Hampton, Virginia. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of Mill Creek during the event.

DATES: This rule is effective from 7:30 a.m. on August 12, 2005 through 6:30 p.m. on August 14, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD05–05–078 and are available for inspection or copying at Commander (oax), Fifth

Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Master Chief Preston Trower, Marine Events Coordinator, Commander, Coast Guard Sector Hampton Roads, at (757) 638–2671.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM would be contrary to public interest. The event will begin on August 12, 2005. Because of the danger posed by high-speed powerboats racing in a closed circuit, special local regulations are necessary to provide for the safety of event participants, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area in Mill Creek. However, advance notifications will be made to affected users of the river via marine information broadcasts and area newspapers.

Background and Purpose

On August 12, 13 and 14, 2005, the American Power Boat Association will sanction the ''Hampton Cup Regatta'' powerboat races, on Mill Creek, near Fort Monroe, Hampton, Virginia. The event will consist of approximately 100 hydroplanes and jersey speed skiffs racing in heats counter-clockwise around an oval racecourse. A fleet of spectator vessels is anticipated. Due to the need for vessel control during the races, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Rule

The Coast Guard is establishing temporary special local regulations on specified waters of Mill Creek near Fort Monroe, Hampton, Virginia. The temporary special local regulations will be enforced from 7:30 a.m. to 6:30 p.m. on August 12, August 13, and August 14, 2005. The effect of the temporary special local regulations will be to restrict general navigation in the regulated area during the races. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. Non-participating vessels will be allowed to transit the regulated area between races, when the Coast Guard Patrol Commander determines it is safe to do so. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

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

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

Although this regulation prevents traffic from transiting a portion of Mill Creek during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts and area newspapers so mariners can adjust their plans accordingly.

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 will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the effected portion of Mill Creek during the event.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only a short period. The Patrol Commander will allow non-participating vessels to transit the event area between races. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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 will not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial and direct effect on one or more Indian tribes, on the relationship between the Federal Governments 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 (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under those sections. Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 100.35–T05–078 to read as follows:

§ 100.35–T05–078 Mill Creek, Fort Monroe, Hampton, VA.

(a) *Regulated area.* The regulated area is established for the waters of Mill Creek, adjacent to Fort Monroe, Hampton, Virginia, enclosed by the following boundaries: To the north, a line drawn along latitude 37°01′00″ N, to the east a line drawn along longitude 076°18′30″ W, to the south a line parallel with the shoreline adjacent to Fort Monroe, and the west boundary is parallel with the Route 258-Mercury Boulevard Bridge. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special local regulations:* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(d) *Enforcement period.* This section will be enforced from 7:30 a.m. to 6:30 p.m. on August 12, August 13 and August 14, 2005.

Dated: July 11, 2005.

L.L. Hereth,

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

[FR Doc. 05–14632 Filed 7–25–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7943–5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final notice of deletion of the Red Oak City Landfill Superfund site from the National Priorities List (NPL).

SUMMARY: The EPA, Region VII, is publishing a direct final notice of deletion of the Red Oak City Landfill Superfund site (site), located near Red Oak, Iowa, from the NPL.

The NPL, promulgated pursuant to section 105 of the Comprehensive

Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the state of Iowa, through the Iowa Department of Natural Resources (IDNR) because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective September 26, 2005, unless EPA receives adverse comments by August 25, 2005. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to Bob Stewart, Remedial Project Manager, U.S. Environmental Protection Agency, Superfund Division, 901 North 5th Street, Kansas City, KS 66101.

Information Repositories: Comprehensive information on the site is available for viewing in the Deletion Docket at the information repositories located at: U.S. EPA, Region VII, Superfund Division Records Center, 901 North 5th Street, Kansas City, KS 66101; and the IDNR, Henry A. Wallace Building, 900 East Grand, Des Moines, IA 50319.

FOR FURTHER INFORMATION CONTACT: Bob Stewart, Remedial Project Manager, U.S. Environmental Protection Agency, Superfund Division, 901 North 5th Street, Kansas City, KS 66101, fax (913) 551–9654, or 1–800–223–0425.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

The EPA, Region VII, is publishing this direct final notice of deletion of the Red Oak City Landfill Superfund site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective September 26, 2005 unless EPA receives adverse comments by August 25, 2005 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. The EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Red Oak City Landfill Superfund site and demonstrates how it meets the deletion criteria. Section V states EPA's action to delete the site from the NPL unless adverse comments are received during the comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met.

i. Responsible parties or other persons have implemented all appropriate response actions required.

ii. All appropriate responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate.

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the remedy remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures apply to deletion of the site.

i. The EPA, Region VII, issued a Record of Decision which documented the required remedial action.

ii. All appropriate responses under CERCLA have been implemented as documented in the Final Close-Out Report dated June 13, 2005.

iii. The state of Iowa concurred with deletion of the site from the NPL. The EPA consulted with the state of Iowa on the deletion of the site from the NPL prior to developing this direct final notice of deletion. Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the site and is being distributed to appropriate Federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the site from the NPL.

iv. The EPA placed copies of documents supporting the deletion in the Deletion Docket at the site information repositories identified above.

v. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of the site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions should future conditions warrant such actions.

IV. Basis for Intended Site Deletion

The following information provides EPA's rationale for deleting the site from the NPL.

Site Location

The Red Oak City Landfill site is located in Montgomery County, Iowa, and is a 40-acre site which lies about 1.5 miles northwest of the city of Red Oak on the west bank of the East Nishnabotna River and on the east side of Parkwest Road, now known as G Avenue. Red Oak is a community of approximately 6,300 residents.

Site History

The site was originally a limestone quarry which operated from the late 1940s to the early 1960s. The city of Red Oak purchased the property in 1962 and operated it as a landfill until it closed in April 1974. Wastes disposed of at the site reportedly included construction and demolition debris, tree pruning waste, municipal refuse, and industrial waste from facilities in the Red Oak area. These industrial wastes included toluene, methyl isobutyl ketone, tetrachloroethylene, mineral spirits, diacetone alcohol, laminated paper containing approximately three percent mercurous chloride from battery production, and drummed filter cake containing lead.

The site was proposed to the National Priorities List in June 1986 and became final in March 1989 (54 *FR* 13296). The site posed a threat to the public health through direct contact, slope erosion, and potential leaching and migration of contaminants into surface water and groundwater.

Remedial Investigation and Feasibility Study (RI/FS)

In June 1989, the EPA issued an administrative order to the responsible parties at the site to perform a remedial investigation and feasibility study (RI/FS) at the site to determine the nature and extent of the contamination problem. The responsible parties conducted the RI/FS under EPA oversight. Field activities were conducted in two phases; the first was conducted from December 1989 to April 1990, and the second was conducted from May 1991 to July 1992. These activities included sampling and analysis of surface and subsurface soils and wastes, surface water, groundwater, and leachate seeps. Five monitoring wells were installed for this effort. Data from these wells indicated groundwater flow was toward the East Nishnabotna River, to the east of the site. Hazardous substances that have been released at the site include aluminum, barium, cadmium, chromium, copper, lead, manganese, mercury, nickel, silver, zinc, acetone, 1,2-dichloroethene, tetrachloroethene, bis(2-ethylhexyl) phthalate, and polycyclic aromatic hydrocarbons (PAHs). These contaminants were of concern primarily in the surface soils and exposed wastes. Exposure to contaminated groundwater at the site was determined not to represent a significant exposure pathway. A final RI report was completed in 1992, and a final FS submitted to EPA in July 1992.

Record of Decision Findings

In March 1993, EPA decided on a cleanup plan which was explained in a Record of Decision (ROD). The cleanup plan included installation of an engineered low-permeability cap over the surface of the landfill, construction of diversion and drainage structures to manage surface drainage resulting from the reduced permeability of the landfill cover, stabilization of the river bank slope by contouring and revegetation, along with further study of the stability of the slope, access control provided by a perimeter fence around the landfill area, institutional controls, including deed and access restrictions, to control future land use at the site, and long-term groundwater monitoring to evaluate the effectiveness of the remedy and ensure groundwater contaminant levels remain protective. Subsequently, EPA determined that river bank slope shaping could be limited, the landfill cap could be reduced in thickness, the slope study and further stabilization measures could be eliminated, and costs could be re-estimated. These changes were incorporated into an Explanation of Significant Differences (ESD) memorandum issued by EPA in January 1996.

Characterization of Risk

A baseline risk assessment was prepared for the site and was described in the 1993 ROD. The exposure assumptions used to develop the Human Health Risk Assessment included both current exposures (adult hunter/trespasser scenario) and potential future exposures (future child resident, future adult resident, and future adult excavation worker). In the ROD, the ecological risks at the site were judged to be minimal.

Hazardous substances that have been released at the site include aluminum, barium, cadmium, chromium, copper, lead, manganese, mercury, nickel, silver, zinc, acetone, 1,2-dichloroethene, tetrachloroethene, bis(2-ethylhexyl) phthalate, and PAHs. These contaminants were of concern primarily in the surface soils and exposed wastes. Exposures to soil and exposed wastes were associated with significant human health risks, due to exceedance of EPA's risk management criteria for either the average or the reasonable maximum exposure scenarios. The carcinogenic risks were highest for exposure to soils and waste due to the concentrations of carcinogenic PAHs. Non-carcinogenic hazards were highest for exposure to soils and waste due to lead, manganese, and cadmium. Exposure to contaminated groundwater at the site was determined not to represent a significant exposure pathway.

Response Actions

In a Consent Decree (CD) signed with EPA on November 27, 1996, the responsible parties agreed to perform the remedial design/remedial action (RD/RA) and pay past costs for cleaning up the site. The RD was conducted in conformance with the ROD as modified by the ESD. The RD was approved by EPA on July 28, 1997. The RA was initiated on August 16, 1997, and the initial construction activities were completed on November 21, 1997.

The potentially responsible parties (PRPs) were divided into three groups according to the obligations they took on: The construction parties, consisting of Eveready Battery and its parent; a group of operation and maintenance (O&M) parties consisting of Magna International and the city of Red Oak; and a group of cashout parties. Construction of the remedy was initially thought to be completed in November 1997. However, areas of failure of both landfill cap and riverbank slope were discovered in the spring of 1998. The cap was repaired in May 1998, and the slope was repaired in September 1998. A May 1999 site visit was set to inspect both slope and cap, but before this meeting occurred, a second failure of the slope was discovered in spring 1999. Additional lab analysis was conducted to find the cause, and repairs were made in July and September 1999.

The EPA conducted a pre-final inspection on October 27, 1999, which resulted in a ''punch list'' of identified construction deficiencies, mostly minor in nature. Those punch list items pertaining to the cap were satisfactorily completed, and EPA notified the construction and O&M parties in October 2000 that the cap portion of the remedy was now operational and ready to be maintained by the O&M parties. The remaining items on the punch list of concern to EPA were slope revegetation and slope stability. Additional repairs and monitoring were conducted and on June 21, 2001, the

EPA determined that construction of the remedy as embodied in the RD had been completed.

On December 12, 2002, a RA Report was completed, demonstrating successful completion of construction activities. The site is listed on the state of Iowa's Registry of Hazardous Waste or Hazardous Substance Disposal Sites, which prevent changes in land ownership or use without state approval. Institutional controls have also been applied to the site through language in the CD and on the deed requiring that the property only be used for purposes compatible with the RD and O&M specifications. The institutional controls cover all contaminated media that cannot support unlimited use and unrestricted exposure.

Cleanup Standards

Cleanup standards were developed in the ROD to prevent exposure to wastes and contaminated soils on the surface of the site. The chosen remedy was capping, to prevent this exposure. The cleanup goals were achieved in the site remediation work. All facets of the ROD and ESD have been met as well. Because wastes remain at the site in a capped landfill, some residual risks remain at the site that require continued O&M activities, institutional controls, and five-year reviews. There is no significant threat to public health or the environment from the site, however, and additional remedial measures are not appropriate.

Operations and Maintenance

The O&M parties are currently conducting O&M activities pursuant to the Monitoring, Operation, and Maintenance Plan that was approved by EPA on September 29, 1999. The O&M of the landfill cap, drainage structures, riverbank slope, and fences is required along with regular groundwater and surface water monitoring and will continue after site deletion, since waste was left in place as part of the final source control remedy. The final plan, dated February 2000, lists the activities to be performed, including annual inspections to ensure erosion control, drainage structure maintenance, mowing, monitoring, and fence maintenance. Institutional controls will also be maintained. No major problems have been encountered. Results from the groundwater and surface water monitoring have not indicated any concerns with contamination, and the continuing monitoring is not needed to determine any future response measures.

Five-Year Review

A statutory five-year review report was completed on September 10, 2002, pursuant to CERCLA 121(c) and to § 300.430(f)(4)(ii) of the NCP. The report concluded that the remedy is protective of human health and the environment, and that all threats at the site have been addressed. Another five-year review report is scheduled for 2007.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. A mailing list was developed, fact sheets mailed out, and a public notice placed in a newspaper in August 1992 to support the Proposed Plan. A public meeting was held on August 20, 1992. In addition, a public notice for the five-year review was placed in May 2002. Documents in the Deletion Docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories. A public notice for this action will also be published in the *Red Oak Express.*

V. Deletion Action

The EPA, with concurrence of the state of Iowa, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, are necessary. The state concurrence letter dated May 11, 2005, states that IDNR concurs with the proposed removal of the site from the NPL. Therefore, EPA is deleting the site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective September 26, 2005 unless EPA receives adverse comments by August 25, 2005. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 5, 2005.

James B. Gulliford,

Regional Administrator, Region VII.

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended under Iowa by removing the site name ''Red Oak City Landfill'' and the city ''Red Oak.''

[FR Doc. 05–14608 Filed 7–25–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket No. FEMA–D–7575]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–2903.

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR part 65

Flood insurance, floodplains, reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as shown below:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Montgomery.	City of Montgomery.	May 26, 2005, June 2, 2005, *Montgomery Independent*.	The Honorable Bobby N. Bright, Mayor of the City of Montgomery, City Hall, P.O. Box 1111, Montgomery, Alabama 36101.	May 17, 2005	010174 G
Massachusetts: Plymouth.	Town of Hanover	June 2, 2005, June 9, 2005, *The Patriot Ledger*.	Mr. Stephen S. Rollins, Hanover Town Administrator, Hanover Town Hall, 550 Hanover Street, Hanover, Massachusetts 02339.	September 7, 2005.	250266 B
Tennessee: Houston.	City of Erin	May 31, 2005, June 7, 2005, *The Stewart-Houston Times*.	The Honorable Rhyne Largent, Mayor of the City of Erin, P.O. Box 270, Erin, Tennessee 37061.	September 6, 2005.	470213 F

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: July 20, 2005.

David I. Maurstad,

Acting Director, Mitigation Division, Emergency Preparedness and Response Directorate.

[FR Doc. 05–14660 Filed 7–25–05; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or

remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–2903.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate, has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
NORTH CAROLINA	
Currituck County (FEMA Docket No. D–7606)	
Moyock Run:	
Approximately 100 feet upstream of South Mills Road (S.R. 1227)	•10
Approximately 1.1 miles upstream of South Mills Road (S.R. 1227)	•11
Currituck County (Unincorporated Areas)	
Atlantic Ocean:	
Approximately 500 feet west of the intersection of Spindrift Trail and Land Fall Court	•7
At the Virginia State Boundary	•16
Currituck County (Unincorporated Areas)	
Currituck Sound:	
At the northeast corner of the intersection of Brabble Street and Highway 168	•4
Approximately 0.6 mile east of the intersection of Red Dog Lane and Highway 158	•8
Currituck County (Unincorporated Areas)	
Maps available for inspection at the Currituck County Planning and Inspections Department, 153 Courthouse Road, Currituck, North Carolina.	
Johnston County (FEMA Docket Nos. D–7574 and D–7606)	
East Mingo Creek:	
At the confluence with Mingo Swamp	•220
Approximately 0.3 mile downstream of Dennig Road	•244
Town of Benson, Johnston County (Unincorporated Areas)	
Mingo Swamp:	
At the Johnston/Sampson county line	•172
Approximately 0.7 mile upstream of Red Hill Church Road	•255
Town of Benson, Johnston County (Unincorporated Areas)	
Mingo Swamp Tributary 2:	
At the Johnston Harnett county line	•205
Approximately 400 feet upstream of Hodges Chapel Road	•244
Town of Benson, Johnston County (Unincorporated Areas)	
Arters Branch:	
Approximately 0.6 mile upstream of the confluence with the Neuse River	•124
Approximately 300 feet upstream of North Johnson Road	•155
Town of Smithfield, Johnston County (Unincorporated Areas)	
Bawdy Creek:	
Approximately 1.3 miles upstream of the confluence with the Neuse River	•88
At the confluence of Bawdy Swamp and Quincosin Swamp	•110
Johnston County (Unincorporated Areas)	
Bawdy Swamp:	
At the confluence of Bawdy Creek and Quincosin Swamp	•110
Approximately 0.8 mile upstream of U.S. Route 70	•160
Johnston County (Unincorporated Areas)	
Beaverdam Branch:	
Approximately 0.5 mile upstream of the confluence with Middle Creek	•173

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 100 feet downstream of Raleigh Road	•183
Johnston County (Unincorporated Areas)	
Beaverdam Creek:	
At the Wayne/Johnston County boundary	•124
Approximately 450 feet downstream of East Edwards Street	•141
Town of Princeton, Johnston County (Unincorporated Areas)	
Beaverdam Swamp:	
Approximately 0.3 mile upstream of the confluence with Hannah Creek	•129
Approximately 1,300 feet upstream of Tettersville Road	•151
Johnston County (Unincorporated Areas)	
Beddingfield Creek:	
Approximately 0.5 mile downstream of Wake/Johnston County boundary	•164
Approximately 1.0 mile downstream of the confluence with the Neuse River	•166
Johnston County (Unincorporated Areas)	
Bernal Branch:	
Approximately 1,250 feet downstream of Interstate 95	•129
Approximately 1.6 miles upstream of Railroad	•185
Johnston County (Unincorporated Areas)	
Big Arm Creek:	
At the confluence of Marks Creek	•163
Approximately 0.5 mile upstream of Medlin Road	•184
Town of Clayton, Johnston County (Unincorporated Areas)	
Big Branch:	
At the confluence with Little River	•141
Approximately 0.3 mile upstream of Micro Road West	•183
Town of Micro, Johnston County (Unincorporated Areas)	
Black Creek:	
Approximately 300 feet upstream of Highway 210	•191
At the Wake/Johnston County boundary	•213
Johnston County (Unincorporated Areas)	
Black Creek Tributary:	
Approximately 1,750 feet upstream of the confluence with Black Creek	•185
Approximately 2.5 miles upstream of the confluence with Black Creek	•212
Johnston County (Unincorporated Areas)	
Buffalo Creek (East):	
At the upstream side of N.C. 42	•205
At the Wake/Johnston County boundary	•246
Johnston County (Unincorporated Areas)	
Bull Branch:	
At the confluence with Moccasin Creek	•152
Approximately 2.3 miles upstream of the confluence with Moccasin Creek	•218
Johnston County (Unincorporated Areas)	
Burnt Stocking Branch:	
At the confluence with Little Creek (near Micro)	•139
Approximately 0.3 mile downstream of Interstate 95	•169
Johnston County (Unincorporated Areas)	
Camp Branch:	
Approximately 1,300 feet upstream of the confluence with Black Creek	•162
Approximately 0.3 mile upstream of Stephenson Road	•177
Johnston County (Unincorporated Areas)	
Cattail Creek:	
At the confluence with Little River	•182
Approximately 900 feet upstream of Harris Wilson Road	•274
Johnston County (Unincorporated Areas)	
Cooper Branch:	
Approximately 0.2 mile upstream of Little Creek Church Road	•142
Approximately 0.4 mile upstream of Little Creek Church Road	•144
Johnston County (Unincorporated Areas)	
Dicks Branch:	
Approximately 2,000 feet upstream of the confluence with Black Creek	•159
Approximately 1,980 feet upstream of Zacks Mill Road	•172
Johnston County (Unincorporated Areas)	
Dismal Branch:	
At the confluence with Johnson Swamp	•129
Approximately 300 feet downstream of Interstate 40	•149
Johnston County (Unincorporated Areas)	
Great Swamp:	
At the Wayne/Johnston County boundary	•160
Approximately 150 feet upstream of the Wayne/Johnston County boundary	•161
Johnston County (Unincorporated Areas)	
Hannah Creek:	
Approximately 0.5 mile upstream of the confluence of Stony Fork	•134
Approximately 0.5 mile upstream of Interstate 40	•168
Town of Benson, Johnston County (Unincorporated Areas)	
Hannah Creek Tributary 2:	
At the confluence with Hannah Creek	•147
Approximately 500 feet upstream of Tarheel Road	•184
Town of Benson, Johnston County (Unincorporated Areas)	
Hardee Mill Branch:	
Approximately 1,900 feet upstream of the confluence with Black Creek	•158
Approximately 0.8 mile upstream of Benson Hardee Road	•177
Johnston County (Unincorporated Areas)	
Hogpen Branch:	
At the confluence with Bernal Branch	•136
Approximately 0.5 mile upstream of Hummingbird Road	•152
Johnston County (Unincorporated Areas)	
John K. Swamp:	
At the confluence with Mill Creek	•149
Approximately 0.7 mile upstream of Holly Grove Road	•188
Johnston County (Unincorporated Areas)	
John K. Swamp Tributary:	
At the confluence with John K. Swamp	•186
Approximately 720 feet upstream of the confluence with John K. Swamp	•187
Johnston County (Unincorporated Areas)	
Johnson Swamp:	
At the confluence with Stone Creek	•121
Approximately 1,200 feet upstream of Highway 96	•172
Johnston County (Unincorporated Areas)	
Johnson Swamp Tributary:	
At the confluence with Johnson Swamp	•146
Approximately 950 feet upstream of Highway 96	•169
Johnston County (Unincorporated Areas)	
Jumping Run:	
At the confluence with Mill Creek	•158
Approximately 1.1 miles upstream of Jumping Run Road	•191
Johnston County (Unincorporated Areas)	
Juniper Swamp:	
Approximately 500 feet upstream of Webb Mill Road	•112

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 1,650 feet upstream of Interstate 95	•158
Town of Four Oaks, Johnston County (Unincorporated Areas)	
Juniper Swamp Tributary 1:	
At the confluence with Juniper Swamp	•119
Approximately 1.6 miles upstream of the confluence with Juniper Swamp	•157
Town of Four Oaks, Johnston County (Unincorporated Areas)	
Juniper Swamp Tributary 2:	
At the confluence with Juniper Swamp Tributary 1	•132
Approximately 350 feet downstream of Keen Road	•155
Town of Four Oaks, Johnston County (Unincorporated Areas)	
Little Bernal Branch:	
At the confluence with Bernal Branch	•155
Approximately 0.4 mile upstream of the confluence with Bernal Branch	•157
Little Black Creek:	
At the confluence with Black Creek	•191
At the Wake/Johnston County boundary	•228
Johnston County (Unincorporated Areas)	
Little Buffalo Creek:	
At the confluence with Little River	•147
Approximately 1.4 miles upstream of Meadow Road ...	•197
Johnston County (Unincorporated Areas)	
Little Buffalo Creek Tributary:	
At the confluence with Little Buffalo Creek	•151
Approximately 100 feet downstream of Wilson/Johnston County boundary	•169
Town of Kenly, Johnston County (Unincorporated Areas)	
Little Creek:	
Approximately 0.6 mile upstream of Shotwell Road ...	•279
Approximately 0.6 mile downstream of the Wake/Johnston County boundary	•320
Town of Clayton, Johnston County (Unincorporated Areas)	
Little Creek (into Middle Creek):	
Approximately 0.7 mile upstream of the confluence with Middle Creek	•205
At the Wake/Johnston County boundary	•219
Johnston County (Unincorporated Areas)	
Little Creek (Basin 11, Stream 2):	
At the confluence with Moccasin Creek	•209
At the Wake/Johnston County boundary	•217
Johnston County (Unincorporated Areas)	
Little Creek (near Micro):	
Approximately 0.4 mile upstream of Bizzell Grove Church Road	•124
Approximately 0.5 mile upstream of Hawkins Road ...	•184
Town of Micro, Johnston County (Unincorporated Areas)	
Little River:	
Approximately 0.6 mile upstream of Wayne/County boundary	•108
At the Wake/Johnston County boundary	•216
Town of Kenly, Town of Princeton, Town of Micro, Johnston County (Unincorporated Areas)	
Little River Tributary 1:	
Approximately 0.3 mile upstream of the confluence with Little River	•175
Approximately 0.4 mile upstream of N.C. 42	•213
Johnston County (Unincorporated Areas)	
Little Swamp Branch:	
At the confluence with John K. Swamp	•168
Approximately 0.5 mile upstream of T Bar Road	•177
Johnston County (Unincorporated Areas)	
Long Branch:	
Approximately 650 feet downstream of Shoeheel Road	•158
Approximately 0.7 mile upstream of N.C. 96	•212
Johnston County (Unincorporated Areas)	
Marks Creek:	
Approximately 0.8 mile downstream of Pritchard Road ..	•159
At the Wake/Johnston County boundary	•176
Town of Clayton, Johnston County (Unincorporated Areas)	
McCullens Branch:	
Approximately 0.7 mile upstream of the confluence with Black Creek	•162
Approximately 0.5 mile upstream of Clayton Road	•194
Johnston County (Unincorporated Areas)	
Mill Creek (South):	
Approximately 0.7 mile upstream of the confluence of Stone Creek	•105
Approximately 0.6 mile upstream of Godwin Lake Road	•193
Johnston County (Unincorporated Areas)	
Mill Creek (near Clayton):	
At the confluence with the Neuse River	•145
Approximately 1.1 miles upstream of Motorcycle Road	•202
Town of Clayton, Johnston County (Unincorporated Areas)	
Mill Creek (near Selma):	
Approximately 0.6 mile upstream of the confluence with the Neuse River	•131
Approximately 1.4 miles upstream of River Road	•165
Town of Selma, Johnston County (Unincorporated Areas)	
Mill Creek Tributary 2:	
Approximately 0.6 mile upstream of the confluence with Mill Creek	•97
Approximately 300 feet upstream of Bentonville Road	•138
Johnston County (Unincorporated Areas)	
Mill Creek Tributary 3:	
Approximately 0.5 mile upstream of the confluence with Mill Creek	•99
Approximately 0.4 mile upstream of Shaws Pond Road	•121
Johnston County (Unincorporated Areas)	
Mill Creek Tributary 4:	
At the confluence with Mill Creek	•115
Approximately 1,980 feet upstream of Harper House Road	•146
Johnston County (Unincorporated Areas)	
Mill Creek Tributary 5:	
At the confluence with Mill Creek	•122
Approximately 0.5 mile upstream of Randall Chapel Road	•146
Johnston County (Unincorporated Areas)	
Mill Creek Tributary 6:	
Approximately 0.6 mile upstream of the confluence with Mill Creek	•97
Approximately 0.4 mile upstream of Scout Road	•129
Johnston County (Unincorporated Areas)	
Mill Swamp Branch:	
At the confluence with John K. Swamp	•163
Approximately 400 feet upstream of Holly Grove Road	•182
Johnston County (Unincorporated Areas)	
Moccasin Creek (near Princeton):	
Approximately 0.4 mile upstream of U.S. Route 70 ...	•127
Approximately 800 feet downstream of Railroad	•140
Town of Pine Level, Town of Princeton, Johnston County (Unincorporated Areas)	
Moccasin Creek:	
At the Johnston/Wilson County boundary	•152
At interstate 264	•219

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Johnston County (Unincorporated Areas)	
Moccasin Creek Tributary 1:	
At the confluence with Moccasin Creek	•164
Approximately 0.5 mile upstream of N.C. 222	•205
Johnston County (Unincorporated Areas)	
Moccasin Creek Tributary 2:	
At the confluence with Moccasin Creek	•166
Approximately 0.3 mile upstream of N.C. 222	•214
Johnston County (Unincorporated Areas)	
Oak Creek:	
At the confluence with Stone Creek	•112
Approximately 1.1 miles upstream of White Oak Road	•152
Johnston County (Unincorporated Areas)	
Oak Creek Tributary:	
At the confluence with Oak Creek	•116
Approximately 1.2 miles upstream of the confluence with Oak Creek	•133
Johnston County (Unincorporated Areas)	
Pole Branch:	
At the confluence with Black Creek	•148
Approximately 0.4 mile upstream of Interstate 40	•168
Johnston County (Unincorporated Areas)	
Polecat Branch:	
Approximately 1.1 miles downstream of Brogden Road	•113
Approximately 2.2 miles upstream of Brogden Road	•137
Town of Smithfield, Johnston County (Unincorporated Areas)	
Quincosin Swamp:	
At the confluence of Bawdy Creek and Bawdy Swamp	•110
Approximately 2,000 feet downstream of U.S. Route 70	•138
Johnston County (Unincorporated Areas)	
Reedy Creek:	
At King Mill Road	•140
Approximately 1.3 miles upstream of King Mill Road	•163
Johnston County (Unincorporated Areas)	
Reedy Prong:	
At the confluence with Mill Creek	•139
Approximately 0.9 mile upstream of Eldridge Road	•152
Johnston County (Unincorporated Areas)	
Reedy Prong Tributary:	
At the confluence with Reedy Prong	•150
Approximately 200 feet upstream of Thornton Road	•162
Johnston County (Unincorporated Areas)	
Sams Creek:	
Approximately 0.7 mile upstream of the confluence with the Neuse River	•155
Approximately 0.4 mile downstream of City Road	•210
Town of Clayton, Johnston County (Unincorporated Areas)	
Snipes Creek:	
At the confluence with Little River	•204
At the Wake/Johnston County boundary	•285
Johnston County (Unincorporated Areas)	
Spring Branch (into Little River):	
At the upstream side of Princeton Kenly Road	•124
Approximately 200 feet downstream of Cuddington Road	•214
Johnston County (Unincorporated Areas)	
Spring Branch Tributary:	
At the confluence with Spring Branch (into Little River)	•130
Approximately 1.6 miles upstream of Rhodes Road	•211
Johnston County (Unincorporated Areas)	
Stone Creek:	
Just upstream of U.S. Highway 701	•108
Approximately 0.4 mile upstream of Interstate 40	•205
Johnston County (Unincorporated Areas)	
Stone Creek Tributary:	
At the confluence with Stone Creek	•156
Approximately 0.5 mile upstream of Adams Road	•185
Johnston County (Unincorporated Areas)	
Stony Fork:	
Approximately 200 feet upstream of Railroad	•148
Approximately 0.6 mile upstream of Shade Tree Road	•164
Johnston County (Unincorporated Areas)	
Stony Fork Tributary:	
At the confluence with Stony Fork	•153
Approximately 300 feet upstream of Interstate 40	•179
Johnston County (Unincorporated Areas)	
Town of Benson	
Maps available for inspection at the Benson Town Hall, Zoning Department, 303 East Church Street, Benson, North Carolina.	
Town of Clayton	
Maps available for inspection at the Clayton Town Hall, Planning Department, 111 East 2nd Street, Clayton, North Carolina.	
Town of Four Oaks	
Maps available for inspection at the Four Oaks Town Hall, 304 North Main Street, Four Oaks, North Carolina.	
Johnston County (Unincorporated Areas)	
Maps available for inspection at the Johnston County Public Utilities Office, 309 East Market Street, Smithfield, North Carolina.	
Town of Micro	
Maps available for inspection at the Micro Town Hall, 112 West Main Street, Micro, North Carolina.	
Town of Pine Level	
Maps available for inspection at the Pine Level Town Hall, 214 North Peedin Avenue, Pine Level, North Carolina.	
Town of Princeton	
Maps available for inspection at the Town of Princeton Public Utilities Office, 309 East Market Street, Princeton, North Carolina.	
Town of Selma	
Maps available for inspection at the Town of Selma Planning Department, 100 North Raiford Street, Selma, North Carolina.	
Town of Smithfield	
Maps available for inspection at the Smithfield Town Hall, 350 East Market Street, Smithfield, North Carolina.	
Town of Wilson's Mills	
Maps available for inspection at the Wilson's Mills Town Hall, 22 Fire Department Road, Wilson's Mills, North Carolina.	
Onslow County (FEMA Docket Nos. D–7554 and D–7608)	
Atlantic Ocean:	
At Intracoastal Waterway and Salliers Bay confluence	•8
Approximately 2,000 feet east of River Drive and New River Inlet Road intersection	•18
Unincorporated Areas of Onslow County	
Atlantic Ocean:	
At intersection of Chadwick Access Road and Carroll Street	•8
Approximately 1,500 feet northeast of the intersection of Canal Street and 1st Street	•11
Onslow County (Unincorporated Areas)	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Atlantic Ocean:	
Approximately 0.55 mile north of the intersection of 2nd Avenue and Highway 210	•8
At intersection of Heron Cam Court and Highway 210	•12
Town of North Topsail Beach	
Back Swamp:	
At Duplin/Onslow County boundary	•57
Approximately 0.7 mile upstream of Dell Brock Road	•90
Onslow County (Unincorporated Areas)	
Back Swamp Tributary 1:	
At confluence with Back Swamp	•58
Approximately 0.8 mile upstream of Futrell Road	•85
Onslow County (Unincorporated Areas)	
Back Swamp Tributary 3:	
At confluence with Back Swamp	•60
Approximately 2.2 miles upstream of the confluence with Back Swamp	•85
Onslow County (Unincorporated Areas)	
Back Swamp Tributary 6:	
At confluence with Back Swamp	•66
Approximately 1.4 miles upstream of the confluence with Back Swamp	•81
Onslow County (Unincorporated Areas)	
Back Swamp Tributary 7:	
At confluence with Back Swamp	•66
Approximately 1.3 miles upstream of the confluence with Back Swamp	•79
Onslow County (Unincorporated Areas)	
Back Swamp Tributary 8:	
At confluence with Back Swamp	•70
Approximately 0.8 mile upstream of the confluence with Back Swamp	•79
Onslow County (Unincorporated Areas)	
Back Swamp Tributary 9:	
At confluence with Back Swamp	•71
Approximately 250 feet upstream of Haw Branch Road	•82
Onslow County (Unincorporated Areas)	
Back Swamp Tributary 10:	
At confluence with Back Swamp	•78
Approximately 0.9 mile upstream of the confluence with Back Swamp	•89
Onslow County (Unincorporated Areas)	
Back Swamp Tributary 11:	
At confluence with Back Swamp	•81
Approximately 0.5 mile upstream of the confluence with Back Swamp	•85
Onslow County (Unincorporated Areas)	
Bachelor's Delight Swamp:	
At the confluence with New River	•9
Approximately 0.5 mile upstream of the confluence of Bachelor's Delight Swamp Tributary 2	•29
Unincorporated Areas of Onslow County	
Bachelor's Delight Swamp Tributary:	
Approximately 0.5 mile upstream of the confluence with Bachelor's Delight Swamp	•30
Approximately 1,150 feet upstream of Timothy Road	•34
Unincorporated Areas of Onslow County	
Bachelor's Delight Swamp Tributary 2:	
At the confluence with Bachelor's Delight Swamp	•21
Approximately 1,400 feet upstream of the confluence with Bachelor's Delight Swamp	•26
Unincorporated Areas of Onslow County	
Bear Creek:	
Approximately 150 feet downstream of NC 172	•9
Approximately 1.4 miles upstream of NC 172	•31
Unincorporated Areas of Onslow County	
Bearhead Creek:	
Approximately 0.8 mile upstream of the confluence with Wallace Creek	•3
Approximately 1.3 miles upstream of Holcomb Boulevard	•21
Unincorporated Areas of Onslow County, City of Jacksonville	
Bell Swamp:	
Approximately 800 feet upstream of NC 172	•10
Approximately 0.5 mile upstream of Hubert Boulevard.	•32
Unincorporated Areas of Onslow County	
Big Shakey Swamp:	
At confluence with Juniper Swamp	•43
Approximately 2.1 miles upstream of the confluence with Juniper Swamp	•50
Onslow County (Unincorporated Areas)	
Blue Creek:	
Approximately 1.4 miles upstream of Richlands Highway	•18
Approximately 300 feet upstream of Pony Farm Road	•44
Unincorporated Areas of Onslow County	
Brick Kiln Branch (at White Oak River):	
At the confluence with White Oak River	•11
Approximately 0.5 mile upstream of the confluence with White Oak River	•17
Unincorporated Areas of Onslow County	
Cartwheel Branch:	
At the confluence with Holland Mill Creek	•8
Approximately 125 feet upstream of Swansboro Loop Road	•10
Unincorporated Areas of Onslow County	
Chinkapin Branch:	
At the confluence with White Oak River	•38
Approximately 1.7 miles upstream of the confluence with White Oak River	•42
Unincorporated Areas of Onslow County	
Cogdels Creek:	
Approximately 100 feet upstream of the confluence with New River	•3
Approximately 0.5 mile upstream of Sneads Ferry Road	•24
Unincorporated Areas of Onslow County	
Cowford Branch:	
At the confluence with New River	•39
Approximately 0.56 mile upstream of State Route 24	•51
Unincorporated Areas of Onslow County	
Cowhead Creek:	
Approximately 0.6 mile upstream of the confluence with Frenchs Creek	•3
Approximately 2.5 miles upstream of Sneads Ferry Road	•35
Unincorporated Areas of Onslow County, City of Jacksonville	
Cowhorn Swamp:	
Approximately 950 feet upstream of the confluence with Jenkins Swamp	•32
Approximately 0.6 mile upstream of Hoffmann Forest Road	•52
Unincorporated Areas of Onslow County	
Cypress Branch:	
At the Onslow/Pender County boundary	•8
Approximately 1.2 miles upstream of the Bishop Road	•34
Town of Holly Ridge, Onslow County (Unincorporated Areas)	
Deep Run:	
At the confluence with Southwest Creek	•27

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 0.8 mile upstream of Ben Williams Road	•51
Unincorporated Areas of Onslow County	
Flat Swamp:	
At confluence with Juniper Swamp	•37
Approximately 2.3 miles upstream of Preston Wells Road	•61
Town of Holly Ridge, Onslow County (Unincorporated Areas)	
Freemans Creek:	
At the confluence with White Oak River	•9
Approximately 0.7 mile upstream of the confluence with White Oak River	•9
Unincorporated Areas of Onslow County	
Frenchs Creek:	
At the confluence of Jumping Run	•3
Approximately 0.6 mile upstream of Marine Road	•16
Unincorporated Areas of Onslow County, City of Jacksonville	
Gibson Branch:	
At the confluence of White Oak River	•24
Approximately 1.1 miles upstream of White Oak River Road	•41
Unincorporated Areas of Onslow County	
Grants Creek:	
At the confluence of White Oak River	•9
Approximately 700 feet upstream of the confluence of Halls Branch (Cummins Creek)	•14
Unincorporated Areas of Onslow County	
Half Moon Creek:	
At the confluence with New River	•9
Approximately 1.3 miles upstream of Ramsey Road	•44
Unincorporated Areas of Onslow County, City of Jacksonville	
Half Moon Creek Tributary 1:	
At the confluence with Half Moon Creek	•24
Approximately 1,830 feet upstream of the confluence with Half Moon Creek	•28
Unincorporated Areas of Onslow County	
Hargetts Creek:	
Approximately 1.4 miles upstream of the confluence with White Oak River	•9
Approximately 1,100 feet downstream of Sloan Farm Road	•15
Unincorporated Areas of Onslow County	
Harris Creek:	
At the confluence with Southwest Creek	•24
Approximately 1,900 feet upstream of Harris Creek Road	•42
Unincorporated Areas of Onslow County	
Harris Creek Tributary 1:	
At the confluence with Harris Creek	•32
Approximately 500 feet upstream of Burgaw Highway	•39
Unincorporated Areas of Onslow County	
Haws Run:	
At the confluence with Southwest Creek	•18
Approximately 1.0 mile upstream of Haws Run Road	•40
Unincorporated Areas of Onslow County	
Haws Run Tributary 1:	
At the confluence with Haws Run	•23
Approximately 1,000 feet upstream of the confluence with Haws Run	•23
Unincorporated Areas of Onslow County	
Haws Run Tributary 2:	
At the confluence with Haws Run	•27
Approximately 200 feet upstream of Harris Creek Road	•33
Unincorporated Areas of Onslow County	
Hicks Run:	
At the confluence with Southwest Creek	•6
Approximately 0.9 mile upstream of High Hill Road	•46
Unincorporated Areas of Onslow County, City of Jacksonville	
Holand Mill Creek:	
Approximately 1.9 miles upstream of the confluence with White Oak River	•8
Approximately 1,250 feet upstream of Belgrade Swansboro Road	•21
Unincorporated Areas of Onslow County	
Holly Shelter Creek:	
At the Onslow/Pender County boundary	•36
Approximately 0.2 mile downstream of Hardy Graham Road	•62
Onslow County (Unincorporated Areas)	
Horse Swamp:	
At the confluence with Little Northeast Creek	•14
Approximately 1.4 miles upstream of Rockey Run Road	•36
Unincorporated Areas of Onslow County	
Jenkins Swamp:	
At confluence with New River	•24
Approximately 0.4 mile upstream of SR1003 Comfort Road	•55
Unincorporated Areas of Onslow County	
Jumping Run:	
At the confluence with Frenchs Creek	•3
Approximately 1.2 miles upstream of Sneads Ferry Road	•26
Unincorporated Areas of Onslow County, City of Jacksonville	
Juniper Swamp:	
At the Onslow/Pender County boundary	•35
Approximately 4.7 miles upstream of State Highway 50	•55
Onslow County (Unincorporated Areas)	
Juniper Swamp Tributary 1:	
At the confluence with Juniper Swamp	•37
Approximately 350 feet upstream of U.S. Highway 50	•43
Onslow County (Unincorporated Areas)	
Juniper Swamp Tributary 2:	
At the confluence with Juniper Swamp	•44
Approximately 1.6 miles upstream of the confluence with Juniper Swamp	•59
Onslow County (Unincorporated Areas)	
Kings Creek Tributary 1:	
At the confluence with Kings Creek	•8
Approximately 2.1 miles upstream of Holly Ridge-Sneads Ferry Road	•57
Onslow County (Unincorporated Areas)	
Little Northeast Creek:	
At the confluence with Northeast Creek	•2
Approximately 3.0 miles upstream of the confluence with Horse Swamp	•28
Unincorporated Areas of Onslow County, City of Jacksonville	
Mill Run:	
At the confluence with Southwest Creek	•3
Approximately 2.3 miles upstream of Verona Road	•37
Unincorporated Areas of Onslow County	
Mill Swamp:	
At the confluence with New River	•24
Approximately 1,000 feet upstream of North Wilmington Street	•35
Unincorporated Areas of Onslow County, Town of Richlands	
Moores Creek:	
At the Onslow/Pender County boundary	•43

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 1.6 miles upstream of Andemora Road	•66
Onslow County (Unincorporated Areas)	
Moores Creek Tributary 1:	
At the Onslow/Pender County boundary	•51
Approximately 1.0 mile upstream of Tomahawk Road	•78
Onslow County (Unincorporated Areas)	
Moores Creek Tributary 2:	
At the Onslow/Pender County boundary	•47
Approximately 570 feet upstream of NC Highway 53	•56
Onslow County (Unincorporated Areas)	
Moores Creek Tributary 3:	
At the confluence with Moores Creek	•44
Approximately 1.2 miles upstream of the confluence with Moores Creek	•62
Onslow County (Unincorporated Areas)	
Moores Creek Tributary 4:	
At the confluence with Moores Creek	•46
Approximately 385 feet upstream of NC Highway 53	•69
Onslow County (Unincorporated Areas)	
Moores Creek Tributary 5:	
At the confluence with Moores Creek Tributary 4	•52
Approximately 0.7 miles upstream of Andemora Road	•70
Onslow County (Unincorporated Areas)	
New River:	
Approximately 0.4 miles upstream of the confluence with Blue Creek	•7
Approximately 0.5 miles upstream of State Route 1235	•73
Unincorporated Areas of Onslow County, City of Jacksonville	
New River Tributary:	
At the confluence with New River	•50
Approximately 50 feet upstream of A I Taylor Road	•74
Unincorporated Areas of Onslow County	
New River Tributary 2:	
At the confluence with New River	•9
Approximately 1.1 miles upstream of Richlands Highway	•45
Unincorporated Areas of Onslow County	
New River Tributary 3:	
At the confluence with New River Tributary 2	•16
Approximately 1.0 mile upstream of the confluence with New River Tributary 2	•33
Unincorporated Areas of Onslow County	
New River Tributary 4:	
At the confluence with New River	•19
Approximately 150 feet upstream of Richlands Highway	•44
Unincorporated Areas of Onslow County	
New River Tributary 5:	
At the confluence with New River	•22
Approximately 0.4 miles upstream of Duffy Field Road	•42
Unincorporated Areas of Onslow County	
New River Tributary 6:	
At the confluence with New River Tributary 5	•25
Approximately 1,700 feet upstream of the confluence with New River Tributary 5	•27
Unincorporated Areas of Onslow County	
New River Tributary 7:	
At the confluence with New River Tributary 5	•26
Approximately 1.7 miles upstream of the confluence with New River Tributary 5	•44
Unincorporated Areas of Onslow County	
Ninemile Creek:	
At the Duplin/Onslow County boundary	•54
Approximately 0.2 miles downstream of Davis Road	•76
Onslow County (Unincorporated Areas)	
North Branch at Lauradale Subdivision:	
At confluence with New River	•9
Approximately 0.7 miles upstream of confluence with New River	•9
Unincorporated Areas of Onslow County	
Northeast Creek:	
At the confluence of Little Northeast Creek	•2
Approximately 0.6 miles upstream of North Marine Boulevard	•27
Unincorporated Areas of Onslow County, City of Jacksonville	
Northeast Creek Tributary:	
At the confluence with Northeast Creek	•9
Approximately 0.4 miles upstream of the confluence with Northeast Creek	•10
City of Jacksonville	
Northeast Creek Tributary 2:	
At the confluence with Northeast Creek	•7
Approximately 0.6 miles upstream of the confluence with Northeast Creek	•9
City of Jacksonville	
Parrot Swamp:	
Approximately 1,850 feet upstream of Queens Creek Road	•10
Approximately 1.0 mile upstream of Queens Creek Road	•20
Unincorporated Areas of Onslow County	
Poplar Creek:	
At the confluence with Little Northeast Creek	•3
Approximately 0.4 mile upstream of Waters Road	•26
Unincorporated Areas of Onslow County, City of Jacksonville	
Queen Creek:	
Approximately 1.2 miles upstream of NC 24	•10
Approximately 0.5 mile upstream of Camp Lejeune Railroad	•25
Unincorporated Areas of Onslow County	
Rocky Run:	
At confluence with Little Northeast Creek	•8
Approximately 1,400 feet upstream of confluence with Little Northeaster	•13
Unincorporated Areas of Onslow County	
Sandy Run Swamp:	
At the Onslow/Pender County boundary	•29
Approximately 0.9 mile upstream of Haws Run Road	•45
Onslow County (Unincorporated Areas)	
Sandy Run Swamp Tributary 1:	
At the confluence with Sandy Run Swamp	•41
Approximately 1.5 miles upstream of the confluence with Sandy Run Swamp	•45
Onslow County (Unincorporated Areas)	
Shelter Swamp Creek:	
At the Onslow/Pender County boundary	•34
Approximately 3.2 miles upstream of South Coston Road	•56
Onslow County (Unincorporated Areas)	
Shelter Swamp Creek Tributary 1:	
At the confluence with Shelter Swamp Creek	•41
Approximately 0.8 mile upstream of the confluence with Shelter Swamp Creek	•41
Onslow County (Unincorporated Areas)	
South Branch at Lauradale Subdivision:	
At the confluence with North Branch at Lauradale Subdivision	•9
Approximately 1.0 mile upstream of the confluence with North Branch at Lauradale Subdivision	•36
Unincorporated Areas of Onslow County, City of Jacksonville	
Southwest Creek:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 2.5 miles upstream of the confluence with New River	•3
Approximately 0.6 mile upstream of Five Mile Road	•65
Unincorporated Areas of Onslow County, City of Jacksonville	
Southwest Creek Tributary 2:	
At the confluence with Southwest Creek	•46
Approximately 1.2 miles upstream of Red Lane	•56
Southwest Creek Tributary 3:	
At the confluence with Southwest Creek	•54
Approximately 1.7 miles upstream of the confluence with Southwest Creek	•68
Unincorporated Areas of Onslow County	
Southwest Creek Tributary 4:	
At the confluence with Southwest Creek Tributary 3	•61
Approximately 1,700 feet upstream of Five Mile Road	•70
Unincorporated Areas of Onslow County	
Starkys Creek:	
At confluence with White Oak River	•10
Approximately 1,750 feet upstream of I–17	•44
Unincorporated Areas of Onslow County	
Stump Sound:	
At the intersection of Chadwick Acres Road and Carroll Street	•8
Approximately 1,000 feet south of the intersection of Harbor Point Road and Ocracoke Road	•11
Stump Sound within the Cape Fear River Basin:	
Approximately 0.23 mile south of the intersection of Morris Landing Road and Hardison Road	•8
Along the shoreline at Thomas Landing (at the mouth of Turkey Creek)	•11
Onslow County (Unincorporated Areas)	
Tenmile Swamp:	
At the confluence with Ninemile Creek	•55
Approximately 1.3 miles upstream of Swinson Road	•74
Onslow County (Unincorporated Areas)	
Wallace Creek:	
At the upstream side of Norfolk Southern Railway	•3
Approximately 4.2 miles upstream of Holcomb Boulevard	•22
Unincorporated Areas of Onslow County	
Wallace Creek Tributary 1:	
At the confluence with Wallace Creek	•14
Approximately 500 feet downstream of Lejeune Boulevard	•27
Unincorporated Areas of Onslow County	
Webb Creek:	
At the confluence with White Oak River	•9
Approximately 1,200 feet downstream of Parkertown Road	•20
Unincorporated Areas of Onslow County	
White Oak River:	
Approximately 500 feet upstream of the confluence of Webb Creek	•9
At the confluence of Chinkapin Branch	•38
Unincorporated Areas of Onslow County	
Wolf Swamp:	
At North Marine Boulevard	•22
Approximately 0.9 mile upstream of Ramsey Road	•42
Town of Holly Ridge	
Maps available for inspection at the Holly Ridge Town Hall, 212 Dyson Street, Holly Ridge, North Carolina.	
Send comments to The Honorable Elmer Padgett, Mayor of the Town of Holly Ridge, P.O. Box 145, Holly Ridge, North Carolina 28445.	
City of Jacksonville	
Maps available for inspection at Jacksonville City Hall, 211 Johnson Boulevard, Jacksonville, North Carolina 28541	
Send comments to The Honorable George Jones, Mayor of the City of Jacksonville, P.O. Box 128, Jacksonville, North Carolina 28541.	
Onslow County (Unincorporated Areas)	
Maps available for inspection at the Onslow County Floodplain Administration, 604 College Street, Jacksonville, North Carolina.	
Send comments to Mr. Ronald Lewis, Onslow County Manager, 118 Old Bridge Street, Jacksonville, North Carolina 28540–4259.	
Town of Richlands	
Maps available for inspection at Richlands Town Hall, 106 North Wilmington Street, Jacksonville, North Carolina 28540	
Send comments to Mr. Greg Whitehead, Town of Richlands Administrator, P.O. Box 245, Richlands, North Carolina 28574.	
Wayne County (FEMA Docket Nos. D–7574 and D–7606)	
Buck Marsh Branch:	
Approximately 0.2 mile downstream of Zion Church Road	•94
Approximately 0.3 mile upstream of James Price Road	•119
Wayne County (Unincorporated Areas)	
Cabin Branch:	
Approximately 0.9 mile downstream of NC 111 South	•97
At confluence with Buck Marsh Branch	•135
Wayne County (Unincorporated Areas)	
Horsepen Branch:	
At confluence with Lewis Branch	•120
Approximately 450 feet upstream of Emmaus Church Road	•155
Wayne County (Unincorporated Areas)	
Jones Branch:	
Approximately 0.4 mile downstream of Mark Herring Road	•101
Approximately 1.0 mile upstream of Mark Herring Road	•133
Wayne County (Unincorporated Areas)	
Jumping Run Branch:	
Approximately 0.3 mile downstream of NC Highway 55	•110
Approximately 0.8 mile upstream of NC Highway 55	•127
Wayne County (Unincorporated Areas)	
Lewis Branch:	
Just upstream of NC Highway 55	•115
Approximately 1.4 miles upstream of the confluence of Horsepen Branch	•138
Wayne County (Unincorporated Areas)	
Northeast Cape Fear River Tributary:	
Approximately 0.6 mile upstream of the confluence with Northeast Cape Fear River	•106
Approximately 750 feet upstream of NC Highway 55	•137
Wayne County (Unincorporated Areas)	
Richland Creek:	
Approximately 200 feet upstream of the confluence with Stoney Creek	•85
Approximately 650 feet upstream of Highway 70	•107
City of Goldsboro, Wayne County (Unincorporated Areas)	
Stoney Creek:	
At the confluence with the Neuse River	• 71
Approximately 1,000 feet upstream of the confluence of Reedy Branch	•90
City of Goldsboro, Wayne County (Unincorporated Areas)	
Appletree Swamp:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 500 feet downstream of the Wayne/Greene County boundary ..	•86
Approximately 1.2 miles upstream of the Wayne/Greene County boundary ..	•99
Wayne County (Unincorporated Areas)	
Aycock Swamp:	
At the Wayne/Wilson County boundary	•76
Approximately 1.5 miles upstream of Black Creek Road	•113
Town of Fremont, Wayne County (Unincorporated Areas)	
Bear Creek:	
Approximately 0.2 mile downstream of the Wayne/Greene County boundary ..	•76
Approximately 150 feet downstream of Rodell Barron Road	•112
Wayne County (Unincorporated Areas)	
Beaverdam Creek:	
At the upstream side of Rosewood Road	•82
At the Wayne/Johnston County boundary	•124
Wayne County (Unincorporated Areas)	
Beaverdam Creek 1:	
At the confluence with Falling Creek	•133
Approximately 1.2 miles upstream of U.S. Route 13 ...	•147
Wayne County (Unincorporated Areas)	
Mill Creek North:	
Approximately 0.8 mile upstream of the confluence with Little River	•88
Approximately 0.5 mile upstream of Pikeville Princeton Road	•136
Town of Pikeville, Wayne County (Unincorporated Areas)	
Mill Creek North Tributary 1:	
At the confluence with Mill Creek North	•101
Approximately 1.2 miles upstream of the confluence with Mill Creek North	•136
Wayne County (Unincorporated Areas)	
Mill Creek North Tributary 2:	
At the confluence with Mill Creek North	•102
Approximately 0.5 mile upstream of Hinnant Road	•134
Wayne County (Unincorporated Areas)	
Mill Creek North Tributary 3:	
At the confluence with Mill Creek North	•111
Approximately 0.4 mile upstream of Nahunta Road ...	•136
Wayne County (Unincorporated Areas)	
Mill Creek North Tributary 4:	
At the confluence with Mill Creek North	•113
Approximately 540 feet upstream of Nahunta Road ...	•137
Town of Pikeville	
Mill Creek North Tributary 5:	
At the confluence with Mill Creek North	•115
Approximately 0.3 mile upstream of Nahunta Road ...	•134
Town of Pikeville	
Neuse River:	
At the Wayne/Lenoir County boundary	•55
At the confluence with Mill Creek South	•84
Town of Seven Springs, City of Goldsboro, Wayne County (Unincorporated Areas)	
Billy Bud Creek:	
At the confluence with Stoney Creek	•90
Approximately 0.7 mile upstream of North Berkeley Boulevard	•118
City of Goldsboro, Wayne County (Unincorporated Areas)	
Buck Swamp:	
At the downstream side of Nor Am Road	•109
Approximately 300 feet upstream of Pikeville Princeton Road	•135
Wayne County (Unincorporated Areas)	
Button Branch:	
Approximately 100 feet downstream of Saulston Road	•69
Approximately 1,000 feet upstream of the Wayne/Greene County boundary ..	•70
Wayne County (Unincorporated Areas)	
Charles Branch:	
Approximately 0.3 mile upstream of the confluence with Beaverdam Creek	•82
Approximately 1.7 miles upstream of the confluence with Beaverdam Creek	•92
Wayne County (Unincorporated Areas)	
Falling Creek:	
At the confluence of the Neuse River	•84
Approximately 850 feet upstream of South Jordans Chapel Road	•137
Wayne County (Unincorporated Areas)	
Great Swamp:	
Approximately 500 feet downstream of the Wayne/Wilson County boundary ...	•97
At the Wayne/Johnston County boundary	•160
Wayne County (Unincorporated Areas)	
Great Swamp Tributary 1:	
At the Wayne/Wilson County boundary	•93
Approximately 1.6 miles upstream of the Wayne/Wilson County boundary	•115
Town of Fremont, Wayne County (Unincorporated Areas)	
Great Swamp Tributary 2:	
At the confluence with Great Swamp	•99
Approximately 1.4 miles upstream of the confluence with Great Swamp	•110
Town of Fremont, Wayne County (Unincorporated Areas)	
Great Swamp Tributary 3:	
At the confluence with Great Swamp	•125
Approximately 0.5 mile upstream of Atlantic Road	•156
Wayne County (Unincorporated Areas)	
Great Swamp Tributary 4:	
At the confluence with Great Swamp	•129
Approximately 0.6 mile upstream of Joe Morris Road	•138
Wayne County (Unincorporated Areas)	
Howells Branch:	
Approximately 850 feet upstream of East Patetown Road	•106
Approximately 130 feet upstream of Tommys Road ...	•113
City of Goldsboro, Wayne County (Unincorporated Areas)	
Ivy Branch:	
At the Wayne/Wilson County boundary	•68
Approximately 1.3 miles upstream of St. James Church Road	•87
Wayne County (Unincorporated Areas)	
Juniper Swamp:	
At the confluence with Great Swamp	•103
Approximately 0.2 mile upstream of the confluence with White Oak Swamp	•117
Wayne County (Unincorporated Areas)	
Lee Branch:	
Approximately 200 feet upstream of McKee Oil Company	•142
Approximately 0.3 mile upstream of Hatchs Hill Lane	•148
Town of Mount Olive, Wayne County (Unincorporated Areas)	
Mills Creek:	
Approximately 0.2 mile upstream of Highway 13	•115
Approximately 1.5 miles upstream of Highway 13	•124
City of Goldsboro, Wayne County (Unincorporated Areas)	
Nahunta Swamp:	
At State Highway 581	•124

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
Approximately 0.7 mile upstream of Old Kenley Road	•136
Wayne County (Unincorporated Areas)	
Nahunta Swamp Tributary:	
Approximately 1,500 feet upstream of the confluence with Nahunta Swamp	•88
Approximately 0.3 mile upstream of St. Highway 222	•108
Wayne County (Unincorporated Areas)	
Stoney Creek Tributary:	
Approximately 100 feet upstream of Stoney Creek Church Road	•109
Approximately 0.4 mile upstream of Stoney Creek Church Road	•113
Wayne County (Unincorporated Areas)	
Thorough Fare Swamp:	
Downstream side of Grantham School Road	•123
Approximately 1.7 miles upstream of Odom Mill Road	•152
Wayne County (Unincorporated Areas)	
Thunder Swamp:	
At the downstream side of Old Smith Chapel Road	•137
At the upstream side of Daughery Field Road	•160
Town of Mount Olive, Wayne County (Unincorporated Areas)	
Thunder Swamp Tributary:	
The upstream side of Highway 55	•150
Approximately 0.7 mile upstream of Highway 55	•157
Town of Mount Olive, Wayne County (Unincorporated Areas)	
Turner Swamp:	
At the Wayne/Wilson County boundary	•77
Approximately 0.4 mile downstream of North Church Street	•104
Town of Eureka, Wayne County (Unincorporated Areas)	
Walnut Creek:	
At the confluence with the Neuse River	•60
Approximately 0.7 mile upstream of Miller Chapel Road	•116
City of Goldsboro, Village of Walnut Creek, Wayne County (Unincorporated Areas)	
Walnut Creek Tributary D:	
At the confluence with Walnut Creek	•98
Approximately 0.7 miles upstream of Powell Road	•105
Wayne County (Unincorporated Areas)	
Watery Branch:	
Approximately 250 feet downstream of the Wayne/Greene County boundary	•73
Approximately 2.5 miles upstream of Old Mill Road	•108
Town of Eureka, Wayne County (Unincorporated Areas)	
Yellow Marsh Branch:	
Approximately 180 feet upstream of railroad	•155
Approximately 0.3 mil upstream of railroad	•157
Wayne County (Unincorporated Areas)	
White Oak Swamp:	
At the confluence with Juniper Swamp	•113
Approximately 0.5 mile upstream of Juniper Swamp	•122
Wayne County (Unincorporated Areas)	
Contentnea Creek:	
Approximately 0.8 mile upstream of Highway 58	•62
At the downstream side of Highway 222	•64
Wayne County (Unincorporated Areas)	
Mill Creek (South)	
At the confluence with the Neuse River	•83
Approximately 800 feet upstream of the confluence with the Neuse River	•83
Wayne County (Unincorporated Areas)	
Reedy Branch:	
At the confluence of Stoney Creek	•90
Approximately 2,500 feet upstream of the confluence with Stoney Creek	•90
City of Goldsboro, Wayne County (Unincorporated Areas)	
Big Ditch:	
At the confluence with the Neuse River	•74
Approximately 0.3 mile upstream of U.S. Highway 70	•119
City of Goldsboro	
Little River:	
At the confluence with Neuse River	•74
Approximately 0.3 mile upstream of Stevens Mill Road	•75
City of Goldsboro	
Burden Creek:	
At the confluence with Moccasin Creek	•84
Approximately 750 fee upstream of the confluence with Moccasin Creek	•84
Wayne County (Unincorporated Areas)	
Moccasin Creek:	
At the confluence with the Neuse River	•84
At the Johnston/Wayne County boundary	•84
Wayne County (Unincorporated Areas)	
Sleepy Creek:	
At the confluence with the Neuse River	•65
Approximately 0.9 mile upstream of the confluence with the Neuse River	•65
Wayne County (Unincorporated Areas)	
Town of Eureka	
Maps available for inspection at the Eureka Town Hall, 103 West Main Street, Eureka, North Carolina.	
Town of Fremont	
Maps available for inspection at the Fremont Town Hall, 202 North Goldsboro Street, Fremont, North Carolina.	
City of Goldsboro	
Maps available for inspection at the City of Goldsboro Engineering Department, 222 North Center Street, Goldsboro, North Carolina.	
Town of Pikeville	
Maps available for inspection at the Pikeville Town Hall, 112 Southwest Railroad Street, Pikeville, North Carolina.	
Town of Seven Springs	
Maps available for inspection at the Seven Springs Town Hall, 508 Church Street, Seven Springs, North Carolina.	
Village of Walnut Creek	
Maps available for inspection at the Walnut Creek Village Hall, 100 Village Drive, Goldsboro, North Carolina.	
Unincorporated Areas of Wayne County	
Maps available for inspection at the Wayne County Planning Department, 224 East Walnut Street, Goldsboro, North Carolina.	
TENNESSEE	
Benton County (FEMA Docket No. D–7612)	
Kentucky Lake/Big Sandy River:	
Along the northwestern County boundary	*375
Town of Big Sandy, Benton County (Unincorporated Areas)	
Kentucky Lake/Tennessee River:	
Approximately 1.5 miles upstream of I–40	*375
At the southern County boundary	*375
Benton County (Unincorporated Areas)	
Burnside Creek:	
Approximately 0.6 mile upstream of East Lake Street	*381
Approximately 500 feet upstream of Stigall Street	*393
City of Camden	
Cane Creek:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)
At the confluence of Charlie Creek	*378
Approximately 450 feet upstream of Post Oak Avenue	*426
City of Camden	
Charlie Creek:	
At the confluence with Cane Creek	*378
Approximately 0.2 mile upstream of Mimosa Street	*438
City of Camden	
Cypress Creek:	
Just upstream of Old Route 70	*378
Approximately 700 feet upstream of U.S. Route 70	*383
City of Camden	
Benton County (Unincorporated Areas)	
Maps available for inspection at the Benton County Courthouse, 1 East Court Square, Room 102, Camden, Tennessee.	
Town of Big Sandy	
Maps available for inspection at the Big Sandy Town Hall, 65 Front Street, Big Sandy, Tennessee.	
City of Camden	
Maps available for inspection at the Camden City Hall, 110 Highway 641 South, Camden, Tennessee.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: July 20, 2005.

David I. Maurstad,

Acting Director, Mitigation Division, Emergency Preparedness and Response Directorate.

[FR Doc. 05–14662 Filed 7–25–05; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–2903.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate, has resolved any appeals resulting from this notification.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

■ Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	# Depth in feet above ground. * Elevation in feet (NGVD) • Elevation in feet (NAVD)
Connecticut	
South Windsor (Town), Hartford County (FEMA Docket No. D–7618)	
Podunk River:	
At a point just downstream of Foster Road	*266
At a point approximately 160 feet upstream of Miller Road	*301
Quarry Brook:	
At a point approximately 1,056 feet upstream of the confluence with Podunk River	*58

Source of flooding and location	# Depth in feet above ground. * Elevation in feet (NGVD) • Elevation in feet (NAVD)
Approximately 53 feet upstream of Clark Street	*108
Plum Gully Brook:	
Approximately 528 feet upstream of the confluence with Podunk River	*57
Approximately 280 feet upstream of Nevers Road	*185
Maps available for inspection at the South Windsor Town Hall, 1540 Sullivan Avenue, South Windsor, Connecticut.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: July 20, 2005.

David I. Maurstad,

Acting Director, Mitigation Division, Emergency Preparedness and Response Directorate.

[FR Doc. 05–14661 Filed 7–25–05; 8:45 am]

BILLING CODE 9110–12–P

NATIONAL SCIENCE FOUNDATION

45 CFR Part 613

RIN RIN 3145–AA43

Changes to Exemptions Under CFR Part 613—Privacy Act Regulations

AGENCY: National Science Foundation.

ACTION: Final rule.

SUMMARY: This final rule will amend the Privacy Act regulations at 45 CFR 613.5, Exemptions, by adding a new subsection (g), Statistical records. The amendment exempts three systems of NSF statistical records, ''Doctorate Records Files,'' ''Doctorate Work History Files'' and ''National Survey of Recent College Graduates & Follow-up Files'' from the application of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) pursuant to Privacy Act exemption (k)(4), 5 U.S.C. 552a(k)(4). Exemption (k)(4) permits exemption if the system of records is ''required by statute to be maintained and used solely as statistical records.'' The three named NSF/Science Resource Studies systems of records contain statistical data required by subsection 14(i) of the NSF Act of 1950, as amended, and Title V of the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA), to be used for statistical purposes only, and thus meet the requirements of exemption (k)(4).

DATES: *Effective Date:* This amendment will be effective August 1, 2005.

ADDRESSES: Address all comments concerning this notice to Leslie Jensen, National Science Foundation, Office of the General Counsel, Room 1265, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Leslie Jensen: (703) 292–8060.

SUPPLEMENTARY INFORMATION:

Background

During the public comment period, the Foundation received one comment on an existing section of the regulation to which no change was proposed. No comments were received on the proposed addition of subsection 613.5(g). The NSF publishes its Final Regulation as proposed.

List of Subjects in 45 CFR Part 613

Privacy.

■ For the reason stated in the preamble, the National Science Foundation revises 45 CFR part 613 as follows:

PART 613—PRIVACY ACT REGULATIONS

Sec.
613.1 General provisions.
613.2 Requesting access to records.
613.3 Responding to requests for access to records.
613.4 Amendment of records.
613.5 Exemptions.
613.6 Other rights and services.

Authority: 5 U.S.C. 552a.

§ 613.1 General Provisions.

This part sets forth the National Science Foundation procedures under the Privacy Act of 1974. The rules in this part apply to all records in systems of records maintained by NSF that are retrieved by an individual's name or personal identifier. They describe the procedures by which individuals, as defined in the Privacy Act, may request access to records about themselves and request amendment or correction of those records. All Privacy Act requests for access to records are also processed under the Freedom of Information Act, 5 U.S.C. 552 (as provided in part 612 of this chapter), which gives requesters the benefit of both statutes. Notice of systems of records maintained by the National Science Foundation are published in the **Federal Register**.

§ 613.2 Requesting access to records.

(a) *Where to make a request.* You may make a request for access to NSF records about yourself by appearing in person at the National Science Foundation or by making a written request. If you choose to visit the Foundation, you must contact the NSF Security Desk and ask to speak with the Foundation's Privacy Act Officer of the General Counsel. Written requests should be sent to the NSF Privacy Act Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, VA 22230. Written requests are recommended, since in many cases it may take several days to determine whether a record exists, and additional time may be required for record(s) retrieval and processing.

(b) *Description of requested records.* You must describe the records that you seek in enough detail to enable NSF personnel to locate the system of records containing them with a reasonable amount of effort. Providing information about the purpose for which the information was collected, applicable time periods, and name or identifying number of each system of records in which you think records about you may be kept, will help speed the processing of your request. NSF publishes notices in the **Federal Register** that describe the systems of records maintained by the Foundation. The Office of the Federal Register publishes a biennial ''Privacy Act compilation'' that includes NSF system notices. This compilation is available in many large reference and university libraries, and can be accessed electronically at the Government Printing Office's Web site at *www.access.gpo/su_docs/aces/PrivacyAct.shtml.*

(c) *Verification of identity.* When requesting access to records about yourself, NSF requires that you verify your identity in an appropriate fashion. Individuals appearing in person should be prepared to show reasonable picture identification such as driver's license, government or other employment identification card, or passport. Written requests must state your full name and current address. you must sign your request and your signature must either be notarized, or submitted by you under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain information about these required elements for requests from the NSF Privacy Act Officer, Suite 1265, 4201 Wilson Blvd, Arlington, VA 22230, or from the NSF Home Page under ''Public & media Information—FOIA and Privacy Act'' at *http://www.nsf.gov/home/pubinfo/foia.htm.* In order to help agency personnel in locating and identifying requested records, you may also, at your option, include your social security number, and/or date and place of birth. An individual reviewing his or her record(s) in person may be

accompanied by an individual of his or her choice after signing a written statement authorizing that individual's presence. Individuals requesting or authorizing the disclosure of records to a third party must verify their identity and specifically name the third party and identify the information to be disclosed.

(d) *Verification of guardianship.* When making a request as the parent or guardian of a minor or as the guardian of someone determined by a court of competent jurisdiction to be incompetent, for access to records about that individual, you must establish:

(1) The identity of the record subject, by stating individuals' name and current address and, at your option, the social security number and/or date and place of birth of the individual;

(2) Your own identity, as required in paragraph (c) of this section;

(3) That you are the parent or guardian of that individual, which you may prove by providing a copy of the individual's birth certificate showing your parentage or by providing a court order establishing your guardianship; and

(4) That you are acting on behalf of that individual in making the request.

(e) The procedures of paragraphs (a) through (d) of this section shall also apply to requests made pursuant to 5 U.S.C. 552a(c)(3).

§ 613.3 Responding to requests for access to records.

(a) *Timing of responses to requests.* The Foundation will make reasonable effort to act on a request for access to records within 20 days of its receipt by the Privacy Act Officer (excluding date of receipt, weekends, and legal holidays) or from the time any required identification is received by the Privacy Act Officer, whichever is later. In determining which records are responsive to a request, the Foundation will include only records in its possession as of the date of receipt. When the agency cannot complete processing of a request within 20 working days, the foundation will send a letter explaining the delay and notifying the requester of the date by which processing is expected to be completed.

(b) *Authority to grant or deny requests.* The Privacy Act Officer, or his or her designee in the office with responsibility for the requested records, is authorized to grant or deny access to a Foundation record.

(c) *Granting access to records.* When a determination is made to grant a request for access in whole or part, the requester will be notified as soon as possible of the Foundation's decision. Where a requester has previously failed to pay a properly charged fee to any agency within 30 days of the date of billing, NSF may require the requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before NSF begins to process a new request or continues to process a pending request from that requester.

(1) *Requests made in person.* When a request is made in person, if the records can be found, and reviewed for access without unreasonable disruption of agency operations, the Foundation may disclose the records to the requester directly upon payment of any applicable fee. A written record should be made documenting the granting of the request. If a requester is accompanied by another person, the requester shall be required to authorize in writing any discussion of the records in the presence of the other person.

(2) *Requests made in writing.* The Foundation will send the records to the requester promptly upon payment of any applicable fee.

(d) *Denying access to records.* The requester will be notified in writing of any determination to deny a request for access to records. The notification letter will be signed by the Privacy Act Officer, or his or designee, as the individual responsible for the denial and will include a brief statement of the reason(s) for the denial, including any Privacy Act exemption(s) applied in denying the request.

(e) *Fees.* The Foundation will charge for duplication of records requested under the Privacy Act in the same way it charges for duplication under the Freedom of Information Act (see CFR 612.10). No search or review fee may be charged for the record unless the record has been exempted from access under Exemptions (j)(2) or (k)(2) of the Privacy Act.

§ 613.4 Amendment of records.

(a) *Where to make a request.* An individual may request amendment of records pertaining to him or her that are maintained in an NSF Privacy Act system of records, except that certain records described in paragraph (h) of this section are exempt from amendment. Request for amendment of records must be made in writing to the NSF Privacy Act Officer, National Science Foundation, Suite 1265, 4201 Wilson Boulevard, Arlington, VA 22230.

(b) *How to make a request.* Your request should identify each particular record in question, state the amendment you want to take place and specify why you believe that the record is not accurate, relevant, timely, or complete. You may submit any documentation that you think would be helpful. Providing an edited copy of the record(s) showing the desired change will assist the agency in making a determination about your request. If you believe that the same information is maintained in more than one NSF system of records you should include that information in your request. You must sign your request and provide verification of your identity as specified in 613.2(c).

(c) *Timing of responses to requests.* The Privacy Act Officer, or his or her designee, will acknowledge receipt of request for amendment within 10 working days of receipt. Upon receipt of a proper request the Privacy Act Officer will promptly confer with the NSF Directorate or Office with responsibility for the record to determine if the request should be granted in whole or part.

(d) *Granting request for amendment.* When a determination is made to grant a request for amendment in whole or part, notification to the requester will be made as soon as possible, normally within 30 wording days of the Privacy Act Officer receiving the request, describing the amendment made and including a copy of the amended record, in disclosable form.

(e) *Denying request for amendment.* When a determination is made that amendment, in whole or part, is unwarranted, the matter shall be brought to the attention of the Inspector General, if it pertains to records maintained by the Office of the Inspector General, or to the attention of the General Counsel, if it pertains to other NSF records. If the General Counsel or Inspector General or their designee agrees with the determination that amendment is not warranted, the Privacy Act Officer will notify the requester in writing, normally within 30 working days of the Privacy Act Officer receiving the request. The notification letter will be signed by the Privacy Act Officer or his or her designee, and will include a statement of the reason(s) for the denial and how to appeal the decision.

(f) *Appealing a denial.* You may appeal a denial of a request to amend records to the General Counsel, National Science Foundation, 4201 Wilson Blvd., Suite 1265, Arlington, VA 22230. You must make your appeal in writing and it must be received by the Office of the General Counsel within ten days of the receipt of the denial (weekends, legal holidays, and the date of receipt excluded). Clearly mark your appeal letter and envelope ''Privacy Act

Appeal.'' Your appeal letter must include a copy of your original request for amendment and the denial letter, along with any additional documentation or argument you wish to submit in favor of amending the records. It must be signed by you or your officially designated representative.

(g) *Responses to appeals.* The General Counsel, or his or her designee, will normally render a decision on the appeal within thirty working days after proper reciept of the written appeal by the General Counsel. If additional time to make a determination is necessary you will be advised in writing of the need for an extension.

(1) *Amendment appeal granted.* If on appeal the General Counsel, or his or her designee, determines that amendment of the record should take place, you will be notified as soon as possible of the Foundation's decision. The notification will describe the amendment made and include a copy of the amended record, in disclosable form.

(2) *Amendment appeal denied—Statement of disagreement.* If on appeal the General Counsel, or his or her designee, upholds a denial of a request for amendment of records, you will be notified in writing of the reasons why the appeal was denied and advised of your right to seek judicial review of the decision. The letter will also notify you of your right to file with the Foundation a concise statement setting forth the reasons for your disagreement with the refusal of the Foundation to amend the record. The statement should be sent to the Privacy Act Officer, who will ensure that a copy of the statement is placed with the disputed record. A copy of the statement will be included with any subsequent disclosure of the record.

(h) *Records not subject to amendment.* The following records are not subject to amendment:

(1) Transcripts of testimony given under oath or written statements made under oath;

(2) Transcripts of grand jury proceedings, judicial proceedings, or quasi-judicial proceedings, which are the official record of those proceedings;

(3) Pre-sentence records that originated with the courts; and

(4) Records in systems of records that have been exempted from amendment under Privacy Act, 5 U.S.C. 552a(j) or (k) by notice published in the **Federal Register**.

§ 613.5 Exemptions.

(a) *Fellowships and other support.* Pursuant to 5 U.S.C. 552a(k)(6), the Foundation hereby exempts from the application of 5 U.S.C. 552a(c)(3) and (d) any materials which would reveal the identity of references of fellowship or other award applicants or nominees, or reviewers of applicants for Federal contracts (including grants and cooperative agreements) contained in any of the following systems of records:

(1) ''Fellowships and Other Awards,''

(2) ''Principal Investigator/Proposal File and Associated Records,''

(3) ''Reviewer/Proposal File and Associated Records,'' and

(4) ''Reviewer/Fellowship and Other Awards File and Associated Records.''

(b) *OIG Files Compiled for the Purpose of a Criminal Investigation and for Related Purposes.* Pursuant to 5 U.S.C. 552a(j)(2), the Foundation hereby exempts the system of records entitled ''Office of Inspector General Investigative Files,'' insofar as it consists of information compiled for the purpose of a criminal investigation or for other purposes within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a, except for subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10) and (11), and (i).

(c) *OIG and ACA Files Compiled for Other Law Enforcement Purposes.* Pursuant to 5 U.S.C. 552a(k)(2), the Foundation hereby exempts the systems of records entitled ''Office of Inspector General Investigative Files'' and ''Antarctic Conservation Act Files'' insofar as they consist of information compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(d) *Investigations of Scientific Misconduct.* Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(c)(3) and (d) any materials which would reveal the identity of confidential sources of information contained in the following system of records: ''Debarment/Scientific Misconduct Files.''

(e) *Personnel Security Clearances.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(c)(3) and (d) any materials which would reveal the identity of confidential sources of information contained in the following system of records: ''Personnel Security.''

(f) *Applicants for Employment.* Records on applicants for employment at NSF are covered by the Office of Personnel Management (OPM) government-wide system notice ''Recruiting, Examining and Placement Records.'' These records are exempted as claimed in 5 CFR 297.501(b)(7).

(g) *Statistical records.* Pursuant to 5 U.S.C. 552a(k)(4), the Foundation hereby exempts the systems of records entitled ''Doctorate Records Files,'' ''Doctorate Work History Files,'' and ''National Survey of Recent College Graduates & Follow-up Files'' from the application of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(h) *Other records.* The Foundation may also assert exemptions for records received from another agency that could properly be claimed by that agency in responding to a request.

§ 613.6 Other rights and services.

Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act.

Amy Northcutt,

Deputy General Counsel.

[FR Doc. 05–14656 Filed 7–25–05; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 650

RIN 3145–AA44

Minor Amendments To Rule on Inventions and Patents Resulting From Grants, Cooperative Agreements, and Contracts

AGENCY: National Science Foundation.

ACTION: Final rule.

SUMMARY: This final rule will amend the NSF Patents regulation to require grantees to use an electronic reporting and management system for inventions made with NSF assistance.

DATES: *Effective Date:* These changes are effective July 29, 2005.

FOR FURTHER INFORMATION CONTACT: Robin Clay Fritsch, NSF Patent Assistant, at *patents@nsf.gov* or on (703) 292–8060 (voice) or (703) 292–9041 (facsimile).

Background

This amendment revises the current NSF patent regulation published as part 650 of title 45 of the Code of Federal Regulations to require NSF awardees to use the Edison Invention Information Management System maintained by the National Institutes of Health to handle NSF-assisted inventions. This is consistent with the Foundation's requirement that all proposals seeking NSF financial assistance and all reports on NSF-assisted projects be submitted electronically.

Summary of Comments and Explanation

NSF received two comments to the proposed amendments. The first comment questioned the legal transfer of money out of an account regulated by the banking industry. It has been determined that this recommendation is beyond the scope of the regulation and, so, is not included in the final. The second comment advised NSF that the commentor would prefer to continue to use paper for patent reporting. This issue is addressed in Section 650.19(b), which allows grantees to request from the NSF Patent Assistant permission to submit material in other forms.

Determinations

Regulatory Evaluation

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

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), I 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. I certify under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would possibly affect the following entities, some of which may be small entities: NSF grantees, including those funded under our Small Business Innovation Research and Small Business Technology Transfer Programs, and recipients of subcontracts under NSF grants.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. I 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. This rule would not result in such an expenditure.

Taking of Private Property

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

Civil Justice Reform

This 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

I 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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

I have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, and 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.

List of Subjects in 45 CFR Part 650

Government procurement, Grant programs—science and technology, Inventions and patents, Nonprofit organizations, Small businesses.

■ Accordingly, Title 45 of the Code of Federal Regulations part 650 is amended as follows:

PART 650—PATENTS

■ 1. The authority citation for part 650 continues to read as follows:

Authority: 35 U.S.C. 200–212; 42 U.S.C. 1870(e) and 1871; and the Presidential Memorandum entitled ''Government Patent Policy,'' issued February 18, 1983.

■ 2. The Patent Rights clause set forth in § 650.4(a) is amended:

■ A. By revising ''SEPTEMBER, 1997'' in its heading to read ''AUGUST, 2005.''

■ B. In the second sentence of paragraph (c)(1), by revising the words ''shall be in the form of a written report'' to read ''will be submitted via the iEdison Invention Information Management System maintained by the National Institutes of Health'';

■ C. In paragraph (f)(5), by revising the words ''forward to NSF'' to read ''submit electronically to NSF via the iEdison Invention Information Management System maintained by the National Institutes of Health''; and

■ D. By revising paragraph (1) to read as follows:

§ 650.4 Standard patent rights clause.

* * * * *

(1) *Communications.* All communications required by this Patents Rights clause must be submitted through the iEdison Invention Information Management System maintained by the National Institutes of Health unless prior permission for another form of submission is obtained from the Patent Assistant at *patents@nsf.gov* or at Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

* * * * *

■ 3. Section 650.19 is revised to read as follows:

§ 650.19 Electronic invention handling.

(a) Grantees must use the iEdison Invention Information Management System maintained by the National Institutes of Health to disclose NSF subject inventions. Detailed instructions for use of that system are provided at *http://s-edison.info.nih.gov/iEdison/* and should be followed for NSF subject inventions except that:

(1) All communications required must be provided electronically as a PDF or TIFF file through iEdison unless prior permission for another form of submission is obtained from the Patent Assistant.

(2) NSF does not require either an Annual Utilization Report or a Final Invention Statement and Certification.

(b) Questions on use of iEdison and requests for permission to submit material in other forms may be sent to the NSF Patent Assistant at *patents@nsf.gov* or at Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Amy Northcutt,

Deputy General Counsel.

[FR Doc. 05–14657 Filed 7–25–05; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF DEFENSE

48 CFR Part 219

[DFARS Case 2004–D031]

Defense Federal Acquisition Regulation Supplement; Sole Source 8(a) Awards to Small Business Concerns Owned by Native Hawaiian Organizations

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement DoD appropriations act provisions permitting the award of sole source contracts to small business concerns owned by Native Hawaiian Organizations. The rule applies to manufacturing contacts exceeding $5,000,000 and non-manufacturing contracts exceeding $3,000,000 that are awarded under the Small Business Administration's 8(a) Program.

DATES: *Effective Date:* July 26, 2005.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before September 26, 2005 to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2004–D031, using any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web Site: *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. Follow the instructions for submitting comments.
- E-mail: *dfars@osd.mil*. Include DFARS Case 2004–D031 in the subject line of the message.
- Fax: (703) 602–0350.
- Mail: Defense Acquisition Regulations Council, Attn: Ms. Deborah Tronic, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.
- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Tronic, (703) 602–0289.

SUPPLEMENTARY INFORMATION:

A. Background

Section 8021 of the DoD Appropriations Act for Fiscal Year 2004 (Pub. L. 108–87) and Section 8021 of the DoD Appropriations Act for Fiscal Year 2005 (Pub. L. 108–287) provide funding for the DoD Indian Incentive Program, which is implemented in DFARS Subpart 226.1. The appropriations act provisions also require that small business concerns owned by Native Hawaiian Organizations be provided the same status as Indian tribes and Alaska Native Corporations with regard to contract awards under the Small Business Administration's (SBA) 8(a) Program. Under the 8(a) Program, as implemented in FAR Subpart 19.8, competition is required for manufacturing contracts exceeding $5,000,000 and non-manufacturing contracts exceeding $3,000,000, unless (1) there is not a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers at a fair market price, or (2) SBA accepts the requirement on behalf of a concern owned by an Indian tribe or an Alaska Native Corporation. This interim rule expands the competition exceptions to include requirements accepted on behalf of a small business concern owned by a Native Hawaiian Organization.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603. The analysis is summarized as follows:

This interim rule amends the DFARS to implement DoD appropriations act provisions permitting the award of sole source contracts to small business concerns owned by Native Hawaiian Organizations. The rule applies to manufacturing contacts exceeding $5,000,000 and non-manufacturing contracts exceeding $3,000,000 that are awarded under the Small Business Administration's 8(a) Program. The objective of the rule is to provide small business concerns owned by Native Hawaiian Organizations the same status that is provided to Indian tribes and Alaska Native Corporations under the 8(a) Program. Awards to these entities are exempted from the competition requirements that would otherwise apply to award of manufacturing contacts exceeding $5,000,000 and non-manufacturing contracts exceeding $3,000,000 under the Program. The legal basis for the rule is Section 8021 of the DoD Appropriations Act for Fiscal Year 2004 (Pub. L. 108–87) and Section 8021 of the DoD Appropriations Act for Fiscal Year 2005 (Pub. L. 108–287). The rule will benefit small business concerns that are owned by Native Hawaiian Organizations by permitting sole source contract awards to these concerns.

A copy of the analysis may be obtained from the point of contact specified herein. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2004–D031.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 8021 of the DoD Appropriations Act for Fiscal Year 2004 (Pub. L. 108–87) and Section 8021 of the DoD Appropriations Act for Fiscal Year 2005 (Pub. L. 108–287). These statutes require that small business concerns owned by Native Hawaiian Organizations be provided the same status as Indian tribes and Alaska Native Corporations with regard to contract awards under the Small Business Administration's 8(a) Program. Application of this status will permit small business concerns owned by Native Hawaiian Organizations to receive sole source contract awards under the 8(a) Program, in amounts exceeding the thresholds at which competition would otherwise be required. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 219

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 219 is amended as follows:

■ 1. The authority citation for 48 CFR part 219 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

■ 2. Section 219.805–1 is added to read as follows:

219.805–1 General.

(b)(2)(A) For acquisitions that exceed the competitive threshold and use fiscal year 2004 or 2005 appropriated funds, the SBA also may accept the requirement for a sole source 8(a) award on behalf of a small business concern owned by a Native Hawaiian Organization (Section 8021 of Pub. L. 108–87 and Section 8021 of Pub. L. 108–287).

(B) *Native Hawaiian Organization*, as used in this subsection and as defined by 15 U.S.C. 637(a)(15) and 13 CFR 124.3, means any community service organization serving Native Hawaiians in the State of Hawaii—

(1) That is a not-for-profit organization chartered by the State of Hawaii;

(2) That is controlled by Native Hawaiians; and

(3) Whose business activities will principally benefit such Native Hawaiians.

[FR Doc. 05–14624 Filed 7–25–05; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 225

[DFARS Case 2004–D035]

Defense Federal Acquisition Regulation Supplement; Berry Amendment Memoranda

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement policy regarding acquisitions for which DoD determines that domestic items are not available to fulfill DoD requirements in a satisfactory quality and sufficient quantity at U.S. market prices.

DATES: Effective July 26, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2004–D035.

SUPPLEMENTARY INFORMATION:

A. Background

10 U.S.C. 2533a (the Berry Amendment) requires DoD to acquire certain items from domestic sources. 10 U.S.C. 2533a(c) provides an exception to this requirement if the Secretary of Defense or the Secretary of the military department concerned determines that satisfactory quality and sufficient quantity of such items cannot be procured as and when needed at U.S. market prices. DoD has issued the following memoranda regarding domestic nonavailability determinations under 10 U.S.C. 2533a(c):

The Deputy Secretary of Defense memorandum of May 1, 2001, provides that the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Secretaries of the military departments may make domestic nonavailability determinations under the Berry Amendment, but may not redelegate this authority. The memorandum also requires an analysis of alternatives, and a certification as to why such alternatives are unacceptable.

The Under Secretary of Defense (Acquisition, Technology, and Logistics) memorandum of October 22, 2004, requires Congressional notification of any domestic nonavailability determinations involving titanium or products containing titanium.

This final rule amends DFARS 225.7002–2(b) to reflect the requirements of the DoD memoranda.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2004–D035.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 225

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 225 is amended as follows:

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

■ 2. Section 225.7002–2 is amended by adding paragraphs (b)(1) through (5) to read as follows:

225.7002–2 Exceptions.

* * * * *

(b) * * *

(1) The following officials are authorized, without power of

redelegation, to make such a domestic nonavailability determination:

(i) The Under Secretary of Defense (Acquisition, Technology, and Logistics).

(ii) The Secretary of the Army.

(iii) The Secretary of the Navy.

(iv) The Secretary of the Air Force.

(2) The supporting documentation for the determination shall include—

(i) An analysis of alternatives that would not require a domestic nonavailability determination; and

(ii) A written certification by the requiring activity, with specificity, why such alternatives are unacceptable.

(3) Defense agencies shall follow the procedures at PGI 225.7002–2(b)(3) when submitting a request for a domestic nonavailability determination.

(4) If an official listed in paragraph (b)(1)(ii) through (iv) of this subsection makes a domestic nonavailability determination for the acquisition of titanium or a product containing titanium, that official shall—

(i) Notify the congressional defense committees at least 10 days before the award of a contract that relies on such a determination; and

(ii) Provide a copy of the notification and the determination to the Director, Defense Procurement and Acquisition Policy, as specified in PGI 225.7002–2(b)(4).

(5) See PGI 225.7002–2(b)(5) for related policy memoranda.

* * * * *

[FR Doc. 05–14623 Filed 7–25–05; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 231

[DFARS Case 2004–D026]

Defense Federal Acquisition Regulation Supplement; Business Restructuring Costs—Delegation of Authority To Make Determinations Relating to Payment

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 819 of the National Defense Authorization Act for Fiscal Year 2005. Section 819 contains changes concerning delegation of authority to make determinations relating to payment of defense contractors for business restructuring costs.

DATES: *Effective date:* July 26, 2005.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before September 26, 2005 to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2004–D026, using any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web Site: *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* Follow the instructions for submitting comments.
- E-mail: *dfars@osd.mil.* Include DFARS Case 2004–D026 in the subject line of the message.
- Fax: (703) 602–0350.
- Mail: Defense Acquisition Regulations Council, Attn: Mr. Bill Sain, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.
- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402. All comments received will be posted to *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Mr. Bill Sain, (703) 602–0293.

SUPPLEMENTARY INFORMATION:

A. Background

10 U.S.C. 2325(a)(1), Limitation on Payment of Restructuring Costs, prohibits DoD from reimbursing a defense contractor for restructuring costs arising from a business combination that occurs after November 18, 1997, unless the Secretary of Defense determines in writing either: (i) That the amount of projected savings for DoD associated with the restructuring will be at least twice the amount of the costs allowed; or (ii) that the amount of projected savings for DoD associated with the restructuring will exceed the amount of the costs allowed and that the business combination will result in the preservation of a critical capability that otherwise might be lost to DoD.

10 U.S.C. 2325(a)(2) previously prohibited the Secretary of Defense from delegating the authority to make such written savings determinations below the level of an Assistant Secretary of Defense. The Secretary of Defense delegated the authority to make such determinations to the Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD(AT&L)), or his Principal Deputy. Section 819 of the National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) amended 10 U.S.C. 2325(a)(2) to permit the Director of the Defense Contract Management Agency to make the required written determination of savings when restructuring costs are expected to be less than $25 million over a 5-year period.

To implement Section 819, this interim rule adds paragraph (c)(4)(ii) to DFARS 231.205–70, External restructuring costs. The rule also makes changes to DFARS 231.205–70(b)(4), (c), and (e)(6) to remove unnecessary references to USD(AT&L) certifications for pre-November 19, 1997, business combinations; and makes editorial changes to DFARS 231.205–70(e)(6) to clarify the existing requirement for projected restructuring costs and savings to be computed on a present value basis.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the cost principle addressed in this rule applies only to DoD contractors that incur restructuring costs for external restructuring activities. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2004–D026.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 819 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375). Section 819 amended 10 U.S.C. 2325 to permit delegation of authority to the Director of the Defense Contract Management Agency for determinations relating to payment of

defense contractors for business restructuring costs. Section 819 became effective upon enactment on October 28, 2004. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 231

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 231 is amended as follows:

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 1. The authority citation for 48 CFR part 231 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 231.205–70 is amended as follows:

■ a. In paragraph (b)(4) by revising the last sentence; and

■ b. By revising paragraph (c), the heading of paragraph (e), and paragraph (e)(6) to read as follows:

231.205–70 External restructuring costs.

* * * * *

(b) * * *

(4) * * * For purposes of this definition, if restructuring costs associated with external restructuring activities allocated to DoD contracts are less than $2.5 million, the costs shall not be subject to the audit, review, and determination requirements of paragraph (c)(4) of this subsection; instead, the normal rules for determining cost allowability in accordance with FAR part 31 shall apply.

* * * * *

(c) *Limitations on cost allowability.* Restructuring costs associated with external restructuring activities shall not be allowed unless—

(1) Such costs are allowable in accordance with FAR part 31 and DFARS part 231;

(2) An audit of projected restructuring costs and restructuring savings is performed;

(3) The cognizant administrative contracting officer (ACO) reviews the audit report and the projected costs and projected savings, and negotiates an advance agreement in accordance with paragraph (d) of this subsection; and

(4)(i) The official designated in paragraph (c)(4)(ii) of this subsection determines in writing that the audited projected savings, on a present value basis, for DoD resulting from the restructuring will exceed either—

(A) The costs allowed by a factor of at least two to one; or

(B) The costs allowed, and the business combination will result in the preservation of a critical capability that might otherwise be lost to DoD.

(ii)(A) If the amount of restructuring costs is expected to exceed $25 million over a 5-year period, the designated official is the Under Secretary of Defense (Acquisition, Technology, and Logistics) or the Principal Deputy. This authority may not be delegated below the level of an Assistant Secretary of Defense.

(B) For all other cases, the designated official is the Director of the Defense Contract Management Agency. The Director may not delegate this authority.

* * * * *

(e) *Information needed to obtain a determination.*

* * * * *

(6) The cognizant ACO's recommendation for a determination. This recommendation must clearly indicate one of the following, consistent with paragraph (c)(4)(i) of this subsection:

(i) The audited projected savings for DoD will exceed the costs allowed by a factor of at least two to one on a present value basis.

(ii) The business combination will result in the preservation of a critical capability that might otherwise be lost to DoD, and the audited projected savings for DoD will exceed the costs allowed on a present value basis.

* * * * *

[FR Doc. 05–14625 Filed 7–25–05; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030221039–5193–22; I.D. 071905D]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan (ALWTRP)

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

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the ALWTRP's implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 2,980 nm^2 (10,221 km^2) in July, and 3,120 nm^2 (10,221 km^2) in August, southeast of Chatham, MA for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

DATES: Effective beginning at 0001 hours July 28, 2005, through 2400 hours August 11, 2005.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a

DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15–day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15–day period and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm2 (1.85 km^2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On July 12, 2005, an aerial survey reported a sighting of 31 right whales in two areas. A group of 28 right whales was reported in the proximity 41 15.3′ N. lat. and 68° 58.4′ W. long. Another group of three right whales was reported in the proximity of 41° 45.2′ N. lat. and 68° 34.4′ W. long. These positions lie southeast of Chatham, MA in an area known as the Great South Channel. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15–day restricted period unless it is modified in the manner described in this temporary rule.

In July, the DAM Zone overlaps SAM East and is bound by the following coordinates:

41° 40′N., 69° 29′W. (NW Corner)
41° 40′N., 69° 00′W.
41° 59′N., 69° 00′W.
42° 04′N., 68° 46′W.
42° 04′N., 68° 27′W.
41° 45′N., 68° 17′W.
41° 45′N., 68° 09′W. 41 26′N., 68 09′W.
41° 26′N., 68° 30′W.
40° 53′N., 68° 30′W.
40° 53′N., 69° 29′W.

On August 1, the SAM East area expires and the DAM Zone expands to the following coordinates:

41° 40′N., 69°29′W. (NW Corner)
41° 40′N., 69° 00′W.
42° 04′N., 69° 00′W.
42° 04′N, 68° 09′W
41° 26′N., 68° 09′W.
41° 26′N., 68° 30′W.
40° 53′N., 68° 09′W.
40° 53′N., 69° 29′W.

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone. Special note for gillnet fisherman: During July and August, a portion of this DAM zone overlaps the Northeast multispecies year round Closed Area 1 found at 50 CFR 648.80(a). Due to this closure, sink gillnet gear is prohibited from this portion of the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Northern Nearshore Lobster Waters that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per trawl; and

4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portion of the Other Northeast Gillnet Waters that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;

2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per string;

4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends;

5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and

6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22–lb (10.0–kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours July 28, 2005, through 2400 hours August 11, 2005, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon filing with the **Federal Register**.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30–day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means as soon as the AA approves it, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: July 20, 2005.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory programs, National Marine Fisheries Service.

[FR Doc. 05–14718 Filed 7–21–05; 1:01 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 142
Tuesday, July 26, 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 JUSTICE

Office of Justice Programs

28 CFR Part 32

[Docket No.: OJP (OJP)–1333]

RIN 1121–AA56

Public Safety Officers' Benefits Program

AGENCY: Office of Justice Programs, Justice.

ACTION: Notice of proposed rulemaking with request for comments.

SUMMARY: The Office of Justice Programs, Department of Justice, proposes this rule to amend regulations which implement the Public Safety Officers' Benefits Act, as amended. The Act provides financial support to certain public safety officers, or their survivors and families, when such officers die, or become permanently and totally disabled, as a result of line-of-duty injuries. The proposed rule would incorporate recent statutory amendments to the program, specifically, to provide coverage for chaplains and the addition of certain life insurance beneficiaries, and to provide coverage for certain heart attack and stroke cases. The proposed rule also would amend the regulations to incorporate longstanding internal agency policy and practice, court decisions, and certain technical changes, in order to make the regulations more comprehensive and user-friendly.

DATES: Comments must be received by no later than 5 p.m., E.S.T., on September 26, 2005.

ADDRESSES: Please address all comments regarding this proposed rule, by U.S. mail, to: Hope Janke, Counsel to the Director, Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street, NW., Washington, DC 20531; by telefacsimile transmission, to: Hope Janke, Counsel to the Director, at (202) 305–1367; or by e-mail, to: *PSOBREGS@usdoj.gov.* To ensure proper handling, please reference OJP Docket No. 1333 on your correspondence. You may view an electronic version of this proposed rule at *http://www.regulations.gov* and you may also comment by using the www.regulations.gov form for this regulation. When submitting comments electronically, you must include OJP Docket No. 1333 in the subject box.

FOR FURTHER INFORMATION CONTACT: Hope Janke, Counsel to the Director, Bureau of Justice Assistance, at (202) 514–6278, or toll-free at 1 (888) 744–6513.

SUPPLEMENTARY INFORMATION:

I. Background

The Public Safety Officers Benefits (PSOB) Program is administered by the Bureau of Justice Assistance (BJA), Office of Justice Programs (OJP), Department of Justice, pursuant to the statute, as a means of providing a one-time financial payment to the statutorily-eligible survivors of public safety officers who die as the direct and proximate result of a traumatic injury sustained in the line of duty, as well as educational assistance for certain of those survivors; and also providing a one-time financial payment to public safety officers who are permanently and totally disabled as the direct result of a catastrophic injury sustained in the line of duty, as well as educational assistance for their spouses and certain of their children. As the 9th Circuit Court of Appeals observed, however, in *Russell* v. *United States,* 637 F.2d 1255, 1261 (1981), the statute did not create a comprehensive insurance-type compensation program, similar to those administered by many States and municipalities. *See also Rose* v. *Arkansas State Police,* 479 U.S. 1 (1986) (*per curiam*); *Chacon* v. *United States,* 32 Fed. Cl. 684, 687 (1995); *Holstine* v. *Dep't of Justice,* No. 80–7477, slip op. at 2 (9th Cir. Aug. 4, 1982).

The statute, rather, provides for three specific types of benefits, each expressly dependent upon implementing regulations that BJA is authorized to issue: (1) ''[i]n any case in which [BJA] determines, under regulations issued pursuant to [the Act,] that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty,'' BJA is to provide a one-time financial benefit to the statutorily-eligible survivors; (2) ''[i]n accordance with regulations pursuant to this [Act],'' BJA is to provide a one-time financial benefit to public safety officers who ''become permanently and totally disabled as the direct result of a catastrophic injury sustained in the line of duty''; and (3) pursuant to ''reasonable and necessary regulations'' that it may ''promulgate * * * to implement [the Act],'' BJA is to provide certain higher-education assistance for statutorily-eligible children and spouses of public safety officers who are killed or permanently and totally disabled in the line of duty. BJA—on which, by statute, the sole ''[r]esponsibility for making final determinations * * * rest[s]'' —is prepared to pay, in a timely fashion, every eligible claim relating to an officer who has died or been permanently and totally disabled in the line of duty, according to the requirements of the law.

Pursuant to the foregoing authorities, and to BJA's additional express statutory authority generally ''to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of [the Act]'' (which the statute also expressly provides will be ''determinative of conflict of laws issues arising under [the Act]''), this rule now is being proposed—(1) to implement various statutory amendments to the program; (2) to incorporate longstanding internal policies, practices, and guidance, as well as many judicial holdings, into the regulation; (3) to make certain refining and technical changes to the regulation; and (4) to restructure the regulation to make it easier for the public to use.

Recent statutory amendments to the PSOB program include section 305 of the Disaster Mitigation Act of 2000, Pub. L. 106–390 (''Disaster Mitigation Act'') (effective for injuries sustained on or after Oct. 30, 2000); sections 611 and 613 of the USA PATRIOT Act, Pub. L. 107–56 (the former section effective Oct. 26, 2001; the latter section effective retroactively for injuries occurring on or after Jan. 1, 2001); the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002, Pub. L. 107–196 (''Mychal Judge Act'') (effective retroactively for injuries occurring on or after Sept. 11, 2001); and the Hometown Heroes Survivors Benefits Act of 2003, Pub. L. 108–182 (''Hometown Heroes Act'') (effective for injuries sustained on

or after Dec. 15, 2003). These amendments represent an expansion of the scope of the PSOB Act and clarify some of its provisions.

Section 305 of the Disaster Mitigation Act amended the PSOB Act to include certain public employees performing disaster relief activities as eligible public safety officers. Under the amendment, eligible disaster relief workers include those performing official duties as either employees of the Federal Emergency Management Agency (FEMA) or employees of state, local or tribal emergency management agencies or civil defense agencies performing official duties in cooperation with FEMA; and such official duties must be conducted in relation to a major disaster or emergency and must be hazardous in nature. Pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a), the proposed rule would provide a convenient, short-hand label for these particular employees, defining them in proposed 28 CFR 32.3 as ''disaster relief worker[s],'' in keeping with the requirements described in the PSOB Act at 42 U.S.C. 3796b(8)(B) and (C); and would make corresponding amendments to the ''line of duty'' provisions found in the current regulation.

Section 611 of the USA PATRIOT Act provides for expedited payment of death and disability benefits under specific circumstances relating to a ''terrorist attack,'' authorizing BJA to accept certain certifications from employing public agencies as prima facie evidence in determining claims for those benefits that arise from those circumstances. Section 611 thus creates a statutory distinction between cases described in that section (where resort to certain certifications as prima facie evidence is authorized) and all others (where resort to such certifications as prima facie evidence is not authorized). Pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a), in addition to proposing a few other implementing provisions (generally of a clarifying nature), the proposed rule defines ''terrorist attack,'' largely by reference to analogous definitions enacted in the USA PATRIOT Act itself, but also taking into account the circumstances that prompted the enactment of section 611 and the rationale that supports the statutory distinction that section makes. The proposed definition of ''terrorist attack'' specifies the Department of Justice officers who must make determinations thereunder, and the standards they are to apply in making them; these officers, of course, may delegate their authority to make these determinations to any of their subordinates. It should be noted, however, that any determinations that may be made pursuant to the proposed definition of ''terrorist attack'' would be only for the purpose of establishing what PSOB Act claims may fall within the scope of section 611 of the USA PATRIOT Act, and should not be understood to apply in any other context, or to create any inference that prosecution is warranted under the criminal code; *e.g.*, at 18 U.S.C. 2332b (if only because the standard proposed in the rule is less stringent than the standard required for a designation of international terrorism under 18 U.S.C. 2332b).

Section 613(a) of the USA PATRIOT Act increased the base amount for PSOB death and disability benefit awards to $250,000, which is adjustable for inflation pursuant to 42 U.S.C. 3796(h). This amendment does not affect amounts payable for deaths or injuries occurring before January 1, 2001. Unlike the current regulation, the proposed rule does not specify specific dollar amounts for death and disability benefit awards (which quickly would fall out of date, as a result of the statutory inflation adjustment), thus avoiding the potential for confusion of the public.

The Mychal Judge Act provides that certain chaplains may be eligible public safety officers under the PSOB Act. Just as with law enforcement officers, firefighters, and ambulance crew and rescue squad members, covered chaplains must be serving a public agency in an official capacity, with or without compensation, at the time of death or catastrophic injury. Pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a), the proposed rule implements this amendment to the PSOB Act by clarifying the definition of the term ''chaplain'' and by correspondingly expanding the provision in the current regulation relating to ''line of duty.''

The Mychal Judge Act also provides that in cases where an officer has died without a surviving spouse or eligible children, the person designated as beneficiary on the officer's ''most recently executed life insurance policy'' shall receive the PSOB benefit. Pursuant to 42 U.S.C. 3796(a) and 3796c(a), the proposed rule provides the definitions and procedures necessary to process claims for this category of beneficiary (*e.g.*, ''execution of a life insurance policy,'' ''most recently executed life insurance policy of a public safety officer,'' ''beneficiary of a life insurance policy of a public safety officer'').

The Hometown Heroes Act amends the PSOB Act to make certain provisions for public safety officers who die as a result of heart attack or stroke under certain circumstances expressly set forth in the amendment. Specifically, the amendment creates a statutory presumption of death by a line of duty injury, which may be rebutted by ''competent medical evidence to the contrary,'' in cases where a public safety officer dies of heart attack or stroke while engaging in, (or within 24 hours of engaging in) ''nonroutine stressful or strenuous physical [line of duty] activity.'' Where the requirements of the Hometown Heroes Act are not met (*e.g.,* where disability (rather than death) results), the absence of the statutory presumption does not necessarily entail the failure of claims based on heart attack or stroke; all such claims, rather, are governed by the ordinary rules otherwise applicable to the PSOB program. *See, e.g.*, *Greeley* v. *United States,* 50 F.3d 1009 (Fed. Cir. 1995); *Durco* v. *United States,* 14 Cl. Ct. 424 (1988); *North* v. *United States,* 555 F.Supp. 382 (Cl. Ct. 1982); *Russell* v. *United States,* 231 Ct. Cl. 1022 (1982); *Smykowski* v. *United States*, 647 F.2d 1103 (Ct. Cl. 1981); *Morrow* v. *United States,* 647 F.2d 1099 (Ct. Cl. 1981).

A consequence of the new statutory language is that several new terms, which were not previously included in the PSOB Act, need to be defined to implement the amendment. With the clarity provided by the proposed rule, the user will have a better appreciation for how the amendment will be implemented by BJA, the hearing officer, and the judiciary. In drafting the regulatory definitions for these terms pursuant to 42 U.S.C. 3796(a) and 3796c(a), BJA consulted extensively with the Armed Forces Institute of Pathology and other medical experts knowledgeable in the field of cardiovascular disease and work-life-related diseases and afflictions, with particular focus on the circumstances surrounding heart attacks and strokes among public safety officers. Further, in order to elicit input and appreciate any potential concerns of the practitioners, BJA held several meetings with groups such as the Fraternal Order of Police Grand Lodge, NC State Fireman's Association, International Association of the Chiefs of Police, the National Fire Fighters Foundation, National Sheriffs Association, Congressional Fire Services Institute, and Concerns of Police Survivors. It is only after receiving much guidance and input from these experts, and considering and deliberating over their advice that the regulation is now proposed for public comment. (In noting that various individuals and groups participated in meetings and discussions with OJP staff, OJP does not wish to imply that these individuals or groups have or have not

endorsed the provisions contained within the proposed rule.)

This program has evolved over three decades, and internal agency policy, practice, and guidance—based on internal legal opinions, on judicial rulings, and on the considerable and broad-ranging experience and expertise BJA has derived from innumerable claims—have come increasingly to inform the agency's decision-making, gradually taking on significant authority. Little of this is reflected on the face of the current regulation, however. And unfortunately, despite attempts over the years variously to disseminate information on BJA's evolving policy, practice, and guidance, to potential beneficiaries and their representatives, the efforts have been less successful than OJP would like. For example, since November 1981, the publication, *Legal Interpretations of the Public Safety Officers' Benefits Act*, has been a guiding authority for BJA, program hearing officers, OJP, and the judiciary. This publication has been relied upon so much that the legal opinions found in this publication have been quoted as authority in numerous cases decided by the United States Court of Federal Claims (and its predecessors) and United States Court of Appeals for the Federal Circuit. *E.g., Yanco* v. *United States*, 258 F.3d 1356 (Fed. Cir. 2001); *Chacon* v. *United States* , 48 F.3d 508 (Fed. Cir. 1995), *aff'g* 32 Fed. Cl. at 687–688; *Durco*, 14 Cl. Ct. at 427; *Tafoya* v. *United States*, 8 Cl. Ct. 256, 262–265 (Cl. Ct. 1985); *North*, 555 F.Supp. at 386; *Morrow*, 647 F.2d at 1101–1102. Unfortunately, many are not aware of this publication's availability, or of its value in indicating the relevant BJA internal policies and practice. A principal reason for the proposed rule, therefore, is OJP's desire that the most significant internal guiding principles, opinions, policy, practice, and other information about the program be readily available, transparent, and easier for the public, including public safety officers and their survivors, and practitioners, to understand and apply.

The regulation currently is configured in such a way that simply introducing the new material described above into the existing language would be inadvisable. For this reason, OJP has taken the opportunity to propose a simplification and restructuring of the entire regulation, breaking it down into six distinct subparts. Pursuant to 42 U.S.C. 3796(a) and (b), 3796c(a), and 3796d–3(a), Subpart A proposes general terms and procedures common to all three PSOB benefit components. Pursuant to 42 U.S.C. 3796(a) and 3796c(a), Subpart B proposes terms and procedures applicable only to the death benefit component; pursuant to 42 U.S.C. 3796(b) and 3796c(a), Subpart C proposes those applicable only to the disability benefit component; and pursuant to 42 U.S.C. 3796d–3(a) and 3796c(a), Subpart D proposes those applicable only to the educational assistance benefit component. Accordingly, pursuant to the proposed rule, those seeking to understand the basic law applicable to any one of these three PSOB benefits must refer to the PSOB Act itself, of course, and thereafter only to Subpart A (General Provisions) and to the applicable Subpart for the benefit at issue (be it Subpart B, C, or D). At present, for example, a disability claimant would by necessity have to skip around the regulation to appreciate what may be necessary for his particular type of claim; under the proposed rule, he would have to read only the Act itself, and Subparts A and C.

Pursuant to 42 U.S.C. 3796(a) and (b), 3796c(a), and 3796d–3(a), the last two subparts, Subparts E and F, propose procedures for hearing officer determinations and intra-agency review.

The various ''Definitions'' sections proposed in the subparts comprise three different types of definitions: (1) A concise comprehensive explanation of a precise term or phrase (*e.g.*, ''Adopted child of a public safety officer means * * *.''); (2) a non-comprehensive, non-exhaustive definition (*e.g.*, ''Independent contractor includes * * *.''); or (3) a contextual definition, setting forth the meaning of the term as used only in a particular or specific context (*e.g.*, ''Cause—A death, injury, or disability is caused by intentional misconduct if * * *.'').

The general consonance of the express provisions of the proposed rule with the substance of current practice, *see, e.g., Porter* v. *United States*, 63 Fed. Cl. 143 (2005); *One Feather* v. *United States*, 61 Fed. Cl. 619 (2004), should not be understood to suggest that some differences are not being proposed. The current regulation, for example, at 28 CFR 32.2(c), .4, and .5, contains provisions that differ significantly from those proposed here pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a). As a result, the holdings in *Bice* v. *United States*, 61 Fed. Cl. 420 (2004); *Davis* v. *United States*, 50 Fed. Cl. 192 (2001); and *Davis* v. *United States*, 46 Fed. Cl. 421 (2000), and that portion of the holding in *Demutiis* v. *United States*, 48 Fed. Cl. 81 (2000) that was affirmed in 291 F.3d 1373 (Fed. Cir. 2002)—all of which are grounded in one or more of those three sections of the current regulation—would be affected much as the holding in *Melville* v. *United States*, 231 Ct. Cl. 776 (1982), and a portion of the holding in *Harold* v. *United States*, 634 F.2d 547, 549–552 (Ct. Cl. 1980), were nullified or rendered moot by subsequent amendments to the PSOB Act itself, and the jurisdictional portion of the holding in *Russell*, 637 F.2d at 1256–1260, was nullified by subsequent amendments to the Omnibus Crime Control and Safe Streets Act of 1968, *see, e.g., Davis* v. *United States*, 169 F.3d 1196 (9th Cir. 1999); *Wydra* v. *United States*, 722 F.2d 834 (D.C. Cir. 1983); *Tafoya* v. *Dept of Justice*, 748 F.2d 1389 (10th Cir. 1984); *see also, e.g., LaBare* v. *United States*, No. C04–4974 MHP, slip op. at 3–5 (N.D. Ca. Mar. 10, 2005); *Ramos-Vélez* v. *United States*, 826 F.Supp. 615 (D. P.R. 1993); *Russell* v. *Law Enforcement Assistance Administration*, 637 F.2d 354 (5th Cir. Unit A 1981); *Lankford* v. *Law Enforcement Assistance Administration*, 620 F.2d 35 (4th Cir. 1980), of which the PSOB Act is a part.

Further to the foregoing general discussion, the following are a number of specific items that, pursuant to the proposed rule, would be reflected in the regulation:

1. Line of Duty

Since the original enactment of the PSOB Act, BJA and courts uniformly have recognized the nature of the acts performed by a public safety officer is key to determining whether he suffered a line-of-duty injury within the meaning of the Act. *See, e.g., Tafoya*, 8 Cl. Ct. at 262; *Harold*, 634 F.2d at 551–552. In keeping with these decisions and pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a), the definitions of ''line of duty activity or action'' and ''line of duty injury'' in the proposed rule, which largely are drawn from provisions in the existing regulations and practice, make clear that in order for an injury to be considered a ''line of duty injury,'' the injury must occur when the public safety officer is engaged in activity or an action that he is obligated or legally authorized to perform as a public safety officer, *see, e.g., Wydra* v. *United States*, No. 764–83C, slip op. (Cl. Ct. Jan. 31, 1986); *North*, 555 F.Supp. at 387; *Howard* v. *United States*, 229 Ct. Cl. 507, 510 (1981); *Budd* v. *United States*, 225 Ct. Cl. 725 (1980), with the cognizance of the officer's public agency, which typically is in the best position to provide line-of-duty evidence in connection with a claim under the Act.

Additionally, and also pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a), the proposed rule defines ''authorized

commuting'' by setting out the specific circumstances where a public safety officer would be considered to be engaged in a line of duty action or activity while commuting to or from work, or to a particular emergency. Essentially, this definition articulates—for the first time in a regulation—three particular exceptions to the ''coming and going rule'' that have been recognized by the PSOB Program since soon after the original enactment of the Act. See, *e.g.*, *Russell*, 637 F.2d at 1265–1266.

2. Serving a Public Agency in an Official Capacity

The PSOB Act defines the term ''public safety officer,'' for most purposes, as ''an individual serving a public agency in an official capacity'' as a law enforcement officer, firefighter, chaplain, or rescue squad or ambulance crew member. 42 U.S.C. 3796b(8). The Act also defines ''public agency'' as a government (Federal, State, territorial, or of a district or possession of the United States) or ''any unit of local government, department, agency, or instrumentality of any of the foregoing.'' 42 U.S.C. 3796b(7). Some confusion has arisen over the years as to whether employees or volunteers who serve independent contractors or non-public entities that are working for public agencies are ''serving a public agency in an official capacity'' or are ''employees'' within the meaning of the PSOB Act, or whether those independent contractors or non-public entities are ''instrumentalities'' of public agencies within the meaning of the Act. Although BJA's application of all the foregoing terms (largely drawn from pre-existing law, *see, e.g., Taylor* v. *Standard Gas and Electric Co.*, 96 F.2d 693, 704 (1938)) has been consistent over the years, *see, e.g., LaBare*, slip op. at 2, 6; *Porter*, 63 Fed. Cl. at 143 n.5; *Chacon*, 48 F.3d at 511–513, *aff'g* 32 Fed. Cl. at 687–689; *Holstine*, slip op. at 1–2, the current regulation does not on its face reflect that application well. In an effort to assist claimants, pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a), the proposed rule sets out key definitions to clarify these terms within the four corners of the regulation. For example, the definition of the term ''instrumentality'' would set forth requirements that the entity in question be legally established, act as a functional part of a public agency, function with a solely public character, and serve the public indiscriminately, and be cloaked with the authority of a public agency for purposes of sovereign immunity or tort liability. For another example, the definition of ''official capacity'' would clarify that an individual serves a public agency in an official capacity if his service is ''officially authorized, -recognized, or -designated as functionally within or part of'' a public agency, and ''his acts and omissions, while so serving, are legally those of'' his public agency, which recognizes them as such. *See, e.g., Chacon*, 48 F.3d at 512, *aff'g* 32 Fed. Cl. at 687–688.

3. Law Enforcement Officer

Over several decades of administering the PSOB Act, BJA has received a number of claims with respect to individuals who did not have authority actually to engage in ''crime and juvenile delinquency control or reduction, or enforcement of the laws'' in the way that ''police, corrections, probation, parole, or judicial officers''—who are specified in the Act—do. 42 U.S.C. 3796b(7). Claimants there argued unsuccessfully that tenuous or distant connections to the criminal law made the decedent (or disabled person) a ''law enforcement officer'' within the meaning of the Act. The PSOB Act is not intended to cover all personnel who may happen to be employed by a law enforcement agency, but only those who actually are ''law enforcement officers.'' For this reason, pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a), the proposed rule clarifies the definition of ''law enforcement officer'' in the PSOB Act by defining—for the first time as a matter of regulation rather than policy—the terms ''crime,'' ''criminal law,'' ''enforcement of the criminal law,'' ''enforcement of the laws,'' and ''involvement.''

4. Firefighter/Rescue Squad/Ambulance Crew Member

The definition of firefighter in the PSOB Act combines two distinct concepts by providing that the term ''firefighter'' includes a ''public employee member of a rescue squad and ambulance crew.'' In order to avoid the confusion that has arisen in certain cases where it was not clear whether an individual's actual authority was to act as a firefighter or as a public employee member of a rescue squad or ambulance crew, pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a), the proposed rule bifurcates the statutory definition of ''firefighter'' as it appears in the PSOB Act into two separate regulatory definitions—''firefighter'' and ''rescue squad or ambulance crew member''—each of which provides more specific descriptions of the nature of each position. With this change, a rescue squad or ambulance crew member would be covered as a ''rescue squad or ambulance crew member,'' as a matter of regulation, rather than as a ''firefighter,'' as a matter of statute. In either case, however, the substance of the result mandated by the Act, *see, e.g., Chacon*, 48 F.3d at 512–513, *aff'g* 32 Fed. Cl. at 688–689, of course, would remain the same.

5. Injury

The proposed rule defines ''injury'' using nearly identical language from the existing PSOB regulation for ''traumatic injury'': A ''traumatic physical wound (or a traumatized physical condition of the body) caused by some external force * * * but excluding stress or strain.'' *See Greeley*, 50 F.3d at 1011–1012; *Canfield* v. *United States*, No. 339–79, slip op. at 1–2 (Fed. Cir. Dec. 29, 1982), *rev'g* No. 339–79C, slip op. (Ct. Cl. July 27, 1982); *Durco*, 14 Cl. Ct. at 428; *North*, 555 F.Supp. at 387; *Russell*, 231 Ct. Cl. at 1025; *Smykowski*, 647 F.2d at 1105; *Morrow*, 647 F.2d at 1101. Pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a), the proposed rule, which is consonant with current practice with respect to injury generally, *see, e.g., Brister* v. *United States*, No. 01–180C, slip op. at 3–6 (Fed. Cl. Mar. 27, 2002); *Cartwright* v. *United States*, 16 Cl. Ct. 238 (1989), clarifies the definition of ''injury'' with respect to ''mental strain,'' to conform to the express reading of the Federal Circuit Court of Appeals in *Yanco*, 258 F.3d at 1365, *aff'g* 45 Fed. Cl. 782, 788–792 (2002); *see Porter*, 63 Fed. Cl. at 149 & n.6; *Davison* v. *United States*, No. 99–361C, slip op. at 8–11 (Fed. Cl. Apr. 19, 2002).

6. Disability

Current rules pertaining to the disability benefit are simplified in proposed Subpart C, which (pursuant to 42 U.S.C. 3796(b) and 3796c(a)) independently defines ''permanently disabled'' and ''totally disabled,'' in recognition that a subject officer may meet the criteria of one or the other requirement, but not both. Also pursuant to 42 U.S.C. 3796(b) and 3796c(a), the proposed rule, which otherwise conforms to existing practice, *see, e.g., Porter,* 63 Fed. Cl. at 147–150, incorporates an entirely new procedural alternative into the disability benefit claim process, allowing for ''reconsideration'' of certain disability denial determinations, at the option of the claimant. The procedure for reconsideration of disability claims responds to the reality that a line of duty injury may not have caused the public safety officer to be totally and permanently disabled at the time of the initial claim application, but may do so with the passage of time.

7. Limitations on Benefits

Pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a), the proposed rule defines a number of terms to implement the provision in the PSOB Act that sets forth limitations on benefits when public safety officer misconduct has occurred, (e.g., ''intention,'' ''disturbance,'' ''drugs or other substances,'' ''gross negligence,'' ''intentional misconduct,'' ''intentional action or activity,'' ''voluntary intoxication at the time of death or catastrophic injury,'' and ''mental faculties''). *See* 42 U.S.C. 3796a. These definitions essentially are drawn from the existing regulations or current practice. *See, e.g., Wydra*, slip op. at 3–5; *Tafoya*, 8 Cl. Ct. at 260–266; *Harold*, 229 Ct. Cl. at 508–510; *Budd*, 225 Ct. Cl. at 727–730. Also pursuant to 42 U.S.C. 3796(a) and (b), and 3796c(a), the rule proposes evidentiary standards to determine if a public safety officer was intoxicated by drugs or other substances, by incorporating terms used in the Controlled Substances Act (21 U.S.C. 802(6) and 812(a)). In this way, the rule proposes to provide a workable mechanism by which to determine an occurrence of voluntary intoxication by drugs, which mechanism would parallel the one set forth in the PSOB Act itself for intoxication by alcohol. *See* 42 U.S.C. 3796b(5).

8. Timing for Filing Claims; Redeterminations; Appeals; Review by Director

Pursuant to 42 U.S.C. 3796(a) and (b), 3796c(a), and 3796d–3(a), the rule proposes clear procedural schedules for filing and notice requirements, and clear provisions for exhaustion of remedies, applicable to each stage of a PSOB claim. These schedules and provisions, which generally are derived from current practice, *see, e.g., LaBare*, slip op. at 5; *Yanco*, 45 Fed. Cl. at 793; *Tafoya*, 8 Cl. Ct. at 259–260 nn.2 & 4, advance the efficient and effective administrative processing of claims, and avoid undue delay on the part of the PSOB Office, the hearing officer, or BJA, or the claimant. The proposed schedules would provide specific periods of time by the end of which filings of requests, motions, appeals, etc., would have to be actually received by BJA. In most instances in which a time period related to a filing is proposed, the timeframe is thirty-three (33) days, which is derived from a standard thirty-day period, plus three additional days—thereby incorporating the additional time customarily given to parties in civil litigation, under the ''Mailbox Rule,'' when mailing their filings. *See, e.g.*, Fed. R. Civ. P. 6(e). A definitive, concrete, and easily-established timeframe would allow for the timely disposition of claims.

Generally, the rule proposes the following scheme: If a claim is denied by the PSOB Office, a claimant may request a determination by a hearing officer, whereupon, the hearing officer conducts a *de novo* review of the claim and issues a determination. If the hearing officer denies the claim, the claimant may opt to appeal to the Director of BJA; where a hearing officer's determination results in an approval of a claim, the Director shall review it.

II. Regulatory Certifications

Administrative Procedure Act

The Office of Justice Program's publishing of the proposed rule with a comment period of 30 (thirty) days is to facilitate the timely implementation of the amendments in order to bring resolution to an estimated sixty-five Hometown Heroes Act cases that require the guidance in this regulation in order to be determined. To extend the comment period beyond this timeframe would unnecessarily delay the implementation of the provisions of this proposed rule and would be contrary to the public interest because it is in the public interest to pay in an expeditious manner benefits to public safety officers, or their family members.

Regulatory Flexibility Act

The Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: This proposed rule addresses Federal agency procedures; furthermore, this proposed rule makes minor amendments to clarify existing regulations and agency practice concerning death and disability payments and assistance to eligible public safety officers and their survivors and does nothing to increase the financial burden on any small entities.

Executive Order 12866

This proposed rule has been drafted and reviewed in accordance with Executive Order No. 12866 (Regulatory Planning and Review), sec. 1(b), Principles of Regulation. The costs of implementing this proposed rule are minimal. Claimants must complete and submit no more than three forms; a ''Claim for Death Benefits,'' OMB Form No. 1121–0024; a ''Report of Public Safety Officer's Death,'' OMB Form No. 1121–0025; and a ''Consent to Release Information'' pursuant to 5 U.S.C. 552a(b); and supply adequate documentation concerning the public safety officer death. The only costs to OJP consist of appropriated funds. The benefits of the proposed rule far exceed the costs. The minor amendments clarify the preexisting regulations and provide coverage for chaplains, life insurance beneficiaries, and the survivors of certain heart attack and stroke victims.

The Office of Justice Programs has determined that this proposed rule is a ''significant regulatory action'' under Executive Order No. 12866 (Regulatory Planning and Review), sec. 3(f), and accordingly this proposed rule has been reviewed by the Office of Management and Budget.

Executive Order 13132

This proposed rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. The PSOB Act provides benefits to individuals and does not impose any special or unique requirements on States or localities. Therefore, in accordance with Executive Order No. 13132, it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12988—Civil Justice Reform

This proposed rule meets the applicable standards set forth in secs. 3(a) & (b)(2) of Executive Order No. 12988.

Unfunded Mandates Reform Act of 1995

This proposed rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. The PSOB Act is a federal benefits program that provides benefits directly to qualifying individuals. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This proposed rule

will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

The collection of information requirements contained in this interim rule have been submitted to and approved by OMB, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). Claimants seeking benefits under the PSOB Act must complete and return two OMB-approved forms: a ''Claim for Death Benefits,'' OMB Form No. 1121 0024; and a ''Report of Public Safety Officer's Death,'' OMB Form No. 1121–0025.

List of Subjects in 28 CFR Part 32

Administrative practice and procedure, Claims, Disability benefits, Education, Emergency medical services, Firefighters, Law enforcement officers, Reporting and recordkeeping requirements, Rescue squad.

Accordingly, for the reasons set forth in the preamble, part 32 of chapter I of Title 28 of the Code of Federal Regulations is proposed to be revised to read as follows:

PART 32—PUBLIC SAFETY OFFICERS' DEATH, DISABILITY, AND EDUCATIONAL ASSISTANCE BENEFIT CLAIMS

Sec.
32.0 Scope of part.

Subpart A—General Provisions

32.1 Scope of subpart.
32.2 Computation of time.
32.3 Definitions.
32.4 Terms; construction, severability.
32.5 Evidence.
32.6 Payment and repayment.
32.7 Fees for representative services.
32.8 Exhaustion of administrative remedies.

Subpart B—Death Benefit Claims

32.11 Scope of subpart.
32.12 Time for filing claim.
32.13 Definitions.
32.14 PSOB Office determination.
32.15 Prerequisite certification.
32.16 Payment.
32.17 Request for Hearing Officer determination.

Subpart C—Disability Benefit Claims

32.21 Scope of subpart.
32.22 Time for filing claim.
32.23 Definitions.
32.24 PSOB Office determination.
32.25 Prerequisite certification.
32.26 Payment.
32.27 Motion for reconsideration of disability finding.
32.28 Reconsideration of disability finding.
32.29 Request for Hearing Officer determination.

Subpart D—Educational Assistance Benefit Claims

32.31 Scope of subpart.
32.32 Time for filing claim.
32.33 Definitions.
32.34 PSOB Office determination.
32.35 Disqualification.
32.36 Payment and repayment.
32.37 Request for Hearing Officer determination.

Subpart E—Hearing Officer Determinations

32.41 Scope of subpart.
32.42 Time for filing request for determination.
32.43 Appointment and assignment of Hearing Officers.
32.44 Determination.
32.45 Hearings.
32.46 Appeal.

Subpart F—Appeals & Reviews

32.51 Scope of subpart.
32.52 Time for filing appeal.
32.53 Review.
32.54 Determination.
32.55 Appeal.

Authority: Public Safety Officers' Benefits Act of 1976 (42 U.S.C. ch. 46, subch. 12).

§ 32.0 Scope of part.

This part implements the Act.

Subpart A—General Provisions

§ 32.1 Scope of subpart.

This subpart contains provisions generally applicable to this part.

§ 32.2 Computation of time.

(a) In computing any period of time prescribed or allowed, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a federal legal holiday, or, when the act to be done is a filing with the PSOB Office, a day on which weather or other conditions have caused that Office to be closed or inaccessible, in which event the period runs until the end of the next day that is not one of the aforedescribed days.

(b) A filing is deemed filed with the PSOB Office, a Hearing Officer, the Director, or any other OJP office, officer, or employee, only on the day that it actually is received by the same. When a filing is prescribed to be filed with more than one of the foregoing, the filing shall be deemed filed as of the day the last one actually receives the same.

(c) Notice is served by the PSOB Office upon an individual on the day that it is—

(1) Mailed, by regular U.S. mail, addressed to the individual (or to his representative) at his (or his representative's) last address known to such Office;

(2) Delivered to a courier or other delivery service, addressed to the individual (or to his representative) at his (or his representative's) last address known to such Office; or

(3) Sent by electronic means such as telefacsimile or electronic mail, addressed to the individual (or to his representative) at his (or his representative's) last telefacsimile number or electronic-mail address, or other electronic address, known to such Office.

(d) In the event of withdrawal or abandonment of a filing, the time periods prescribed for the filing thereof shall not be tolled, unless, for good cause shown, the Director grants a waiver.

§ 32.3 Definitions

Act means the Public Safety Officers' Benefits Act of 1976 (42 U.S.C. 3796, *et seq.*; part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968), as applicable according to its effective date and those of its various amendments (*e.g.*, Sept. 29, 1976 (deaths of State and local law enforcement officers and firefighters); Oct. 12, 1984 (deaths of disaster relief workers and Federal law enforcement officers and firefighters); Oct. 18, 1986 (rescue squad and ambulance crew members); Nov. 29, 1990 (disabilities); Nov. 13, 1998 (educational assistance); Sept. 11, 2001 (chaplains and insurance beneficiaries); Dec. 15, 2003 (certain heart attacks and strokes)), including Public Law 107–37 and sections 611 and 612 of the USA PATRIOT Act.

Adopted child of a public safety officer means any individual who, as of the event date, was—

(1) Known by the public safety officer not to be his biological child; and

(2) After the officer obtained such knowledge,

(i) Legally adopted by him; or

(ii) In a parent-child relationship with him.

Authorized commuting means travel by a public safety officer—

(1) In the course of actually responding to a fire, rescue, or police emergency; or

(2) Between home and work (at a situs authorized or required by the public agency he serves)—

(i) Using a vehicle provided by such agency, pursuant to a requirement or

authorization by such agency that he use the same for commuting; or

(ii) Using a vehicle not provided by such agency, pursuant to a requirement by such agency that he use the same for work.

BJA means the Bureau of Justice Assistance, OJP.

Cause—A death, injury, or disability is caused by intentional misconduct if—

(1) The misconduct is a substantial factor in bringing it about; and

(2) It is a reasonably foreseeable result of the misconduct.

Chaplain means a clergyman, or other individual trained in pastoral counseling, who meets the definition provided in the Act, at 42 U.S.C. 3796b(2).

Child means an individual—

(1) Who—

(i) Meets the definition provided in the Act, at 42 U.S.C. 3796b(3), in any claim—

(A) Arising from a public safety officer's death in which the death was simultaneous (or practically simultaneous) with the injury; or

(B) In which the claimant is the officer's—

(1) Biological child, born after the event date; or

(2) Legally-adopted child, legally adopted by him after the event date; or

(ii) In any claim not described in paragraph (1)(i) of this definition, meets (as of the event date) the definition provided in the Act, at 42 U.S.C. 3796b(3), *mutatis mutandis* (*i.e.*, with ''deceased'' and ''death'' being substituted, respectively, by ''deceased or disabled'' and ''injury''); and

(2) With respect to whom the public safety officer's parental rights have not been terminated, as of the event date.

Convincing evidence means clear and convincing evidence.

Crime means criminal misdemeanor or felony.

Criminal law means that body of law that declares what acts or omissions are crimes and prescribes the punishment that may be imposed for the same.

Department or agency—An entity is a department or agency within the meaning of the Act, at 42 U.S.C. 3796b(7), only if the entity is—

(1) A court;

(2) An agency described in the Act, at 42 U.S.C. 3796b(8)(B) or (C); or

(3) Otherwise a public entity—

(i) That is legally an express part of the internal organizational structure of the relevant government;

(ii) That has no legal existence independent of such government; and

(iii) Whose obligations, acts, omissions, officers, and employees are legally those of such government.

Dependent has the same meaning provided in the Internal Revenue Code, at 26 U.S.C. 152.

Determination means the approval or denial of a claim, or the determination described in the Act, at 42 U.S.C. 3796(c).

Director means the Director of BJA.

Disaster relief worker means any individual who meets the definition provided in 42 U.S.C. 3796b(8)(B) or (C).

Disturbance includes any significant and negative alteration, any significant deviation from the objectively normal range, or any significant deterioration.

Divorce means a legally-valid divorce from the bond of wedlock, except that, notwithstanding any other provision of law, a spouse (or purported spouse) of an individual shall be considered to be divorced from that individual within the meaning of this definition if, subsequent to his marriage (or purported marriage) to that individual, the spouse—

(1) Holds himself out as being divorced from, or not being married to, the individual;

(2) Holds himself out as being married to another individual; or

(3) Was a party to a ceremony purported by the parties thereto to be a marriage between the spouse and another individual.

Drugs or other substances means controlled substances within the meaning of the drug control and enforcement laws, at 21 U.S.C. 802(6).

Educational/academic institution means an institution whose primary purpose is educational or academic learning.

Employee does not include—

(1) Any independent contractor; or

(2) Any individual who is not eligible to receive death or disability benefits from the purported employer on the same basis as a regular employee of such employer would.

Enforcement of the criminal law includes control or reduction of crime or of juvenile delinquency.

Enforcement of the laws means enforcement of the criminal law.

Event date means the time of a public safety officer's—

(1) Fatal injury, with respect to a claim under—

(i) Subpart B of this part; or

(ii) Subpart D of this part, by virtue of his death; or

(2) Totally and permanently disabling injury, with respect to a claim under—

(i) Subpart C of this part; or

(ii) Subpart D of this part, by virtue of his disability.

Filing means any claim, request, motion, election, petition, or appeal, and any item or matter (*e.g.*, evidence, certifications, legal arguments, or lists) that is, or may be, filed with the PSOB Office.

Fire, rescue, or police emergency includes disaster-relief emergency.

Firefighter means an individual, other than a rescue squad or ambulance crew member, who—

(1) Is trained in—

(i) Extinguishing or containing fire; or

(ii) Emergency response to the threatened or actual release of hazardous materials, where life, property, or the environment is at significant risk; and

(2) Has the legal authority and responsibility to engage in activity described in paragraph (1) of this definition, as—

(i) An employee of the public agency he serves, which legally recognizes him to have such (or, at a minimum, does not deny (or has not denied) him to have such); or

(ii) An individual otherwise included within the definition provided in the Act, at 42 U.S.C. 3796b(4).

Gross negligence means great, heedless, wanton, indifferent, or reckless departure from ordinary care, prudence, diligence, or safe practice—

(1) In the presence of serious risks that are known or obvious;

(2) Under circumstances where it is highly likely that serious harm will follow; or

(3) In situations where a high degree of danger is apparent.

Independent contractor includes any volunteer, servant, employee, contractor, or agent, of an independent contractor.

Injury means a traumatic physical wound (or a traumatized physical condition of the body) caused by external force (such as bullets, explosives, sharp instruments, blunt objects, or physical blows), chemicals, electricity, climatic conditions, infectious disease, radiation, virii, or bacteria, but does not include any occupational disease, or any condition of the body caused or occasioned by stress or strain.

Instrumentality means entity, and does not include any individual, except that no entity shall be considered an instrumentality within the meaning of the Act, at 42 U.S.C. 3796b(7), unless, as of the event date,

(1) The entity—

(i) Is legally established, recognized, or organized, such that it has legal existence; and

(ii) Is so organized and controlled, and its affairs so conducted, that it operates and acts solely and exclusively as a functional part of the relevant government, which legally recognizes it

as such (or, at a minimum, does not deny (or has not denied) it to be such); and

(2) The entity's—

(i) Functions and duties are solely and exclusively of a public character;

(ii) Services are provided generally to the public as such government would provide if acting directly through its public employees (i.e., they are provided without regard to any particular relationship (such as a subscription) a member of the public may have with such entity); and

(iii) Acts and omissions are, and are recognized by such government as (or, at a minimum, not denied by such government to be), legally—

(A) Those of such government, for purposes of sovereign immunity; or

(B) The responsibility of such government, for purposes of tort liability.

Intention—A death, injury, or disability is brought about by a public safety officer's intention if—

(1) An intentional action or activity of his is a substantial factor in bringing it about; and

(2) It is a reasonably foreseeable result of the intentional action or activity.

Intentional action or activity means action or activity that is—

(1) A result of conscious volition, or otherwise voluntary;

(2) Not a result of legal insanity or of impulse that is legally and objectively uncontrollable; and

(3) Not performed under legal duress or legal coercion of the will.

Intentional misconduct—A public safety officer's action or activity is intentional misconduct if—

(1) As of the date it is performed,

(i) It—

(A) Is in violation of, or otherwise prohibited by, any statute, rule, regulation, condition of employment or service, official mutual-aid agreement, or other law; or

(B) Is contrary to the ordinary, usual, or customary practice of similarly-situated officers within the public agency in which he serves; and

(ii) He knows, or reasonably should know, that it is so in violation, prohibited, or contrary; and

(2) It—

(i) Is intentional; and

(ii) Is—

(A) Performed without reasonable excuse; or

(B) Objectively unjustified.

Involvement—An individual is involved in the enforcement of the criminal law only if he is an officer of a public agency and, in that capacity, has legal authority and -responsibility to arrest, apprehend, prosecute, adjudicate, correct or detain (in a prison or other detention or confinement facility), or supervise (as a parole or probation officer), persons who are alleged or found to have violated the criminal law, and is recognized by such agency, or the relevant government (or, at a minimum, not denied by such agency, or the relevant government), to have such authority.

Itemized description of representative services provided—A description of representative services provided is itemized only when it includes—

(1) The beginning and end dates of the provision of the services;

(2) An itemization of the services provided and the amount of time spent in providing them; and

(3) An itemization of the expenses incurred in connection with the services provided for which reimbursement is sought.

Kinds of public safety officers—The following are the different kinds of public safety officers:

(1) Law enforcement officers;

(2) Firefighters;

(3) Chaplains;

(4) Rescue squad or ambulance crew members; and

(5) Disaster relief workers.

Line of duty activity or action—Activity or an action is performed in the line of duty, in the case of a public safety officer who is—

(1) A law enforcement officer, firefighter, or rescue squad or ambulance crew member—

(i) Whose primary function (as applicable) is enforcement of the criminal law, suppression of fire, or rescue or ambulance activity, only if it is activity or an action that he is obligated or authorized by statute, rule, regulation, condition of employment or service, official mutual-aid agreement, or other law, to perform (including any social, ceremonial, or athletic functions to which he is assigned, or for which he is compensated), by the public agency he serves, and such agency (or the relevant government) legally recognizes it as such (or, at a minimum, does not deny (or has not denied) it to be such); or

(ii) Whose primary function is not enforcement of the criminal law, suppression of fire, or rescue or ambulance activity, only if—

(A) It is activity or an action that he is obligated or authorized by statute, rule, regulation, condition of employment or service, official mutual-aid agreement, or other law, to perform, by the public agency he serves, and such agency (or the relevant government) legally recognizes it as such (or, at a minimum, does not deny (or has not denied) it to be such); and

(B) It is performed in the course of enforcing the criminal law, preventing or suppressing fire, performing rescue or ambulance activity, or training for one of the foregoing, and such agency (or the relevant government) legally recognizes it as such (or, at a minimum, does not deny (or has not denied) it to be such);

(2) A disaster relief worker, only if it is activity or an action encompassed within the duties described in the Act, at 42 U.S.C. 3796b(8)(B) or (C), and the agency he serves (or the relevant government) legally recognizes it as such (or, at a minimum, does not deny (or has not denied) it to be such); or

(3) A chaplain, only if—

(i) It is activity or an action that he is obligated or authorized by statute, rule, regulation, condition of employment or service, official mutual-aid agreement, or other law, to perform, by the public agency he serves, and such agency (or the relevant government) legally recognizes it as such (or, at a minimum, does not deny (or has not denied) it to be such); and

(ii) It is performed in the course of responding to a fire, rescue, or police emergency, and such agency (or the relevant government) legally recognizes it as such (or, at a minimum, does not deny (or has not denied) it to be such).

Line of duty injury—An injury is sustained in the line of duty only if it is sustained in the course of—

(1) Performance of line of duty activity or a line of duty action; or

(2) Authorized commuting.

Mental faculties means brain function.

Occupational disease means a disease that routinely constitutes a special hazard in, or is commonly regarded as a concomitant of, an individual's occupation.

Official capacity—An individual serves a public agency in an official capacity only if—

(1) His service is officially authorized, -recognized, or -designated as functionally within or part of such agency; and

(2) His acts and omissions, while so serving, are legally those of such agency, which legally recognizes them as such (or, at a minimum, does not deny (or has not denied) them to be such).

Official duties means duties that are officially authorized, -recognized, or -designated by an employing entity, such that the performance of those duties is legally the action of such entity, which legally recognizes it as such (or, at a minimum, does not deny (or has not denied) it to be such).

Officially recognized or designated means officially recognized or officially designated.

OJP means the Office of Justice Programs, U.S. Department of Justice.

Parent means a father or a mother.

Parent-child relationship means a relationship between a public safety officer and another individual, in which the officer is the parent (other than biological or legally-adoptive), as shown by—

(1) A written acknowledgment of parenthood, signed by the officer;

(2) Specific identification of the officer's parenthood, in a final judicial decree ordering him to contribute to the individual's support, or to take some other burdensome action, for that reason;

(3) A public or religious record showing that the officer was the informant and naming him as the individual's parent;

(4) Affidavits or sworn statements from knowledgeable affiants without direct or indirect financial interest in any claim under the Act with respect to the officer, credibly attesting that the officer accepted the individual as his own child or otherwise held the individual out to be his own child;

(5) A record of a public agency, or of a private school or welfare agency, naming the officer, with his knowledge, as the individual's parent;

(6) The officer's claiming of the individual as his dependent child on his income tax return (if executed by the officer, or with his knowledge and consent); or

(7) Credible evidence otherwise clearly indicating the officer's acceptance of the individual as his own child or intention to hold the individual out to be his own child.

Performance of duties in a grossly negligent manner at the time of death or catastrophic injury means gross negligence, as of the event date, in the performance of line of duty activity or a line of duty action.

PSOB determining official means, as applicable, any of the following:

(1) The PSOB Office;

(2) The Hearing Officer; or

(3) The Director.

PSOB Office means the unit of BJA that directly administers the Public Safety Officers' Benefits program, except that, with respect to the making of any finding, determination, affirmance, reversal, assignment, authorization, decision, judgment, waiver, or other ruling, it means such unit, acting with the concurrence of OJP's General Counsel.

Public employee means—

(1) An employee of a government described in the Act, at 42 U.S.C. 3796b(7), (or of a department or agency thereof) and whose acts and omissions while so employed are legally those of such government, which legally recognizes them as such (or, at a minimum, does not deny (or has not denied) them to be such); or

(2) An employee of an instrumentality of a government described in the Act, at 42 U.S.C. 3796b(7) who is eligible to receive death or disability benefits from such government on the same basis as an employee of that government (within the meaning of paragraph (1) of this definition) would.

Public employee member of an entity means a member of an entity who is a public employee under the auspices of whose public agency employer the entity operates.

Public employee of an entity means a public employee whose public agency employer is the entity.

Qualified beneficiary—An individual is a qualified beneficiary under the Act, at 42 U.S.C. 3796c–1, only if he—

(1) Qualifies as a payee pursuant to a determination that—

(i) The requirements of the Act, at 42 U.S.C. 3796(a) or (b) (excluding the limitations relating to appropriations), as applicable, have been met; and

(ii) The provisions of this part, as applicable, relating to payees otherwise have been met; and

(2) Is not described in the Act, at 42 U.S.C. 3796a(4).

Representative services include expenses incurred in connection with such services.

Rescue squad or ambulance crew member means an ambulance worker, paramedic, emergency medical technician, or other similar rescue worker, who meets the definition provided in the Act, at 42 U.S.C. 3796b(4) (with the exception of that portion thereof relating to members of fire departments).

Spouse means an individual's lawful husband or wife, and includes a spouse living apart from the individual, other than pursuant to divorce, except that, notwithstanding any other provision of law, for an individual purporting to be a spouse on the basis of a common-law marriage (or a putative marriage) to be considered a spouse within the meaning of this definition, it is necessary (but not sufficient) for the jurisdiction of domicile of the parties to recognize such individual as the lawful spouse of the other.

Stepchild of a public safety officer means a legally-adoptive or biological child of a public safety officer's current, deceased, or former spouse, which child—

(1) Was born before the marriage of the officer and the spouse; and

(2) As of the event date, was known by the officer not to be his biological child and, after the officer obtained such knowledge,

(i) Received over half of his support from the officer;

(ii) Had as his principal place of abode the home of the officer and was a member of the officer's household; or

(iii) Was in a parent-child relationship with the officer.

Stress or strain includes physical strain, mental strain, post-traumatic stress disorder, and depression.

Student means an individual who meets the definition provided in the Act, at 42 U.S.C. 3796b(3)(ii), with respect to an educational/academic institution.

Substantial contributing factor—A factor substantially contributes to a death, injury, or disability, if—

(1) It contributed to the death, injury, or disability to a significant degree; or

(2) It is a substantial factor in bringing the death, injury, or disability about.

Substantial factor—A factor substantially brings about a death, injury, or disability, if—

(1) It alone was sufficient to have caused the death, injury, or disability; or

(2) No other factor (or series of factors) contributed to the death, injury, or disability to so great a degree as it did.

Suppression of fire means—

(1) Extinguishing or containing fire;

(2) Emergency response to the threatened or actual release of hazardous materials, where life, property, or the environment is at significant risk; or

(3) Performing rescue or emergency response activity of the kind performed by firefighters who have the legal authority and -responsibility to engage in the activity described in paragraph (1) of this definition.

Terrorist attack—An event or act shall be considered a terrorist attack for purposes of the Act, at 42 U.S.C. 3796c–1(a), only if—

(1) The Attorney General determines that there is a reasonable indication that it was an act of domestic or international terrorism within the meaning of the criminal terrorism laws, at 18 U.S.C. 2331; and

(2) The Director determines that it was of such extraordinary or cataclysmic character as to make particularized factual findings impossible, impractical, or unduly burdensome.

Voluntary intoxication at the time of death or catastrophic injury means the following:

(1) With respect to alcohol,

(i) In any claim arising from a public safety officer's death in which the death was simultaneous (or practically simultaneous) with the injury, it means intoxication as defined in the Act, at 42 U.S.C. 3796b(5); and

(ii) In any claim not described in paragraph (1)(i) of this definition, it means intoxication—

(A) As defined in the Act, at 42 U.S.C. 3796b(5), mutatis mutandis (*i.e.*, with ''post-mortem'' (each place it occurs) and ''death'' being substituted, respectively, by ''post-injury'' and ''injury''); and

(B) As of the event date; and

(2) With respect to drugs or other substances, it means a disturbance of mental or physical faculties resulting from their introduction into the body of a public safety officer, as evidenced by the presence therein, as of the event date—

(i) Of any controlled substance included on Schedule I of the drug control and enforcement laws (see 21 U.S.C. 812(a)), or any controlled substance included on Schedule II, III, IV, or V of such laws (see 21 U.S.C. 812(a)) and with respect to which there is no therapeutic range or maximum recommended dosage, unless convincing evidence indicates that—

(A) Such introduction was not a culpable act of the officer's under the criminal law; and

(B) The officer was not acting in an intoxicated manner immediately prior to the event date; or

(ii) Of any controlled substance included on Schedule II, III, IV, or V of the drug control and enforcement laws (see 21 U.S.C. 812(a)) and with respect to which there is a therapeutic range or maximum recommended dosage—

(A) At levels above or in excess of such range or dosage, unless convincing evidence indicates that—

(*1*) Such introduction was not a culpable act of the officer's under the criminal law; and

(*2*) The officer was not acting in an intoxicated manner immediately prior to the event date; or

(B) At levels at, below, or within such range or dosage, unless convincing evidence indicates that—

(*1*) Such introduction was not a culpable act of the officer's under the criminal law; or

(*2*) The officer was not acting in an intoxicated manner immediately prior to the event date.

§ 32.4 Terms; construction, severability.

(a) The first three substantive provisions of 1 U.S.C. 1 (rules of construction) shall apply.

(b) If benefits are denied to any individual pursuant to the Act, at 42 U.S.C. 3796a(4), such individual shall be presumed irrebutably, for all purposes, not to have survived the public safety officer.

(c) Any provision of this part held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable herefrom and shall not affect the remainder hereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

§ 32.5 Evidence.

(a) Except as otherwise may be expressly provided in this part, a claimant has the burden of persuasion as to all material issues of fact, and by a preponderance of the evidence.

(b) Except as otherwise may be expressly provided in this part, the PSOB determining official may, at his discretion, consider (but shall not be bound by) the factual findings of a public agency.

(c) Rules 401 (relevant evidence), 402 (admissibility), 602 (personal knowledge), 701 to 704 (testimony), 901 to 903 (authentication), and 1001 to 1008 (contents of writings, records, and photographs) of the Federal Rules of Evidence shall apply to all filings, hearings, and other proceedings or matters.

(d) In determining a claim, the PSOB determining official may, at his discretion, draw an inference of voluntary intoxication if, without reasonable justification or excuse, appropriate toxicologic analysis (including autopsy, in the event of death) is not performed, and/or the results thereof are not filed with the PSOB Office, where there is credible evidence that the public safety officer—

(1) As of or near the event date, was—

(i) An abuser of alcohol;

(ii) A consumer of controlled substances included on Schedule I of the drug control and enforcement laws (see 21 U.S.C. 812(a)); or

(iii) An abuser of controlled substances included on Schedule II, III, IV, or V of the drug control and enforcement laws (see 21 U.S.C. 812(a)); or

(2) Immediately prior to the event date, was under the influence of alcohol or controlled substances or otherwise acting in an intoxicated manner.

(e) In determining a claim under the Act, at 42 U.S.C. 3796c–1, the certification described therein shall constitute prima facie evidence—

(1) Of the public agency's acknowledgment that the public safety officer, as of the event date, was (as applicable)—

(i) A public safety officer of the kind described therein;

(ii) Serving the agency in an official capacity (with respect to public safety officers of any kind but disaster relief workers), or performing official duties as described in the Act, at 42 U.S.C. 3796b(8)(B) or (C) (with respect to disaster relief workers);

(iii) One of the following:

(A) With respect to a law enforcement officer, an officer of the agency;

(B) With respect to a firefighter,

(*1*) An officially recognized or designated member of the agency (if it is a legally organized volunteer fire department); or

(*2*) An employee of the agency;

(C) With respect to a chaplain,

(*1*) An officially recognized or designated member of the agency (if it is a legally organized police or volunteer fire department); or

(*2*) An officially recognized or designated public employee of the agency (if it is a legally organized police or fire department);

(D) With respect to a rescue squad or ambulance crew member, an officially recognized or designated public employee member of one of the agency's rescue or ambulance crews; or

(E) With respect to a disaster relief worker, an employee of the agency (if it is described in the Act, at 42 U.S.C. 3796b(8)(B) or (C)); and

(iv) Killed as a direct and proximate result of a line of duty injury (with respect to a claim under subpart B of this part), or totally and permanently disabled as a direct result of such injury (with respect to a claim under subpart C of this part); and

(2) That there are no eligible payees other than those identified therein.

§ 32.6 Payment and repayment.

(a) No payment shall be made with respect to any public safety officer who is an individual employed as described in the Act, at 42 U.S.C. 3796a(5).

(b) No payment shall be made to (or on behalf of) more than one individual, on the basis of being a particular public safety officer's spouse.

(c) No payment shall be made to (or on behalf of) any individual, on the basis of being a particular public safety officer's spouse, unless he is the officer's spouse—

(1) On the date of the officer's death; or

(2) On the date of payment.

(d) No payment shall be made save—

(1) To (or on behalf of) a living payee; and

(2) Pursuant to—

(i) A claim filed by (or on behalf of) such payee; and

(ii) Approval of such claim.

(e) Any amounts that would be paid but for the provisions of paragraph (d) of this section shall be retained by the United States and not paid.

(f) Unless, for good cause shown, the Director grants a full or partial waiver, a payee shall repay the amount paid to him (or on his behalf) pursuant to a claim if—

(1) Approval of the claim was based, in whole or in material part, on his (or any other person's or entity's) fraud, concealment of evidence or information, false or inaccurate statements, mistake, or deception; or

(2) His entitlement to such payment is divested, in whole or in part, such as by the subsequent discovery of individuals entitled to make equal or superior claims.

§ 32.7 Fees for representative services.

(a) A person seeking to receive any amount from (or with respect to) a claimant for representative services provided in connection with any claim may petition the PSOB Office for authorization under this section. Such petition shall include—

(1) An itemized description of the services;

(2) The total amount sought to be received as consideration for the services;

(3) An itemized description of the services provided to (or on behalf of) the claimant in connection with other claims or causes of action, unrelated to the Act, before any public agency or non-public entity (including any insurer), arising from the public safety officer's death, disability, or disabling injury;

(4) The total amount requested, charged, received, or sought to be received, from any source, as consideration for the services described in paragraph (a)(3) of this section that are unrelated to the Act;

(5) A description of any special qualifications possessed by the representative (other than legal training or a license to practice law) that increased the value of his services to (or on behalf of) the claimant;

(6) A certification that the claimant was provided, simultaneously with the filing of the petition, with—

(i) A copy of the petition; and

(ii) A letter advising him that he could file his comments on the petition, if any, with the PSOB Office, within thirty-three days of the date of that letter; and

(7) A copy of the letter described in paragraph (a)(6)(ii) of this section.

(b) Unless, for good cause shown, the Director extends the time for filing, no petition under paragraph (a) of this section shall be considered if it is filed with the PSOB Office later than one year after the date of the final agency decision on the claim.

(c) Subject to paragraph (d) of this section, an authorization under paragraph (a) of this section shall be based on consideration of the following factors:

(1) The nature of the services provided by the representative;

(2) The complexity of the claim;

(3) The level of skill and competence required to provide the representative's services;

(4) The amount of time spent on the claim by the representative;

(5) The results achieved as a function of the representative's services;

(6) The level of administrative or judicial review to which the claim was pursued and the point at which the representative entered the proceedings;

(7) The ordinary, usual, or customary fee charged by other persons (and by the representative) for services of a similar nature; and

(8) The amount authorized by the PSOB Office in similar cases.

(d) No amount shall be authorized under paragraph (a) of this section for—

(1) Any stipulated- or contingency fee; or

(2) Services provided in connection with—

(i) Obtaining or providing evidence or information previously obtained by the PSOB determining official;

(ii) Preparing the petition; or

(iii) Explaining or delivering an approved claim to the claimant.

(e) Upon a person's failure (without reasonable justification or excuse) to pursue in timely fashion his filed petition under paragraph (a) of this section, the Director may, at his discretion, deem the same to be abandoned, as though never filed. Not less than thirty-three days prior thereto, the PSOB Office shall serve the person and the claimant with notice of the Director's intention to exercise such discretion.

(f) Upon its authorizing or not authorizing the payment of any amount under paragraph (a) of this section, the PSOB Office shall serve notice of the same upon the claimant and the representative. Such notice shall specify the amount the representative is authorized to charge the claimant and the basis of the authorization.

(g) No agreement for representative services in connection with a claim shall be valid if it provides for any consideration other than under this section. A representative's receipt of consideration other than under this section may, among other things, be the subject of referral by BJA to appropriate professional, administrative, disciplinary, or other legal authorities.

§ 32.8 Exhaustion of administrative remedies.

No determination or disability finding that, at the time made, may be subject to a request for Hearing Officer determination, a motion for reconsideration, or a non-judicial appeal, shall be considered a final agency decision for purposes of judicial review, unless all administrative remedies have been exhausted.

Subpart B—Death Benefit Claims

§ 32.11 Scope of subpart.

Consistent with § 32.1, this subpart contains provisions applicable to claims made under the Act, at 42 U.S.C. 3796(a).

§ 32.12 Time for filing claim.

(a) Unless, for good cause shown, the Director extends the time for filing, no claim shall be considered if it is filed with the PSOB Office after the later of—

(1) Three years after the public safety officer's death; or

(2) One year after the receipt or denial of any benefits described in § 32.15(a)(1)(i) (or receipt of the certification described in § 32.15(a)(1)(ii)).

(b) A claimant may file with his claim such supporting evidence and legal arguments as he may wish to provide.

§ 32.13 Definitions.

Adoptive parent of a public safety officer means any individual who, as of the event date, was the legally-adoptive parent of a public safety officer, or otherwise was in a child-parent relationship with him.

Beneficiary of a life insurance policy of a public safety officer—An individual (living or deceased on the event date) is designated as beneficiary of a life insurance policy of a public safety officer as of that date only if such designation is, as of such date, legal and valid (as a designation of beneficiary of a life insurance policy) and unrevoked (by such officer or by operation of law), except that any designation of an individual made pursuant to, during, or in contemplation of, his marriage (or purported marriage) to such officer shall be considered revoked by such officer as of the event date if—

(1) The marriage (or purported marriage)—not having taken place as of the event date—did not take place when scheduled, unless preponderant

evidence indicates that the alteration in schedule was for reasons other than personal differences between the officer and the individual; or

(2) The spouse (or purported spouse) is divorced from the officer subsequent to the date of designation and before the event date.

Child-parent relationship means a relationship between a public safety officer and another individual, in which the individual is the parent (other than biological or legally-adoptive), as shown by—

(1) A written acknowledgment of the individual's parenthood, signed by—

(i) The individual, before the event date; or

(ii) The officer;

(2) Specific identification of the individual's parenthood, in a final judicial decree, issued before the event date, ordering the individual to contribute to the officer's support, or to take some other burdensome action, for that reason;

(3) A public or religious record naming the individual as the officer's parent, with respect to which record the informant was—

(i) The individual, before the event date; or

(ii) The officer;

(4) Affidavits or sworn statements from knowledgeable affiants without direct or indirect financial interest in any claim under the Act with respect to the officer, credibly attesting that—

(i) Before the event date, the individual accepted the officer as his own child or otherwise held the officer out to be his own child; or

(ii) The officer accepted the individual as his own parent or otherwise held the individual out to be his own parent;

(5) A record of a public agency, or of a private school or welfare agency, naming the individual, before the event date, as the officer's parent;

(6) The claiming—

(i) Of the officer as the individual's dependent child on his income tax return, before the event date; or

(ii) Of the individual as the officer's dependent parent on his income tax return (if executed by the officer, or with his knowledge and consent); or

(7) Credible evidence—

(i) Of the officer's receiving, before the event date, over half of his support from the individual;

(ii) Of the officer's having, before the event date, as his principal place of abode the home of the individual and being, before the event date, a member of the individual's household; or

(iii) Clearly indicating—

(A) The individual's intention, before the event date, to hold the officer out to be his own child; or

(B) The officer's acceptance of the individual as his own parent or intention to hold the individual out to be his own parent.

Competent medical evidence to the contrary—The presumption raised by the Act, at 42 U.S.C. 3796(k), is overcome by competent medical evidence to the contrary—

(1) In the event of death as a result of a heart attack, when such evidence as may be available indicates to a degree of medical certainty that, as of the event date,

(i) The officer's score under the most recent Framingham algorithm for predicting coronary heart disease within the next ten years, was not less than ten;

(ii) Not less than seventy percent of the risk factors for cardiovascular disease identified by the American Heart Association were present in the officer; or

(iii) The officer had not less than seventy-five percent stenosis by atherosclerotic plaques or a thrombosis in one or more of the following:

(A) Left main coronary artery;

(B) Left anterior descending coronary artery;

(C) Left circumflex coronary artery; and

(D) Right coronary artery; and

(2) In the event of death as a result of a stroke, when such evidence as may be available indicates to a degree of medical certainty that, as of the event date, not less than seventy percent of the risk factors for stroke identified by the American Stroke Association were present in the officer.

Direct and proximate result of a heart attack or stroke—A death results directly and proximately from a heart attack or stroke if the heart attack or stroke is a substantial factor in bringing it about.

Direct and proximate result of an injury—Except as may be provided in the Act, at 42 U.S.C. 3796(k), a death results directly and proximately from an injury if the injury is a substantial factor in bringing it about.

Engagement in a situation—A public safety officer is engaged in a situation only when he is in the course of actually enforcing the criminal law, actually suppressing fire, actually performing rescue or ambulance activity, actually performing activity encompassed within the duties described in the Act, at 42 U.S.C. 3796b(8)(B) or (C), or otherwise actually responding to a fire, rescue, or police emergency, and the public agency he serves (or the relevant government) legally recognizes him to be in such course (or, at a minimum, does not deny (or has not denied) him so to be).

Execution of a life insurance policy means, with respect to a life insurance policy, the legal and valid execution, by the individual whose life is insured thereunder, of—

(1) The approved application for coverage;

(2) A change in the beneficiary; or

(3) A change in the mode of benefit.

Most recently executed life insurance policy of a public safety officer means that policy insuring the life of a public safety officer that—designating a beneficiary as of the event date, and being legal and valid (as a life insurance policy) upon its execution and remaining in effect as of that date—is the most recently executed one filed with the PSOB Office before the later of—

(1) One year after the first filing of a claim with respect to such officer; or

(2) The first date of payment on a claim with respect to such officer.

Nonroutine strenuous physical activity—Except as excluded by the Act, at 42 U.S.C. 3796(l), nonroutine strenuous physical activity means line of duty activity that—

(1) Is not performed as a matter of routine; and

(2) Entails an unusually-high level of physical exertion.

Nonroutine stressful or strenuous physical activity means nonroutine stressful physical activity or nonroutine strenuous physical activity.

Nonroutine stressful physical activity—Except as excluded by the Act, at 42 U.S.C. 3796(l), nonroutine stressful physical activity means line of duty activity that—

(1) Is not performed as a matter of routine;

(2) Entails non-negligible physical exertion; and

(3) Occurs—

(i) With respect to a situation in which an individual is engaged, under circumstances that objectively and reasonably—

(A) Pose (or appear to pose) significant dangers, threats, or hazards (or reasonably-foreseeable risks thereof), not faced by similarly-situated members of the public in the ordinary course; and

(B) Provoke, cause, or occasion an unusually-high level of alarm, fear, or anxiety; or

(ii) With respect to a training exercise in which an individual participates, under circumstances that objectively and reasonably—

(A) Simulate in realistic fashion situations that pose significant dangers, threats, or hazards; and

(B) Provoke, cause, or occasion an unusually-high level of alarm, fear, or anxiety.

Parent of a public safety officer means a public safety officer's—

(1) Biological or adoptive parent whose parental rights have not been terminated, as of the event date; or

(2) Step-parent.

Participation in a training exercise—A public safety officer participates in a training exercise only if it is a formal part of an official training program whose purpose is to train him in, prepare him for, or improve his skills in, particular activity or actions encompassed within his line of duty.

Spouse of a public safety officer means a public safety officer's spouse, as of the date of the officer's death, except that, notwithstanding any other provision of law, the relevant jurisdiction of domicile is the officer's (as of the event date).

Step-parent of a public safety officer means a current or former spouse of the legally-adoptive or biological parent (living or deceased) of a public safety officer born or legally adopted (as the case may be) before the lawful marriage of the spouse and parent, which spouse, as of the event date,

(1) Received over half of his support from the officer;

(2) Had as his principal place of abode the home of the officer and was a member of the officer's household; or

(3) Was in a child-parent relationship with the officer.

§ 32.14 PSOB Office determination.

(a) Upon its approving or denying a claim, the PSOB Office shall serve notice of the same upon the claimant (and upon any other claimant who may have filed a claim with respect to the same public safety officer). In the event of a denial, such notice shall—

(1) Specify the factual findings and legal conclusions that support it; and

(2) Provide information as to requesting a Hearing Officer determination.

(b) Upon a claimant's failure (without reasonable justification or excuse) to pursue in timely fashion the determination, by the PSOB Office, of his filed claim, the Director may, at his discretion, deem the same to be abandoned. Not less than thirty-three days prior thereto, the PSOB Office shall serve the claimant with notice of the Director's intention to exercise such discretion.

§ 32.15 Prerequisite certification.

(a) Except as provided in the Act, at 42 U.S.C. 3796c–1, no claim shall be approved without the following (which shall be necessary, but not sufficient, for approval of such claim), unless, for good cause shown, the Director grants a waiver:

(1) Subject to paragraph (b) of this section, a certification from the public agency in which the public safety officer served (as of the event date) that he died as a direct and proximate result of a line of duty injury, and either—

(i) That his survivors (listed by name, address, relationship to him, and amount received) have received (or legally are entitled to receive) the maximum death benefits legally payable by the agency with respect to deaths of officers of his kind, rank, and tenure; or

(ii) Subject to paragraph (c) of this section, that it is not legally authorized to pay—

(A) Any such benefits; or

(B) Any such benefits to officers of such kind, rank, or tenure;

(2) A copy of any rulings made by any public agency that relate to the officer's death; and

(3) A certification from the claimant—

(i) Listing every individual known to him who is or might be—

(A) The public safety officer's child, spouse, or parent; or

(B) A beneficiary of any executed life insurance policy of the public safety officer's; and

(ii) Describing every executed life insurance policy of the public safety officer's of which he has any knowledge.

(b) The provisions of paragraph (a)(1) of this section shall also apply with respect to every public agency that legally is authorized to pay death benefits with respect to the agency described in that paragraph.

(c) No certification described in paragraph (a)(1)(ii) of this section shall be deemed complete unless it—

(1) Lists every public agency (other than BJA) that legally is authorized to pay death benefits with respect to the certifying agency; or

(2) States that no public agency (other than BJA) legally is authorized to pay death benefits with respect to the certifying agency.

§ 32.16 Payment.

(a) No payment shall be made to (or on behalf of) more than one individual, on the basis of being the public safety officer's parent as his mother, or on that basis as his father. If more than one parent qualifies as the officer's mother, or as his father, payment shall be made to the one with whom the officer considered himself, as of the event date, to have the closest relationship, except that any biological or legally-adoptive parent whose parental rights have not been terminated as of the event date shall be presumed rebuttably to be such one.

(b) Any amount payable with respect to a minor or incompetent shall be paid to his legal guardian, to be expended solely for the benefit of such minor or incompetent.

§ 32.17 Request for Hearing Officer determination.

In order to exhaust his administrative remedies, a claimant seeking relief from the denial of his claim shall request a determination under subpart E of this part. Consistent with § 32.8, any denial that is not the subject of such a request shall constitute the final agency decision.

Subpart C—Disability Benefit Claims

§ 32.21 Scope of subpart.

Consistent with § 32.1, this subpart contains provisions applicable to claims made under the Act, at 42 U.S.C. 3796(b).

§ 32.22 Time for filing claim.

(a) Unless, for good cause shown, the Director extends the time for filing, no claim shall be considered if it is filed with the PSOB Office after the later of—

(1) Three years after the event date; or

(2) One year after the receipt or denial of any benefits described in § 32.25(a)(1)(i) (or receipt of the certification described in § 32.25(a)(1)(ii)).

(b) A claimant may file with his claim such supporting evidence and legal arguments as he may wish to provide.

§ 32.23 Definitions.

Direct result of an injury—A disability results directly from an injury if the injury is a substantial factor in bringing it about.

Gainful work means full-or part-time activity that actually is compensated or commonly is compensated.

Permanently disabled—An individual is permanently disabled only if there is a degree of medical certainty (given the current state of medicine) that his disabled condition—

(1) Will progressively deteriorate or remain constant, over his expected lifetime; or

(2) Otherwise has reached maximum medical improvement.

Product of an injury—Permanent and total disability is produced by a catastrophic injury suffered as a direct and proximate result of a personal injury if the disability is a direct result of the personal injury.

Residual functional capacity means that which an individual still is capable of doing, as shown by medical (and, as

appropriate, vocational) assessment, despite a disability.

Totally disabled—An individual is totally disabled only if there is a degree of medical certainty (given the current state of medicine) that his residual functional capacity is such that he cannot perform any gainful work.

§ 32.24 PSOB Office determination.

(a) Upon its approving or denying a claim, the PSOB Office shall serve notice of the same upon the claimant. In the event of a denial, such notice shall—

(1) Specify the factual findings and legal conclusions that support it; and

(2) Provide information as to—

(i) Requesting a Hearing Officer determination; or

(ii) As applicable, moving to reconsider a disability finding.

(b) Upon a claimant's failure (without reasonable justification or excuse) to pursue in timely fashion the determination of his filed claim, the Director may, at his discretion, deem the same to be abandoned. Not less than thirty-three days prior thereto, the PSOB Office shall serve the claimant with notice of the Director's intention to exercise such discretion.

§ 32.25 Prerequisite certification.

(a) Except as provided in the Act, at 42 U.S.C. 3796c–1, no claim shall be approved without the following (which shall be necessary, but not sufficient, for approval of such claim), unless, for good cause shown, the Director grants a waiver:

(1) Subject to paragraph (b) of this section, a certification from the public agency in which the public safety officer served (as of the event date) that he was permanently and totally disabled as a direct result of a line of duty injury, and either—

(i) That he has received (or legally is entitled to receive) the maximum disability benefits (including workers' compensation) legally payable by the agency with respect to disabled officers of his kind, rank, and tenure; or

(ii) Subject to paragraph (c) of this section, that it is not legally authorized to pay—

(A) Any such benefits; or

(B) Any such benefits to officers of such kind, rank, or tenure; and

(2) A copy of—

(i) Each State, local, and federal income tax return filed by or on behalf of the public safety officer from the year before the event date to the date of determination by the PSOB determining official; and

(ii) Any rulings made by any public agency that relate to the claimed disability.

(b) The provisions of paragraph (a)(1) of this section shall also apply with respect to every public agency that legally is authorized to pay disability benefits with respect to the agency described in that paragraph.

(c) No certification described in paragraph (a)(1)(ii) of this section shall be deemed complete unless it—

(1) Lists every public agency (other than BJA) that legally is authorized to pay disability benefits with respect to the certifying agency; or

(2) States that no public agency (other than BJA) legally is authorized to pay disability benefits with respect to the certifying agency.

§ 32.26 Payment.

The amount payable on a claim shall be the amount payable, as of the event date, pursuant to the Act, at 42 U.S.C. 3796(b).

§ 32.27 Motion for reconsideration of disability finding.

A claimant whose claim is denied in whole or in part on the ground that he has not shown that his claimed disability is total and permanent may move for reconsideration, under § 32.28, of the specific finding as to the total and permanent character of the claimed disability (in lieu of his requesting a Hearing Officer determination with respect to the same).

§ 32.28 Reconsideration of disability finding.

(a) Unless, for good cause shown, the Director extends the time for filing, no disability finding shall be reconsidered if the motion under § 32.27 is filed later than thirty-three days after the service of notice of the denial.

(b) Notwithstanding any other provision of this section, no disability finding described in § 32.27 shall be reconsidered—

(1) If or after such reconsideration is rendered moot (*e.g.*, by the final denial of the claim on other grounds, without possibility of further administrative or judicial recourse); or

(2) If a request for Hearing Officer determination has been filed with respect to such finding.

(c) Unless, for good cause shown, the Director grants a waiver, upon the making of a motion under § 32.27, reconsideration of the disability finding shall be stayed for not less than three years. Thereafter, the claimant shall have not more than nine years to file evidence in support of his claimed disability.

(d) Upon a claimant's failure (without reasonable justification or excuse) to file in timely fashion evidence pursuant to paragraph (c) of this section, the Director may, at his discretion, deem the motion for reconsideration to be abandoned, as though never filed. Not less than thirty-three days prior thereto, the PSOB Office shall serve the claimant with notice of the Director's intention to exercise such discretion.

(e) No disability finding described in § 32.27 shall be reversed without a copy (which shall be necessary, but not sufficient, for such reversal) of each federal, State, and local income tax return filed by or on behalf of the public safety officer from the year before the date of the motion for reconsideration to the date of reversal by the PSOB Office.

(f) Upon its affirming or reversing a disability finding described in § 32.27, the PSOB Office shall serve notice of the same upon the claimant. In the event of an affirmance, such notice shall—

(1) Specify the factual findings and legal conclusions that support it; and

(2) Provide information as to requesting a Hearing Officer determination of the disability finding.

§ 32.29 Request for Hearing Officer determination.

(a) In order to exhaust his administrative remedies, a claimant seeking relief from the denial of his claim shall request a determination under subpart E of this part—

(1) Of—

(i) His entire claim, if he has not moved for reconsideration of a disability finding under § 32.27; or

(ii) The grounds (if any) of the denial that are not the subject of such motion, if he has moved for reconsideration of a disability finding under § 32.27; and

(2) Of a disability finding that is affirmed pursuant to his motion for reconsideration under § 32.27.

(b) Consistent with § 32.8, the following shall constitute the final agency decision:

(1) Any denial not described in § 32.27 that is not the subject of a request for determination under paragraph (a)(1)(i) of this section;

(2) Any denial described in § 32.27 that is not the subject of a request for determination under paragraph (a)(1)(ii) of this section, unless the disability finding is the subject of a motion for reconsideration; and

(3) Any affirmance that is not the subject of a request for determination under paragraph (a)(2) of this section.

Subpart D—Educational Assistance Benefit Claims

§ 32.31 Scope of subpart.

Consistent with § 32.1, this subpart contains provisions applicable to claims

made under the Act, at 42 U.S.C. 3796–1.

§ 32.32 Time for filing claim.

(a) Subject to the Act, at 42 U.S.C. 3796d–1(c), a claim may be filed with the PSOB Office at any time after the event date.

(b) A claimant may file with his claim such supporting evidence and legal arguments as he may wish to provide.

§ 32.33 Definitions.

Application for assistance means claim.

Dependent means dependent, as of the event date.

Educational assistance benefits means assistance in paying educational expenses.

Educational expenses means expenses of or for such of the following as may be in furtherance of the educational, professional, or vocational objectives set forth in a claim:

(1) Tuition;

(2) Room and board;

(3) Books;

(4) Computer equipment;

(5) Supplies;

(6) Fees; and

(7) Transportation.

Eligible public safety officer means a public safety officer—

(1) With respect to whose death, benefits under subpart B of this part properly have been paid, or properly would have been paid if a claim therefor had been filed in timely fashion by a proper claimant; or

(2) With respect to whose disability, benefits under subpart C of this part properly have been paid, or properly would have been paid if a claim therefor had been filed in timely fashion.

Financial assistance means educational assistance benefits.

Financial need—An individual is in financial need if he would be unable to attend a program of education but for payment of the amount payable on his claim if appropriations were sufficient for full payment of all claims.

Spouse of an eligible public safety officer means an eligible public safety officer's spouse, as of the date of the officer's death (where the officer's eligibility is pursuant to subpart B of this part), or as of the date of the claim (where the officer's eligibility is pursuant to subpart C of this part).

§ 32.34 PSOB Office determination.

(a) Upon its approving or denying a claim, the PSOB Office shall serve notice of the same upon the claimant. In the event of a denial, such notice shall—

(1) Specify the factual findings and legal conclusions that support it; and

(2) Provide information as to requesting a Hearing Officer determination.

(b) Upon a claimant's failure (without reasonable justification or excuse) to pursue in timely fashion the determination of his filed claim, the Director may, at his discretion, deem the same to be abandoned. Not less than thirty-three days prior thereto, the PSOB Office shall serve the claimant with notice of the Director's intention to exercise such discretion.

§ 32.35 Disqualification.

No claim shall be approved if the child (or spouse, as applicable) is—

(a) In default on any student loan obtained under 20 U.S.C. 1091 (higher education assistance), unless, for good cause shown, the Director grants a waiver; or

(b) Subject to a denial of federal benefits under 21 U.S.C. 862 (drug traffickers and possessors).

§ 32.36 Payment and repayment.

(a) The computation described in the Act, at 42 U.S.C. 3796d–1(a)(2), shall be based on a certification from the eligible educational institution as to the child's (or spouse's, as applicable) full-, three-quarter-, half-, or less-than-half-time student status, according to such institution's own academic standards and practices.

(b) In the event that appropriations are insufficient for full payment of all claims from children (or spouses, as applicable)—

(1) The amount payable on claims from those in financial need shall be the full amount otherwise payable; and

(2) The amount payable on claims from those not in financial need shall be reduced accordingly.

(c) Unless, for good cause shown, the Director grants a full or partial waiver, a payee shall repay the amount paid to him (or on his behalf) pursuant to a claim if—

(1) He fails to maintain satisfactory progress under 20 U.S.C. 1091(c) (higher education assistance);

(2) He fails to maintain the enrollment status described in his claim; or

(3) By his acts or omissions, he becomes ineligible for educational assistance benefits.

§ 32.37 Request for Hearing Officer determination.

In order to exhaust his administrative remedies, a claimant seeking relief from the denial of his claim shall request a determination under subpart E of this part. Consistent with § 32.8, any denial that is not the subject of such a request shall constitute the final agency decision.

Subpart E—Hearing Officer Determinations

§ 32.41 Scope of subpart.

Consistent with § 32.1, this subpart contains provisions applicable to requests for Hearing Officer determination of claims denied under subparts B, C (including affirmances of disability findings), and D of this part.

§ 32.42 Time for filing request for determination.

(a) Unless, for good cause shown, the Director extends the time for filing, no claim shall be determined if the request therefor is filed with the PSOB Office later than thirty-three days after the service of notice of—

(1) The denial (under subpart B, C (except as may be provided in paragraph (a)(2) of this section), or D of this part) of a claim; or

(2) The affirmance (under subpart C of this part) of a disability finding.

(b) A claimant may file with his request for determination such supporting evidence and legal arguments as he may wish to provide.

§ 32.43 Appointment and assignment of Hearing Officers.

(a) Pursuant to 42 U.S.C. 3787 (employment and authority of hearing officers), Hearing Officers may be appointed from time to time by the Director, to remain on the roster of such Officers at his pleasure.

(b) Upon the filing of a request for determination, the PSOB Office shall assign the claim to a Hearing Officer on the roster; the PSOB Office may assign a particular claim to a specific Hearing Officer if it judges, in its discretion, that his experience or expertise suit him especially for it.

(c) Upon its making the assignment described in paragraph (b) of this section, the PSOB Office shall serve notice of the same upon claimant, with an indication that any evidence or legal argument he wishes to provide is to be filed simultaneously with the PSOB Office and the Hearing Officer.

(d) With respect to an assignment described in paragraph (b) of this section, the Hearing Officer's consideration shall be—

(1) De novo, rather than in review of the findings, determinations, affirmances, reversals, assignments, authorizations, decisions, judgments, rulings, or other actions of the PSOB Office; and

(2) Consistent with subpart B, C, or D of this part, as applicable.

(e) OJP's General Counsel shall provide advice to the Hearing Officer as to all questions of law relating to the

assignment described in paragraph (b) of this section.

§ 32.44 Determination.

(a) Upon a Hearing Officer's denying a claim, the PSOB Office shall serve notice of the same upon the claimant (and upon any other claimant who may have filed a claim with respect to the same public safety officer), which notice shall—

(1) Specify the factual findings and legal conclusions that support it; and

(2) Provide information as to appeals.

(b) Upon his approving a claim, the Hearing Officer shall file notice of the same simultaneously with the Director (for his review under subpart F of this part), the PSOB Office, and OJP's General Counsel, which notice shall specify the factual findings and legal conclusions that support it.

(c) Upon a claimant's failure (without reasonable justification or excuse) to pursue in timely fashion the determination of his claim pursuant to his filed request therefor, the Director may, at his discretion, deem the request to be abandoned, as though never filed. Not less than thirty-three days prior thereto, the PSOB Office shall serve the claimant with notice of the Director's intention to exercise such discretion.

§ 32.45 Hearings.

(a) At the election of a claimant under subpart B or C of this part, the Hearing Officer shall hold a hearing, at a location agreeable to the claimant and the Officer, for the sole purposes of obtaining, consistent with § 32.5(c),

(1) Evidence from the claimant and his fact or expert witnesses; and

(2) Such other evidence as the Hearing Officer, at his discretion, may rule to be necessary or useful.

(b) Unless, for good cause shown, the Director extends the time for filing, no election under paragraph (a) of this section shall be honored if it is filed with the PSOB Office later than ninety days after service of the notice described in § 32.43(c).

(c) Not less than seven days prior to any hearing, the claimant shall file simultaneously with the PSOB Office and the Hearing Officer a list of all expected fact or expert witnesses and a brief summary of the evidence each witness is expected to provide.

(d) At any hearing, the Hearing Officer may exclude any evidence whose probative value is substantially outweighed by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(e) Each witness at any hearing shall be sworn by oath or affirmation.

(f) Each hearing shall be recorded, and the original of the complete record or transcript thereof shall be made a part of the claim file.

(g) Unless, for good cause shown, the Director grants a waiver, a claimant's failure to appear at a hearing (in person or through a representative) shall constitute a withdrawal of his election under paragraph (a) of this section.

(h) Upon a claimant's failure to pursue in timely fashion his filed election under paragraph (a) of this section, the Director may, at his discretion, deem the same to be abandoned. Not less than thirty-three days prior thereto, the PSOB Office shall serve the claimant with notice of the Director's intention to exercise such discretion.

§ 32.46 Appeal.

(a) In order to exhaust his administrative remedies, a claimant seeking relief from the denial of his claim shall appeal under subpart F of this part.

(b) Consistent with § 32.8, any denial that is not appealed under paragraph (a) of this section shall constitute the final agency decision, unless it is reviewed otherwise under subpart F of this part.

Subpart F—Appeals & Reviews

§ 32.51 Scope of subpart.

Consistent with § 32.1, this subpart contains provisions applicable to appeals and reviews of approvals and denials made under subpart E of this part, and reviews of approvals under the Act, at 42 U.S.C. 3796c–1.

§ 32.52 Time for filing appeal.

(a) Unless, for good cause shown, the Director extends the time for filing, no appeal shall be considered if it is filed with the PSOB Office later than thirty-three days after the service of notice of the denial (under subpart E of this part) of a claim.

(b) A claimant may file with his appeal such supporting evidence and legal arguments as he may wish to provide.

§ 32.53 Review.

(a) Upon the filing of the approval (under subpart E of this part) of a claim, the Director shall review the same.

(b) The Director may review—

(1) The denial (under subpart E of this part) of any claim; and

(2) The approval (under the Act, at 42 U.S.C. 3796c–1) of any claim.

(c) Unless the Director judges that it would be unnecessary, the PSOB Office shall serve notice upon the claimant (and upon any other claimant who may have filed a claim with respect to the same public safety officer) of the initiation of a review under paragraph (a) or (b) of this section. Unless the Director judges that it would be unnecessary, such notice shall—

(1) Indicate the principal factual findings or legal conclusions at issue; and

(2) Offer a reasonable opportunity for filing of evidence or legal arguments.

§ 32.54 Determination.

(a) Upon the Director's approving or denying a claim, the PSOB Office shall serve notice of the same upon the claimant (and upon any other claimant who may have filed a claim with respect to the same public safety officer). In the event of a denial, such notice shall—

(1) Specify the factual findings and legal conclusions that support it; and

(2) Provide information as to appeals.

(b) Upon a claimant's failure (without reasonable justification or excuse) to pursue in timely fashion the determination of his claim pursuant to his filed appeal, the Director may, at his discretion, deem the same to be abandoned, as though never filed. Not less than thirty-three days prior thereto, the PSOB Office shall serve the claimant with notice of the Director's intention to exercise such discretion.

§ 32.55 Appeal.

(a) A claimant seeking relief from the denial of his claim may appeal under 28 U.S.C. 1491 (claims against the United States).

(b) Consistent with § 32.8, any approval or denial described in § 32.54(a) shall constitute the final agency decision.

Regina B. Schofield,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 05–14659 Filed 7–25–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 541

[Docket No. BOP–1118–P]

RIN 1120–AB18

Inmate Discipline Rules: Subpart Revision and Clarification

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) proposes to amend its Inmate Discipline and Special Housing Unit (SHU) regulations. We intend this amendment to streamline and clarify these regulations,

eliminating unnecessary text and obsolete language and removing internal agency procedures that need not be in rules text. We also make some substantive changes to our list of prohibited acts for which disciplinary sanctions may be imposed and alter the list of possible sanctions available to allow Disciplinary Hearing Officers more flexibility in adapting the sanction to fit the seriousness of the violation.

DATES: Please submit comments by September 26, 2005.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. You may also comment via the Internet to BOP at *BOPRULES@BOP.GOV* or by using the *http://www.regulations.gov* comment form for this regulation. When submitting comments electronically you must include the BOP Docket No. in the subject box.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION: The Bureau proposes to amend its inmate discipline and special housing unit (SHU) regulations (28 CFR part 541, subpart A and subpart B) to streamline and clarify these regulations, eliminating unnecessary text and obsolete language, and removing internal agency procedures that need not be in rules text. We also make some substantive changes to our list of prohibited acts for which disciplinary sanctions may be imposed and alter the list of possible sanctions available to allow Disciplinary Hearing Officers more flexibility in adapting the sanction to fit the seriousness of the violation.

Below, you will find a section-by-section explanation of how we are revising our previous regulations in subpart A and subpart B on Inmate Discipline.

To identify the rules, we will refer first to the section number of the old rule as it currently exists in 28 CFR, and then we will explain what we did to change that rule. Where we are creating a new rule or provision, we will simply refer to it as new.

Section-by-Section Explanation

Section 541.2 Definitions. This rule contains definitions of Investigating Officer, Unit Disciplinary Committee (UDC), Discipline Hearing Officer (DHO), and Segregation Review Official (SRO). In this proposed rule, we remove this regulation and integrate the definitions into the sections discussing the discipline process and special housing units. You can find a definition of Investigating Officer in new § 541.05, UDC in new § 541.07, DHO in new § 541.08, and a description of the SRO's duties in new § 541.26.

Section 541.10 Purpose and scope. Paragraph (a) of former § 541.10 is streamlined and encompassed in the new § 541.01. We have deleted paragraph (b), regarding principles staff must follow when taking disciplinary action, because it is redundant and is covered by several of our new rules, including new §§ 541.01 and 541.06–541.08. We will maintain general principles for staff in Bureau policy.

Section 541.11 Notice to inmate of Bureau of Prisons rules. We have deleted this section because it relates solely to internal agency practice and procedures which we retain in Bureau policy on the Admission and Orientation program. We also remove Tables 1 and 2, Summary of Disciplinary System and Time Limits in the Disciplinary Process, because they are redundant and because we retain it as part of Admission and Orientation materials which we provide to all inmates. We also explain the process and time limits elsewhere in the new disciplinary rules.

Further, in our new § 541.02, we explain to whom the disciplinary process applies. Specifically, we explain that the inmate discipline program applies to sentenced and unsentenced inmates in Bureau custody, as well as sentenced and unsentenced inmates designated to non-Bureau facilities, for example, contract facilities, for whom the Bureau is responsible.

Section 541.12, Inmate Rights and Responsibilities. We remove this section as redundant because we explain elsewhere in the disciplinary rules that the inmate has the responsibility of adhering to the various Bureau rules alluded to in this section, as explained below. We will retain language in this section as a handout during the Admission and Orientation process.

This list was informal, at best, and was more of a shorthand vehicle to give inmates a general overview of the Bureau's rules. It was never intended to be a source of law, and, in fact, inadequately describes inmate rights. Each inmate right on the list is more fully and accurately described elsewhere in 28 CFR Chapter V. Inmates are better informed by going directly to the Bureau rules, which are significant, detailed sources of law, than by using an inadequate and inaccurate list.

Below, we identify where each right on the list is discussed more thoroughly elsewhere in the Bureau's rules.

- ''1. You have the right to expect that as a human being you will be treated respectfully, impartially, and fairly by all personnel.'' The inmate's right to expect fair and impartial treatment is found in 28 CFR 551.90, which states as follows: ''Bureau staff shall not discriminate against inmates on the basis of race, religion, national origin, sex, disability, or other political belief. This includes the making of administrative decisions and providing access to work, housing and programs.''
- ''2. You have the right to be informed of the rules, procedures, and schedules concerning the operation of the institution.'' The inmate's right to information is found in mandatory guidance to staff in our policy on Admission and Orientation, under which inmates will receive a copy of the rights & responsibilities chart removed from rules.
- ''3. You have the right to freedom of religious affiliation, and voluntary religious worship.'' The inmate's right to freedom of religion is found in 28 CFR part 548, Religious Services.
- ''4. You have the right to health care, which includes nutritious meals, proper bedding and clothing, and a laundry schedule for cleanliness of the same, an opportunity to shower regularly, proper ventilation for warmth and fresh air, a regular exercise period, toilet articles and medical and dental treatment.'' These inmate rights are generally required by 18 U.S.C. 4042(a)(2), which requires the Bureau to ''provide for the safekeeping, care and subsistence'' of inmates. Medical Services regulations are in 28 CFR part 549. Grooming, clothing, and hygiene regulations are in 28 CFR part 551 (Subpart A). Also, see 28 CFR part 544, Subpart D, Inmate Recreation Programs.
- ''5. You have the right to visit and correspond with family members, and friends, and correspond with members of the news media in keeping with Bureau rules and institution guidelines.
- ''6. You have the right to unrestricted and confidential access to the courts by correspondence (on matters such as the legality of your conviction, civil matters, pending criminal cases, and conditions of your imprisonment).
- ''7. You have the right to legal counsel from an attorney of your choice by interviews and correspondence.''

These inmate rights are found in 28 CFR part 540, Contact with Persons in the Community, which contains regulations regarding visiting and correspondence, including legal mail and visiting.

- ''8. You have the right to participate in the use of law library reference

materials to assist you in resolving legal problems. You also have the right to receive help when it is available through a legal assistance program.'' These inmate rights are discussed at length in our regulations on Legal Matters, 28 CFR part 543.

• ''9. You have the right to a wide range of reading materials for educational purposes and for your own enjoyment. These materials may include magazines and newspapers sent from the community, with certain restrictions.'' Inmate rights to reading materials and incoming publications are found in 28 CFR part 540, subpart F, Incoming Publications, and part 544, subpart I, Education, Training and Leisure-Time Program Standards, and subpart K, Inmate Library Services.

• ''10. You have the right to participate in education, vocational training and employment as far as resources are available, and in keeping with your interests, needs, and abilities.'' Inmate rights to education, training and employment are found in 28 CFR part 544, regarding Education programs and part 545, subpart C, regarding work and compensation.

• ''11. You have the right to use your funds for commissary and other purchases, consistent with institution security and good order, for opening bank and/or savings accounts, and for assisting your family.'' See 28 CFR part 545, subpart B, regarding the Inmate Financial Responsibility Program. In particular, see § 545.10, in which the Bureau encourages inmates to meet financial obligations through the inmate financial responsibility program. Once more, this program assumes the inmate's right to use their funds, consistent with security and good order.

In sum, every provision in the list of inmate rights is further described and developed elsewhere in Bureau regulations. Further, the existence of this list in the rules is misleading, as its presence assumes that this is a finite list of inmate rights. By eliminating this list, we encourage inmates and the public to look at the rules as a whole to get a better picture of inmate rights and responsibilities.

Furthermore, this list implies that these rights are rules in and of themselves, whereas they are only absolute as long as they are consistent with the Bureau's actual rules. If an inmate reviews the Bureau rules as a whole, that inmate will get a clearer statement of law than by reviewing a terse and inadequate list.

Section 541.13, Prohibited acts and disciplinary severity scale. Much of this regulation provided technical guidance to Disciplinary Hearing Officers (DHO) and Unit Disciplinary Committees (UDC) regarding types of sanctions, how to impose them, and which sanctions could apply to which inmates. We removed these provisions because they are guidance to Bureau staff, and as internal agency practice, need not be in rules text. We retain thorough guidance to staff on imposing sanctions in Bureau disciplinary policy.

However, in new § 541.03, we retain former Table 3, Prohibited Acts and Disciplinary Severity Scale, as new Table 1, revised for clarity. This comprehensive table explains in detail all the prohibited acts in each of the four severity categories (Greatest [prohibited act series 100], High [prohibited act series 200], Moderate [prohibited act series 300] and Low [prohibited act series 400]) and lists available sanctions that might be imposed for commission of each of these types of prohibited acts. We also made the following changes to this table:

• We establish Greatest and High severity level prohibited acts specifically for sexual assault of any person. Both require non-consensual touching. The Greatest severity level act (114) requires the use or threat of force. The High severity level act (229) is for incidents without the use or threat of force. These codes were created to more specifically place inmates on notice of prohibited behavior.

• We increased the severity level of escapes from non-secure facilities from a 200 (High) to a 100 (Greatest) level prohibited act. In making this change, we eliminate the false implication that escapes from non-secure facilities are not a serious concern.

• We amended prohibited act code 104 (possession of a weapon) to include possession of ''any instrument used as a weapon.'' This terminology change was prompted by the caselaw decision in *Wallace* v. *Nash,* 311 F.3d 140 (2d Cir. 2002), which found the current prohibited act did not place inmates on sufficient notice that possession of any instrument actually used as a weapon may be disciplined under this section.

• We establish a new prohibited act code, 115, for destroying and/or disposing of any item during a search or attempt to search. We make this change to more specifically place inmates on notice of this prohibited behavior, which significantly inhibits staff ability to locate and monitor the introduction and possession of contraband within prison institutions.

• We establish a High severity level prohibited act code for escape from a work detail, non-secure institution, or other non-secure custody, including a community facility, with subsequent voluntary return to Bureau of Prisons custody within 4 hours. We make this change to allow for a less severe sanction than that imposed for any other type of escape if an inmate voluntarily chooses to minimize his prohibited act by returning.

• We clarify that possession of a cellular telephone or other electronic communications device is a Greatest level prohibited act. We make this change to incorporate technological advances that were not present when the current rule was drafted.

• We increase the severity of all alcohol-related offenses from a High to a Greatest prohibited act. We make this change to reflect the parity between using alcohol and other illicit substances as disruptive prison behaviors.

• We establish a High severity level prohibited act code for stalking to take into account the growing problem of female staff being stalked by male inmates. There were far fewer female staff members in prisons when the current rule was drafted.

• We establish a High severity level prohibited act code for possession of stolen property. Under 28 CFR § 553.10, inmates are only allowed to possess property that is authorized and/or given to the inmate by institution staff. Therefore, the only way for an inmate to possess unauthorized property is if it is acquired through an unauthorized channel. All inmate property must be cataloged and accounted for by institution staff. Therefore, if an inmate is in possession of property that was stolen by another inmate, that inmate is just as culpable as the one who stole it, because the inmate in possession of the stolen property was under an obligation to report it to institution staff. Any unauthorized or unreported property is considered contraband.

• We establish a Moderate severity level prohibited act code for circulating a petition to specifically place inmates on notice that such conduct is prohibited. The only approved method for inmates to formally grieve prison conditions is through the Administrative Remedy Program, described in 28 CFR part 542. Under this program, every inmate can raise individual complaints and enjoy three levels of review (at the institution, at the Regional level, and at the Bureau's Central Office). Inmate petitions are prohibited because inmates acting as a group against prison management pose a special risk of disruption which does not exist through the sanctioned, individual administrative remedy complaint system. Circulating a petition

would undermine the effectiveness and legitimacy of the Administrative Remedy Program and potentially provide inmates with both a rallying issue and a leader to threaten staff control in an unsanctioned and potentially uncontrollable manner.

• We establish a High severity level prohibited act code for refusing to participate in a required physical test or examination unrelated to testing for drug abuse (*e.g.*, DNA, HIV, tuberculosis). On December 19, 2000, Congress enacted Public Law 106–546, commonly referred to as the DNA Analysis Backlog Elimination Act of 2000 (Act). This Act requires the Bureau to collect DNA samples from individuals convicted of a qualifying federal offense, military offense, or DC Code offense. The FBI is required to analyze the samples and maintain the information in the Combined DNA Index System (CODIS). Because we are required to do this by statute, we need to have specific capability to discipline inmates who jeopardize our compliance with the statute. Also, physical tests such as those which detect HIV or tuberculosis are necessary to protect the health and safety of the inmates being tested, the inmate population, and Bureau staff. We need to be able to discipline those who, in refusing to be tested, would jeopardize the safety and security of the institution.

• We increase the severity level for tattooing and self-mutilation from a Low Moderate to a High severity prohibited act. This change is necessary due to the increased risk to staff and inmates of exposure to blood-borne pathogens.

• We establish a Moderate severity level prohibited act code for the fraudulent or deceptive completion of a skills test. This change is necessary to emphasize the seriousness of the prohibited act. Cheating on tests such as those necessary for GED completion or English as a Second Language jeopardize the credibility of the Bureau's test-taking process, thereby threatening the Bureau's authority and capability to conduct such tests and programs related to these tests. We currently discipline for this act by using other codes, such as 313, lying or giving a false statement to a staff member. Having a separate code for this act more effectively addresses the growing problem of fraudulent or deceptive completion of a skills test by placing inmates on notice that this specific act is prohibited.

• We increase the severity level for conducting a business from a Low Moderate to a Moderate severity prohibited act. Raising the severity level for this offense more effectively reflects the growing problem and seriousness of inappropriate inmate activity related to conducting a business by placing inmates on notice that this specific act is prohibited.

• We establish a Moderate severity level prohibited act code for communicating gang affiliation. This change is necessary to provide inmates with notice that illegal gang activity will not be tolerated. Since the drafting of the current codes, we have had a growing concern with increased incidents of disruption caused by gang activity in Bureau institutions. This code allows us to discipline for actions which jeopardize the safety and security of the institution, and is an outgrowth of our increased knowledge of how gangs operate.

• We establish prohibited acts at the Greatest, High, and Moderate severity levels for abuse of the mail, both to reflect the increased seriousness of abusing the mail for committing criminal offenses and mail fraud, and to be consistent with telephone prohibited act codes.

• We establish a new sanction of ''monetary fine.'' We made this change to provide DHOs with the flexibility to sanction inmates by imposing monetary fines as a punishment and deterrent to committing prohibited acts. Additionally, by providing another sanctioning option, DHOs are better able to tailor the discipline of individual inmates' in a manner best suited to affect behavioral changes. We also clarify that the sanctions of ''make monetary restitution'' and ''monetary fine'' may only be imposed by DHOs.

• We delete the available formal sanctions of ''reprimand'' and ''warning,'' although they will be retained as possible forms of informal resolution in the revised policy.

We delete former Table 4, Sanctions, because it merely details sanctions listed in the Prohibited Acts and Disciplinary Severity Scale table for the benefit of DHOs and UDCs. Because this is guidance to staff on how to impose sanctions, it is not required to be rules text. However, in each severity category's list of available sanctions, we increase the maximum amount of time an inmate can be sanctioned to disciplinary segregation from a range of 7 to 60 days to a range of 3 to 12 months, depending on the seriousness of the prohibited act. This change allows us to more effectively discipline and more accurately reflects the serious nature of all of the prohibited acts. There are several reasons that this time frame was chosen for the maximum amount of disciplinary segregation:

Current DS sanctions have been in place since January 5, 1988. In the past 16 years, the inmate population has increased dramatically, most recently to include D.C. Code felony offenders. Likewise, because the population has also changed dramatically, the nature and severity of prohibited acts committed has intensified. Specifically, the Bureau has seen an increase in offenses related to gang-related activity, firearms, and drugs. Also, federal offenses have expanded to include use of firearms, new drug-related offenses, conspiracies, and higher penalties for homicides. In addition, because sentence length has generally increased, the current sanctions of 60–90 days of disciplinary segregation accounts for a much smaller percentage of the typical sentence. Therefore, current DS sanctions no longer effectively function as a deterrent. We increase this sanction to reflect the needs and the nature of the changing and expanding inmate population.

Under the current disciplinary rules, approximately 16% of inmates committing prohibited acts were repeat offenders who were sanctioned to the maximum amount of disciplinary segregation sanction multiple times, resulting in 12 months or more of total disciplinary segregation time. Again, the current maximum DS sanction is not functioning as an effective deterrent.

Finally, it is important to note that this rule increases the maximum amount of the disciplinary segregation sanction available to DHOs. DHOs will not in fact impose the maximum amount of disciplinary segregation in every case; only in the most egregious circumstances for the most serious offenses.

We also remove the sanction of disciplinary transfer, which was listed as a recommended sanction. Instead, transfer decisions will be based on administrative issues, such as population management. Bureau administrators must use transfers as a tool for careful management of inmate population interests. Transfers are not an appropriate disciplinary sanction.

We retain former Table 5, Sanctions for Repetition of Prohibited Acts Within Same Category, as new Table 2, revised slightly for clarity, because this table further details available increased sanctions for repeated offenses in each of the four severity categories. Also in this table, we increase the maximum amount of time an inmate can be sanctioned to disciplinary segregation from a range of 7 to 60 days to a range of 1 to 18 months, depending on the seriousness or frequency of commission of the prohibited act. This change

allows us to more effectively discipline and more accurately reflects the serious nature of all of the prohibited acts.

We revise former Table 6, Sanctions by Severity of Prohibited Act, With Eligibility for Restoration of Forfeited and Withheld Statutory Good Time, as new § 541.04, which details when an inmate must lose good time credit for committing a prohibited act. In the new rule, we simplify the table and explain the circumstances under which loss of good time credits is mandatory.

Section 541.14 Incident report and investigation. We consolidate this section into new § 541.05. In doing so, we retain the substance of the regulation, merely simplifying and clarifying language where possible. We also remove provisions relating solely to internal agency management, practice and procedure.

Section 541.15 Initial hearing. This section becomes new § 541.07. As with the previous section, we simplified the language and removed provisions relating to internal agency practice and procedures. In this section, we detail the UDC process as the first disciplinary review. We also change the number of days from three work days to five work days that the unit discipline committee (UDC) will ordinarily conduct a review after an incident report is issued. This change is necessary because of the large increase of inmates and consequential increase in disciplinary actions since the drafting of the current rule.

Section 541.16 Establishment and functioning of the Disciplinary Hearing Officer. We delete this section because it relates to internal agency practice in describing the process through which a DHO is established. We retain this guidance to staff and Wardens in Bureau policy.

Section 541.17 Procedures before the Discipline Hearing Officer and 541.18 Dispositions of the Discipline Hearing Officer. These sections are consolidated into new § 541.08. As with other disciplinary regulations, we simplify the language while retaining the substance of the regulations, but remove provisions relating solely to internal agency practice.

We also change the rule to allow DHOs to impose sanctions that are also available at the UDC level, since such apparently lesser sanctions may likewise be useful in changing inmate behavior at the DHO level.

Section 541.19 Appeals from Unit Discipline Committee or Discipline Hearing Officer. In our new regulations on UDC and DHO process (new §§ 541.05–541.08), we state that inmates may appeal UDC and DHO decisions through the Administrative Remedy Program (28 CFR §§ 542.10–542.19). The remainder of former § 541.19 describes procedures the reviewing authority will follow in reviewing UDC and DHO decisions. This is guidance to the Administrative Remedy Program staff and, as internal agency procedures, does not need to be rules text. We will retain this guidance to staff in Bureau Administrative Remedy policy.

Section 541.20 Justification for placement in disciplinary segregation and review of inmates in disciplinary segregation.

We retain subsection (a) of this regulation as new § 541.24, which explains that an inmate may be placed in disciplinary segregation by the DHO as a sanction for committing a prohibited act in the Greatest, High, or Moderate severity categories, or a repeated offense in the Low severity category.

We delete subsection (b) of this rule because it is guidance to the warden. As internal agency procedural guidance, it does not need to be in rules text.

Subsections (c) and (d) of this rule describe SRO hearing procedures. We streamline and clarify this language and retain the substance of this provision in new §§ 541.22–541.26.

Section 541.21 Conditions of disciplinary segregation. We streamline, clarify, and retain the substance of this regulation in new § 541.31.

Section 541.22 Administrative detention. As with the above regulation, we streamline, clarify, and retain the substance of this regulation in new §§ 541.27–541.28.

Section 541.23 Protection cases. We consolidate and streamline this regulation in new §§ 541.28–541.30.

Where To Send Comments

You can send written comments on this rule to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

We will consider comments we receive during the comment period before we take final action. We will try to consider comments we receive after the end of the comment period. In light of comments we receive, we may change the rule.

We do not plan to have oral hearings on this rule. All the comments we receive remain on file for public inspection at the above address.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'', section 1(b), Principles of Regulation. The Director, Bureau of Prisons has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications for which we would prepare a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local and tribal governments, or the private sector, to spend $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

List of Subjects in 28 CFR Part 541

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

Under the rulemaking authority vested in the Attorney General in 5

U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we propose to amend 28 CFR part 541 as follows.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

1. Revise the authority citation for part 541 to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

Subpart A—General

2. Revise Subpart A to read as follows:

Subpart A—Inmate Discipline Program

Sec.
541.01 What is the purpose of this subpart?
541.02 Who is subject to the inmate discipline program?
541.03 What are the prohibited acts and available sanctions?
541.04 When will I lose good conduct sentence credit as a mandatory sanction?
541.05 How does the discipline process start?
541.06 What happens if I am mentally ill?
541.07 What happens at a Unit Discipline Committee's (UDC) review of the incident report?
541.08 What happens at a Discipline Hearing Officer's (DHO) hearing?

Subpart A—Inmate Discipline Program

§ 541.01 What is the purpose of this subpart?

This subpart describes the Federal Bureau of Prisons' (Bureau) inmate discipline program. This program helps ensure the safety, security, and orderly operation of correctional facilities, and protect the public, by allowing Bureau staff to impose sanctions on inmates who commit prohibited acts. Sanctions will not be imposed in a capricious or retaliatory manner. The Bureau's inmate discipline program is authorized by 18 U.S.C. 4042(a)(3).

§ 541.02 Who is subject to the inmate discipline program?

This program applies to sentenced and unsentenced inmates in Bureau custody. It also applies to sentenced and unsentenced inmates designated to non-Bureau facilities, for example, contract facilities, and for whom the Bureau is responsible.

§ 541.03 What are the prohibited acts and available sanctions?

(a) *Prohibited acts.* The list of prohibited acts are divided into four separate categories based on severity: Greatest; High; Moderate; and Low. We describe the prohibited acts in Table 1—Prohibited Acts and Available Sanctions. Aiding, abetting, or making plans to commit any of the prohibited acts is treated the same as committing the act itself.

(b) *Available sanctions.* The list of available sanctions for committing prohibited acts is listed in Table 1—Prohibited Acts and Available Sanctions. If you commit repetitive prohibited acts, we can impose increased sanctions, as listed in Table 2—Additional Available Sanctions for Repeated Prohibited Acts Within the Same Severity Level.

TABLE 1.—PROHIBITED ACTS AND AVAILABLE SANCTIONS GREATEST SEVERITY LEVEL PROHIBITED ACTS

100	Killing.
101	Assaulting any person, or an armed assault on the institution's secure perimeter (a charge for assaulting any person at this level is to be used only when serious physical injury has been attempted or accomplished by an inmate).
102	Escape from escort; escape from any secure or non-secure institution, including a community facility; escape from unescorted community program or activity; escape from outside a secure institution.
103	Setting a fire (charged with this act in this category only when found to pose a threat to life or a threat of serious bodily harm or in furtherance of a prohibited act of Greatest Severity, e.g. in furtherance of a riot or escape; otherwise the charge is properly classified Code 218, or 329).
104	Possession, manufacture, or introduction of a gun, firearm, weapon, sharpened instrument, knife, dangerous chemical, explosive, ammunition, or any instrument used as a weapon.
105	Rioting.
106	Encouraging others to riot.
107	Taking hostage(s).
108	Possession, manufacture, introduction, or loss of a hazardous tool (tools most likely to be used in an escape or escape attempt or to serve as weapons capable of doing serious bodily harm to others; or those hazardous to institutional security or personal safety; e.g., hack-saw blade, portable telephone, pager, or other electronic communication device).
109	(Not to be used).
110	Refusing to provide a urine sample; refusing to breathe into a Breathalyzer; refusing to take part in other drug-abuse testing.
111	Introduction or making of any narcotics, marijuana, drugs, alcohol, intoxicants, or related paraphernalia, not prescribed for the individual by the medical staff.
112	Use of any narcotics, marijuana, drugs, alcohol, intoxicants, or related paraphernalia, not prescribed for the individual by the medical staff.
113	Possession of any narcotics, marijuana, drugs, alcohol, intoxicants, or related paraphernalia, not prescribed for the individual by the medical staff.
114	Sexual assault of any person, involving non-consensual touching by force or threat of force.
115	Destroying and/or disposing of any item during a search or attempt to search.
196	Use of the mail to further criminal activity.
197	Use of the telephone to further criminal activity.
198	Interfering with a staff member in the performance of duties most like another Greatest severity prohibited act. This charge is to be used only when another charge of Greatest severity is not accurate. The offending conduct must be ''most like'' one of the listed Greatest severity prohibited acts.
199	Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons most like another Greatest severity prohibited act. This charge is to be used only when another charge of Greatest severity is not accurate. The offending conduct must be ''most like'' one of the listed Greatest severity prohibited acts.

Available Sanctions for Greatest Severity Level Prohibited Acts

A.	Recommend parole date rescission or retardation.
B.	Forfeit and/or withhold earned statutory good time or non-vested good conduct time (up to 100%) and/or terminate or disallow extra good time (an extra good time or good conduct time sanction may not be suspended).

TABLE 1.—PROHIBITED ACTS AND AVAILABLE SANCTIONS GREATEST SEVERITY LEVEL PROHIBITED ACTS—Continued

B.1. Disallow ordinarily between 50% and 75% (27–41 days) of good conduct time credit available for year (a good conduct time sanction may not be suspended).
C. Disciplinary segregation (up to 12 months).
D. Make monetary restitution.
E. Monetary fine.
F. Loss of privileges (e.g., visiting, telephone, commissary, movies, recreation).
G. Change housing (quarters).
H. Remove from program and/or group activity.
I. Loss of job.
J. Impound inmate's personal property.
K. Confiscate contraband.
L. Restrict to quarters.
M. Extra duty.

High Severity Level Prohibited Acts

200 Escape from a work detail, non-secure institution, or other non-secure custody, including a community facility, with subsequent voluntary return to Bureau of Prisons custody within four hours.
201 Fighting with another person.
202 (Not to be used).
203 Threatening another with bodily harm or any other offense.
204 Extortion; blackmail; protection; demanding or receiving money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing.
205 Engaging in sexual acts.
206 Making sexual proposals or threats to another.
207 Wearing a disguise or a mask.
208 Possession of any unauthorized locking device, or lock pick, or tampering with or blocking any lock device (includes keys), or destroying, altering, interfering with, improperly using, or damaging any security device, mechanism, or procedure.
209 Adulteration of any food or drink.
210 (Not to be used).
211 Possessing any officer's or staff clothing.
212 Engaging in or encouraging a group demonstration.
213 Encouraging others to refuse to work, or to participate in a work stoppage.
214 (Not to be used).
215 (Not to be used).
216 Giving or offering an official or staff member a bribe, or anything of value.
217 Giving money to, or receiving money from, any person for the purpose of introducing contraband or any other illegal or prohibited purpose.
218 Destroying, altering, or damaging government property, or the property of another person, having a value in excess of $100.00, or destroying, altering, damaging life-safety devices (e.g., fire alarm) regardless of financial value.
219 Stealing; theft (including data obtained through the unauthorized use of a communications device, or through unauthorized access to disks, tapes, or computer printouts or other automated equipment on which data is stored).
220 Demonstrating, practicing, or using martial arts, boxing (except for use of a punching bag), wrestling, or other forms of physical encounter, or military exercises or drill (except for drill authorized and conducted by staff).
221 Being in an unauthorized area with a person of the opposite sex without staff permission.
222 (Not to be used).
223 (Not to be used).
224 Assaulting any person (a charge at this level is used when less serious physical injury or contact has been attempted or accomplished by an inmate).
225 Stalking another person, as evidenced by a pattern of contacting the person with an intent to harass, alarm, or annoy, after having been warned to stop such conduct.
226 Possession of stolen property.
227 Refusing to participate in a required physical test or examination unrelated to testing for drug abuse (e.g., DNA, HIV, tuberculosis).
228 Tattooing or self-mutilation.
229 Sexual assault of any person, involving non-consensual touching without force or threat of force.
296 Use of the mail for abuses other than criminal activity, and which circumvent mail monitoring procedures (e.g., special mail abuse; writing letters in code; directing others to send, sending, or receiving a letter or mail through unauthorized means; sending mail for other inmates without authorization; sending correspondence to a specific address with directions or intent to have the correspondence sent to an unauthorized person; and using a fictitious return address in an attempt to send or receive unauthorized correspondence).
297 Use of the telephone for abuses other than criminal activity, and which circumvent telephone monitoring procedures (e.g., possession and/or use of another inmate's PIN number; third-party calling; third-party billing; using credit card numbers to place telephone calls; conference calling; talking in code; three-way calls; allowing another inmate to use your PIN number; placing another inmate's telephone number on your approved telephone list).
298 Interfering with a staff member in the performance of duties most like another High severity prohibited act. This charge is to be used only when another charge of High severity is not accurate. The offending conduct must be ''most like'' one of the listed High severity prohibited acts.
299 Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons most like another High severity prohibited act. This charge is to be used only when another charge of High severity is not accurate. The offending conduct must be ''most like'' one of the listed High severity prohibited acts.

Available Sanctions for High Severity Level Prohibited Acts

A. Recommend parole date rescission or retardation.
B. Forfeit and/or withhold earned statutory good time or non-vested good conduct time up to 50% or up to 60 days, whichever is less, and/or terminate or disallow extra good time (an extra good time or good conduct time sanction may not be suspended).
B.1 Disallow ordinarily between 25% and 50% (14–27 days) of good conduct time credit available for year (a good conduct time sanction may not be suspended).

TABLE 1.—PROHIBITED ACTS AND AVAILABLE SANCTIONS GREATEST SEVERITY LEVEL PROHIBITED ACTS—Continued

C. Disciplinary segregation (up to 6 months).
D. Make monetary restitution.
E. Monetary fine.
F. Loss of privileges (e.g., visiting, telephone, commissary, movies, recreation).
G. Change housing (quarters).
H. Remove from program and/or group activity.
I. Loss of job.
J. Impound inmate's personal property.
K. Confiscate contraband.
L. Restrict to quarters.
M. Extra duty.

Moderate Severity Level Prohibited Acts

300 Indecent Exposure.
301 (Not to be used).
302 Misuse of authorized medication.
303 Possession of money or currency, unless specifically authorized, or in excess of the amount authorized.
304 Loaning of property or anything of value for profit or increased return.
305 Possession of anything not authorized for retention or receipt by the inmate, and not issued to him through regular channels.
306 Refusing to work or to accept a program assignment.
307 Refusing to obey an order of any staff member (may be categorized and charged in terms of greater severity, according to the nature of the order being disobeyed, e.g., failure to obey an order which furthers a riot would be charged as 105, Rioting; refusing to obey an order which furthers a fight would be charged as 201, Fighting; refusing to provide a urine sample when ordered as part of a drug-abuse test would be charged as 110).
308 Violating a condition of a furlough.
309 Violating a condition of a community program.
310 Unexcused absence from work or any assignment.
311 Failing to perform work as instructed by the supervisor.
312 Insolence towards a staff member.
313 Lying or providing a false statement to a staff member.
314 Counterfeiting, forging, or unauthorized reproduction of any document, article of identification, money, security, or official paper (may be categorized in terms of greater severity according to the nature of the item being reproduced, e.g., counterfeiting release papers to effect escape, Code 102).
315 Participating in an unauthorized meeting or gathering.
316 Being in an unauthorized area.
317 Failure to follow safety or sanitation regulations (including safety regulations, chemical instructions, tools, MSDS sheets, OSHA standards).
318 Using any equipment or machinery which is not specifically authorized.
319 Using any equipment or machinery contrary to instructions or posted safety standards.
320 Failing to stand count.
321 Interfering with the taking of count.
322 (Not to be used).
323 (Not to be used).
324 Gambling.
325 Preparing or conducting a gambling pool.
326 Possession of gambling paraphernalia.
327 Unauthorized contacts with the public.
328 Giving money or anything of value to, or accepting money or anything of value from, another inmate or any other person without staff authorization.
329 Destroying, altering, or damaging government property, or the property of another person, having a value of $100.00 or less.
330 Being unsanitary or untidy; failing to keep one's person or quarters in accordance with posted standards.
331 Possession, manufacture, introduction, or loss of a non-hazardous tool, equipment, supplies, or other non-hazardous contraband (tools not likely to be used in an escape or escape attempt, or to serve as a weapon capable of doing serious bodily harm to others, or not hazardous to institutional security or personal safety) (other non-hazardous contraband includes such items as food, cosmetics, cleaning supplies).
332 Smoking where prohibited.
333 Fraudulent or deceptive completion of a skills test, e.g., cheating on a GED, or other educational or vocational skills test.
334 Conducting a business; conducting or directing an investment transaction.
335 Communicating gang affiliation; participating in gang related activities; possession of paraphernalia indicating gang affiliation.
336 Circulating a petition.
396 Use of the mail for abuses other than criminal activity which do not circumvent mail monitoring procedures.
397 Use of the telephone for abuses other than criminal activity which do not circumvent telephone monitoring procedures (e.g., inmate calls a number on an approved list and other individuals pick-up extension lines and talk simultaneously; inmate uses the telephone during assigned work period; inmate provides false information to place an unauthorized individual on an approved telephone list).
398 Interfering with a staff member in the performance of duties most like another Moderate severity prohibited act. This charge is to be used only when another charge of Moderate severity is not accurate. The offending conduct must be ''most like'' one of the listed Moderate severity prohibited acts.
399 Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons most like another Moderate severity prohibited act. This charge is to be used only when another charge of Moderate severity is not accurate. The offending conduct must be ''most like'' one of the listed Moderate severity prohibited acts.

Available Sanctions for Moderate Severity Level Prohibited Acts

A. Recommend parole date rescission or retardation.
B. Forfeit and/or withhold earned statutory good time or non-vested good conduct time up to 25% or up to 30 days, whichever is less, and/or terminate or disallow extra good time (an extra good time or good conduct time sanction may not be suspended).

TABLE 1.—PROHIBITED ACTS AND AVAILABLE SANCTIONS GREATEST SEVERITY LEVEL PROHIBITED ACTS—Continued

B.1 Disallow ordinarily up to 25% (1–14 days) of good conduct time credit available for year (a good conduct time sanction may not be suspended).
C. Disciplinary segregation (up to 3 months).
D. Make monetary restitution.
E. Monetary fine.
F. Loss of privileges (e.g., visiting, telephone, commissary, movies, recreation).
G. Change housing (quarters).
H. Remove from program and/or group activity.
I. Loss of job.
J. Impound inmate's personal property.
K. Confiscate contraband.
L. Restrict to quarters.
M. Extra duty.

Low Severity Level Prohibited Acts

400 (Not to be used).
401 (Not to be used).
402 Malingering, feigning illness.
403 (Not to be used).
404 Using abusive or obscene language.
405 (Not to be used).
406 (Not to be used).
407 Conduct with a visitor in violation of Bureau regulations.
408 (Not to be used).
409 Unauthorized physical contact (e.g., kissing, embracing).
498 Interfering with a staff member in the performance of duties most like another Low severity prohibited act. This charge is to be used only when another charge of Low severity is not accurate. The offending conduct must be "most like" one of the listed Low severity prohibited acts.
499 Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons most like another Low severity prohibited act. This charge is to be used only when another charge of Low severity is not accurate. The offending conduct must be "most like" one of the listed Low severity prohibited acts.

Available Sanctions for Low Severity Level Prohibited Acts

B.1 Disallow ordinarily up to 12.5% (1–7 days) of good conduct time credit available for year (to be used only where inmate found to have committed a second violation of the same prohibited act within 6 months); Disallow ordinarily up to 25% (1–14 days) of good conduct time credit available for year (to be used only where inmate found to have committed a third violation of the same prohibited act within 6 months) (a good conduct time sanction may not be suspended).
D. Make monetary restitution.
E. Monetary fine.
F. Loss of privileges (e.g., visiting, telephone, commissary, movies, recreation).
G. Change housing (quarters).
H. Remove from program and/or group activity.
I. Loss of job.
J. Impound inmate's personal property.
K. Confiscate contraband.
L. Restrict to quarters.
M. Extra duty.

TABLE 2.—ADDITIONAL AVAILABLE SANCTIONS FOR REPEATED PROHIBITED ACTS WITHIN THE SAME SEVERITY LEVEL

Prohibited act severity level	Time period for prior offense (same code)	Frequency of repeated offense	Additional available sanctions
Low Severity (400 level)	6 months	2nd offense	1. Disciplinary segregation (up to 1 month). 2. Forfeit earned SGT or non-vested GCT up to 10% or up to 15 days, whichever is less, and/or terminate or disallow extra good time (EGT) (an EGT sanction may not be suspended).
		3rd or more offense.	Any available Moderate severity level sanction (300 series).
Moderate Severity (300 level)	12 months	2nd offense	1. Disciplinary segregation (up to 6 months). 2. Forfeit earned SGT or non-vested GCT up to 37½% or up to 45 days, whichever is less, and/or terminate or disallow EGT (an EGT sanction may not be suspended).
		3rd or more offense.	Any available High severity level sanction (200 series).
High Severity (200 level)	18 months	2nd offense	1. Disciplinary segregation (up to 12 months). 2. Forfeit earned SGT or non-vested GCT up to 75% or up to 90 days, whichever is less, and/or terminate or disallow EGT (an EGT sanction may not be suspended).
		3rd or more offense.	Any available Greatest severity level sanction (100 series).

TABLE 2.—ADDITIONAL AVAILABLE SANCTIONS FOR REPEATED PROHIBITED ACTS WITHIN THE SAME SEVERITY LEVEL—Continued

Prohibited act severity level	Time period for prior offense (same code)	Frequency of repeated offense	Additional available sanctions
Greatest Severity (100 level)	24 months	2nd or more offense.	Disciplinary Segregation (up to 18 months).

§ 541.04 When will I lose good conduct sentence credit as a mandatory sanction?

(a) You will lose good conduct sentence credit as a mandatory disciplinary sanction if you are in one of the following two groups:

(1) *VCCLEA-violent inmates.* The date of your U.S. Code offense was on or after September 13, 1994, but before April 26, 1996, and you committed a ''crime of violence'' as defined by the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA); or

(2) *PLRA inmates.* The date of your U.S. Code offense was on or after April 26, 1996, and, therefore, under the Prison Litigation Reform Act (PLRA), or the date of your District of Columbia (DC) Code offense was on or after August 5, 2000.

(b) If you are an inmate in one of the above groups and commit a prohibited act, you will lose good conduct sentence credit as a mandatory disciplinary sanction. The amount of good conduct sentence credit you will lose depends on the severity level of the prohibited act(s) committed, as follows:

(1) *Greatest Severity Level Offenses.* You will lose at least 41 days, or 75% of available credit if less than 54 days are available for the prorated period, for each act committed.

(2) *High Severity Level Offenses.* You will lose at least 27 days, or 50% of available credit if less than 54 days are available for the prorated period, for each act committed.

(3) *Moderate Severity Level Offenses.* You will lose at least 14 days, or 25% of available credit if less than 54 days are available for the prorated period, after committing two or more Moderate severity acts during the current year of your good conduct sentence credit availability.

(4) *Low Severity Level Offenses.* You will lose at least 7 days, or 12.5% of available credit if less than 54 days are available for the prorated period, after committing three or more Low severity acts during the current year of your good conduct sentence credit availability.

§ 541.05 How does the discipline process start?

(a) *Incident report.* The discipline process starts when a staff witness reasonably believes that you committed a prohibited act. A staff member will issue you an incident report describing the incident and the prohibited act(s) you are charged with committing. You will ordinarily receive the incident report within 24 hours of staff becoming aware of your involvement in the incident.

(b) *Investigation.* After you receive an incident report, a Bureau staff member will investigate it.

(1) *Information:* The investigator will specifically inform you:

(A) Of the charge(s) against you; and

(B) That you may remain silent at all stages of the discipline process, but that your silence may be used to draw an adverse inference against you at any stage of the process. Your silence alone, however, cannot be the basis for finding you committed the prohibited act(s).

(2) *Statement:* When the investigator asks for your statement, you may give an explanation of the incident, request any witnesses be interviewed, or request that other evidence be obtained and reviewed. However, the staff investigation of the incident report may be suspended before requesting your statement if it is being investigated for possible criminal prosecution.

(3) *Informally resolving the incident report:* The incident report may be informally resolved at any stage of the disciplinary process, except for prohibited acts in the Greatest and High severity levels, or as otherwise required by law or these rules. If the incident report is informally resolved, it will be removed from your records.

§ 541.06 What happens if I am mentally ill?

If it appears you are mentally ill at any stage of the discipline process, you will be examined by mental health staff.

(a) *Competency to Participate in Disciplinary Proceedings.* If evidence indicates that you cannot understand the nature of the disciplinary proceedings, or cannot help in your own defense, disciplinary proceedings may be postponed until you are competent to participate. The UDC or DHO will make this decision based on evidence, including evidence presented by mental health staff.

(b) *Responsibility for Conduct.* You will not be disciplined for conduct committed when, as the result of a severe mental disease or defect, you were unable to appreciate the nature and quality, or wrongfulness of the act. The UDC or DHO will make this decision based on evidence, including evidence presented by mental health staff.

§ 541.07 What happens at a Unit Discipline Committee's (UDC) review of the incident report?

A Unit Discipline Committee (UDC) will review the incident report once the staff investigation is complete. The UDC's review involves the following:

(a) *Available dispositions.* The UDC will make one of the following decisions after reviewing the incident report:

(1) You committed the prohibited act(s) charged, and/or a similar prohibited act(s) as described in the incident report;

(2) You did not commit the prohibited act(s) charged; or

(3) The incident report will be referred to the Discipline Hearing Officer (DHO) for further review, based on the seriousness of the prohibited act(s) charged.

(4) If you are charged with a Greatest or High severity prohibited act, or are an inmate covered by § 541.04, the UDC will automatically refer the incident report to the DHO for further review.

(b) *UDC members.* The UDC ordinarily consists of two or more staff. UDC members will not be victims, witnesses, investigators, or otherwise significantly involved in the incident.

(c) *Timing.* The UDC will ordinarily review the incident report within five work days after it is issued, not counting the day it was issued, weekends, and holidays. UDC review of the incident report may also be suspended if it is being investigated for possible criminal prosecution.

(d) *Inmate appearance.* You are permitted to appear before the UDC during its review of the incident report, except during UDC deliberations or when your presence would jeopardize institution security, at the UDC's discretion. Also:

(1) You may appear either in person or electronically (for example, by video

or telephone conferencing) at the UDC's discretion.

(2) You may waive your appearance before the UDC. If you waive your appearance, the UDC will review the incident report in your absence.

(3) If you escape or are otherwise absent from custody, the UDC will conduct a review in your absence at the institution where you were last confined.

(e) *Evidence.* You are entitled to make a statement and present documentary evidence to the UDC on your own behalf. The UDC will consider all evidence presented during its review. The UDC's decision will be based on at least some facts and, if there is conflicting evidence, on the greater weight of the evidence.

(f) *Sanctions.* If you committed a prohibited act(s), the UDC can impose any of the available sanctions listed in Tables 1 and 2, except loss of good conduct sentence credit, disciplinary segregation, or monetary fines.

(g) *Referral to the DHO.* If the UDC refers the incident report to the DHO for further review, the UDC will advise you of your rights at the upcoming DHO hearing, as detailed in § 541.08.

(h) *Written report.* You will receive a written copy of the UDC's decision following its review of the incident report.

(i) *Appeals.* You may appeal the UDC's action(s) through the Administrative Remedy Program, 28 CFR Part 542, Subpart B.

§ 541.08 What happens at a Discipline Hearing Officer's (DHO) hearing?

The Discipline Hearing Officer (DHO) will only conduct a hearing on the incident report if referred by the UDC. The DHO's hearing involves the following:

(a) *Available dispositions.* The DHO will make one of the following decisions after a hearing on the incident report:

(1) You committed the prohibited act(s) charged, and/or a similar prohibited act(s) as described in the incident report;

(2) You did not commit the prohibited act(s) charged; or

(3) The incident report will be referred back for further investigation, review, and disposition.

(b) *Discipline Hearing Officer.* The DHO will be an impartial decision maker who was not a victim, witness, investigator, or otherwise significantly involved in the incident.

(c) *Timing.* You will receive written notice of the charge(s) against you at least 24 hours before the DHO's hearing. You may waive this requirement, in which case the DHO's hearing can be conducted sooner.

(d) *Staff Representative.* You are entitled to have a staff representative during the DHO hearing process as follows:

(1) *How to get a staff representative.* You may request the staff representative of your choice, so long as that person was not a victim, witness, investigator, or otherwise significantly involved in the incident. If your request(s) cannot be fulfilled, and you still want a staff representative, the Warden will appoint one. The Warden will also appoint a staff representative if it appears you are unable to adequately represent yourself before the DHO, for example, if you are illiterate or have difficulty understanding the charges against you.

(2) *How the staff representative will help you.* Prior to the DHO's hearing, the staff representative will be available to help you understand the incident report charges and potential consequences. The staff representative may also assist you by speaking with and scheduling witnesses, obtaining written statements, and otherwise helping you prepare evidence for presentation at the DHO's hearing. During the DHO's hearing, you are entitled to have the staff representative appear and assist you in understanding the proceedings. The staff representative can also assist you in presenting evidence during the DHO's hearing.

(3) *How the staff representative may appear.* Your staff representative may appear either in person or electronically (for example, by video or telephone conferencing) at the DHO's discretion. If your staff representative is not available for the scheduled hearing, you may either select another staff representative, request the hearing be postponed for a reasonable amount of time until your staff representative can appear, or proceed without a staff representative.

(e) *Inmate appearance.* You are permitted to appear before the DHO during the hearing on the incident report as follows:

(1) You may appear either in person or electronically (for example, by video or telephone conferencing), at the DHO's discretion.

(2) Your appearance may be prohibited during DHO deliberations or when your presence would jeopardize institution security, at the DHO's discretion.

(3) You may waive your appearance before the DHO. If you waive your appearance, the DHO hearing will be conducted in your absence.

(4) If you escape or are otherwise absent from custody, the DHO will conduct a hearing in your absence at the institution where you were last confined.

(f) *Evidence and witnesses.* You are entitled to make a statement and present documentary evidence to the DHO on your own behalf. The DHO will consider all evidence presented during the hearing. The DHO's decision will be based on at least some facts and, if there is conflicting evidence, on the greater weight of the evidence. Witnesses may appear at the DHO's hearing as follows:

(1) Witnesses may appear before the DHO either in person or electronically (for example, by video or telephone conferencing) at the DHO's discretion.

(2) The DHO will call witnesses who have information directly relevant to the charge(s) and who are reasonably available. However, the DHO need not call witnesses adverse to you if their testimony is adequately summarized in the incident report or other investigation materials.

(3) You or your staff representative may request witnesses appear at the hearing to testify on your behalf. Your requested witnesses may not appear if, in the DHO's discretion, they are not reasonably available, their presence at the hearing would jeopardize institution security, or they would present repetitive evidence.

(4) If your requested witnesses are unavailable to appear, written statements can be requested by either the DHO or staff representative. The written statements can then be considered during the DHO's hearing.

(5) Only the DHO may directly question witnesses at the DHO's hearing. Any questions by you or your staff representative must be submitted to the DHO, who will present the question to the witness in his/her discretion.

(6) The DHO may consider evidence provided by a confidential informant (CI) that the DHO finds reliable. You will not be informed of the CI's identity. You will be informed of the CI's testimony to the extent it will not jeopardize institution security, at the DHO's discretion.

(g) *Sanctions.* If you committed a prohibited act(s), the DHO can impose any of the available sanctions listed in Tables 1 and 2.

(h) *Written Report.* You will receive a written copy of the DHO's decision following the hearing. The DHO is not required to prepare a verbatim record of the hearing. The DHO's written report will document the following:

(1) Whether you were advised of your rights during the DHO process;

(2) The evidence relied on by the DHO;

(3) The DHO's decision;

(4) The sanction imposed by the DHO; and

(5) The reason(s) for the sanction(s) imposed.

(i) *Appeals.* You may appeal the DHO's action(s) through the Administrative Remedy Program, 28 CFR part 542, subpart B.

Subpart B—Inmate Discipline and Special Housing Units

3. Revise Subpart B to read as follows:

Subpart B—Special Housing Units

Sec.
541.20 What is the purpose of this subpart?
541.21 What are SHUs?
541.22 What is my status when placed in the SHU?
541.23 When can I be placed in administrative detention status?
541.24 When can I be placed in disciplinary segregation status?
541.25 What notice will I receive when placed in the SHU?
541.26 How will my placement in the SHU be reviewed?
541.27 When can I be placed in administrative detention as a protection case?
541.28 How will my placement in the SHU as a protection case be reviewed?
541.29 What happens if staff verify my need for protection?
541.30 What happens if staff cannot verify my need for protection?
541.31 What are the conditions of confinement in the SHU?
541.32 What medical and mental health care will I receive in the SHU?
541.33 When will I be released from the SHU?

Subpart B—Special Housing Units

§ 541.20 What is the purpose of this subpart?

This subpart describes the Federal Bureau of Prisons' (Bureau) operation of special housing units (SHU) at Bureau institutions. The Bureau's operation of SHUs is authorized by 18 U.S.C. 4042(a)(2) and (3).

§ 541.21 What are SHUs?

SHUs are housing units in Bureau institutions where inmates are securely separated from the general inmate population, and may be housed either alone or with other inmates. Special housing units help ensure the safety, security, and orderly operation of correctional facilities, and protect the public, by providing alternative housing assignments for inmates removed from the general population.

§ 541.22 What is my status when placed in the SHU?

When placed in the SHU, you are either in administrative detention status or disciplinary segregation status.

(a) *Administrative detention status.* Administrative detention status is an administrative status which removes you from the general population when necessary to ensure the safety, security, and orderly operation of correctional facilities, or protect the public. Administrative detention status is non-punitive, and can occur for a variety of reasons.

(b) *Disciplinary segregation status.* Disciplinary segregation status is a punitive status imposed only by a Disciplinary Hearing Officer (DHO) as a sanction for committing a prohibited act(s).

§ 541.23 When can I be placed in administrative detention status?

You may be placed in administrative detention status for the following reasons:

(a) *Pending Classification.* You are a new commitment pending classification.

(b) *Holdover Status.* You are in holdover status during transfer to a designated institution or other destination.

(c) *Removal from general population.* Your presence in the general population poses a threat to life, property, self, staff, other inmates, the public, or to the security or orderly running of the institution and:

(1) *Investigation.* You are under investigation or awaiting a hearing for possibly violating a Bureau rule or criminal law;

(2) *Transfer.* You are pending transfer to another institution or location;

(3) *Protection cases.* You requested, or staff determined you need, administrative detention status for your own protection.

(4) *Post-disciplinary detention.* You are ending confinement in disciplinary segregation status, and your return to the general population would threaten the safety, security, and orderly operation of a correctional facility, or public safety.

§ 541.24 When can I be placed in disciplinary segregation status?

You may be placed in disciplinary segregation status only by the DHO as a sanction for committing a prohibited act(s) in the Greatest, High, or Moderate severity categories, or a repeated offense in the Low severity category.

§ 541.25 What notice will I receive when placed in the SHU?

You will be notified of the reason(s) you are placed in the SHU as follows:

(a) *Administrative detention status.* When placed in administrative detention status, you will receive a copy of the administrative detention order, ordinarily within 24 hours, detailing the reason(s) for your placement. However, when placed in administrative detention status pending classification or while in holdover status, you will not receive an administrative detention order.

(b) *Disciplinary segregation status.* When you are to be placed in disciplinary segregation status as a sanction for violating Bureau rules, you will be informed by the DHO at the end of your discipline hearing.

§ 541.26 How will my placement in the SHU be reviewed?

Your placement in the SHU will be reviewed by the Segregation Review Official (SRO) as follows:

(a) *Three day review.* Within three work days of your placement in administrative detention status, not counting the day you were admitted, weekends, and holidays, the SRO will review the supporting records. If you are in disciplinary segregation status, this review will not occur.

(b) *Seven day reviews.* Within seven continuous calendar days of your placement in either administrative detention or disciplinary segregation status, the SRO will formally review your status at a hearing you can attend. Subsequent reviews of your records will be performed in your absence by the SRO every seven continuous calendar days thereafter.

(c) *Thirty day reviews.* After every 30 calendar days of continuous placement in either administrative detention or disciplinary segregation status, the SRO will formally review your status at a hearing you can attend.

(d) *Administrative remedy program.* You can submit a formal grievance challenging your placement in the SHU through the Administrative Remedy Program, 28 CFR part 542, subpart B.

§ 541.27 When can I be placed in administrative detention as a protection case?

You may be placed in administrative detention status as a protection case in the following circumstances.

(a) *Victim of inmate assault or threats.* You were the victim of an inmate assault, or are being threatened by other inmates, including threats of harm if you do not act in a certain way, for example, threats of harm unless you engage in sexual activity.

(b) *Inmate informant.* Your safety is threatened because you provided, or are perceived as having provided, information to staff or law enforcement authorities regarding other inmates or persons in the community.

(c) *Inmate refusal.* You refuse to enter the general population because of alleged pressures or threats from

unidentified inmates, or for no expressed reason.

(d) *Staff concern.* Based on evidence, staff believe your safety may be seriously jeopardized by placement in the general population.

§ 541.28 How will my placement in the SHU as a protection case be reviewed?

(a) *Staff investigation.* Whenever you are placed in the SHU as a protection case, whether requested by you or staff, an investigation will occur to verify the reasons for your placement.

(b) *Inmate consents.* If you consent to placement in the SHU as a protection case, you will be reviewed as an ordinary administrative detention case so long as reasons exist to support your placement, or while an investigation is pending to verify the reasons for your placement.

(c) *Inmate contests.* If you contest your placement in the SHU as a protection case, you will receive a hearing according to the procedural requirements of § 541.26(b) within seven calendar days of your placement. Additionally, if you feel at any time your placement in the SHU as a protection case is unnecessary, you may request a hearing under this section. If you remain in administrative detention status following such a hearing, you will be periodically reviewed as an ordinary administrative detention case under § 541.26.

§ 541.29 What happens if staff verify my need for protection?

If a staff investigation verifies your need for placement in the SHU as a protection case, you may remain in the SHU or be transferred to another institution where your status as a protection case may not be necessary, at the Warden's discretion.

§ 541.30 What happens if staff cannot verify my status as a protection case?

If a staff investigation fails to verify your need for placement in the SHU as a protection case, you will be instructed to return to the general population. If you refuse to return to the general population under these circumstances, you may be subject to disciplinary action.

§ 541.31 What are the conditions of confinement in the SHU?

Your living conditions in the SHU will meet or exceed standards for healthy and humane treatment, including, but not limited to, the following specific conditions:

(a) *Environment.* Your living quarters will be well-ventilated, adequately lighted, appropriately heated, and maintained in a sanitary condition.

(b) *Cell Occupancy.* Your living quarters will ordinarily house only the amount of occupants for which it is designed. The Warden, however, may authorize more occupants so long as adequate standards can be maintained.

(c) *Clothing.* You will receive adequate institution clothing, including footwear, while housed in the SHU. You will be provided necessary opportunities to exchange clothing and/or have it washed.

(d) *Bedding.* You will receive a mattress, blankets, a pillow, and linens for sleeping. You will receive necessary opportunities to exchange linens.

(e) *Food.* You will receive nutritionally adequate meals.

(f) *Personal hygiene.* You will have access to a wash basin and toilet. You will receive personal items necessary to maintain an acceptable level of personal hygiene, for example, toilet tissue, soap, toothbrush and cleanser, shaving utensils, etc. You will ordinarily have an opportunity to shower and shave at least three times per week. You will have access to hair care services as necessary.

(g) *Exercise.* You will receive the opportunity to exercise outside your individual quarters at least five hours per week, ordinarily on different days in one-hour periods. You can be denied these exercise periods for a week at a time by order of the Warden if it is determined that your use of exercise privileges threatens safety, security, and orderly operation of a correctional facility, or public safety.

(h) *Personal property.* In either status, your amount of personal property may be limited for reasons of fire safety or sanitation.

(1) In administrative detention status you are ordinarily allowed a reasonable amount of personal property and access to the commissary.

(2) In disciplinary segregation status your personal property will be impounded, with the exception of limited reading/writing materials, and religious articles. Also, your commissary privileges may be limited.

(i) *Correspondence.* You will receive correspondence privileges according to Part 540, Subpart B.

(j) *Telephone.* You will receive telephone privileges according to Part 540, Subpart I.

(k) *Visiting.* You will receive visiting privileges according to Part 540, Subpart D.

(l) *Legal Activities.* You will receive an opportunity to perform personal legal activities according to Part 543, Subpart B.

(m) *Staff monitoring.* You will be monitored by staff assigned to the SHU, including program and unit team staff.

(n) *Programming Activities.* In administrative detention status, you will have access to programming activities to the extent safety, security, orderly operation of a correctional facility, or public safety are not jeopardized. In disciplinary segregation status, your participation in programming activities, *e.g.*, educational programs, may be suspended.

(o) *Administrative remedy program.* You can submit a formal grievance challenging any aspect of your confinement in the SHU through the Administrative Remedy Program, 28 CFR part 542, subpart B.

§ 541.32 What medical and mental health care will I receive in the SHU?

(a) *Medical Care.* A health services staff member will visit you daily to provide necessary medical care. Emergency medical care is always available.

(b) *Mental Health Care.* After every 30 calendar days of continuous placement in either administrative detention or disciplinary segregation status, mental health staff will examine you, including a personal interview. Emergency mental health care is always available.

§ 541.33 When will I be released from the SHU?

(a) *Administrative detention status.* You will be released from administrative detention status when the reasons for your placement no longer exist.

(b) *Disciplinary segregation status.* You will be released from disciplinary segregation status after satisfying the sanction imposed by the DHO. The SRO may release you earlier if it is determined you no longer require disciplinary segregation status.

[FR Doc. 05–14637 Filed 7–25–05; 8:45 am]

BILLING CODE 4410–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 239 and 258

[FRL–7940–9]

Adequacy of Indiana Municipal Solid Waste Landfill Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 5 is proposing to approve a modification to Indiana's

approved municipal solid waste landfill (MSWLF) permit program. The modification allows the State to issue research, development and demonstration (RD&D) permits to owners and operators of MSWLF units in accordance with its state law.

DATES: All Comments on Indiana's application for approval of its research, development and demonstration permit modification must be received by U.S. EPA Region 5 by the close of business on August 25, 2005.

ADDRESSES: Written comments should be sent to Susan Mooney, Waste Management Branch (Mail code: DW–8J), U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, telephone: 312/886–3585. Comments may also be submitted electronically to: *mooney.susan@epa.gov* or by facsimile at (312) 353–4788. You may examine copies of the relevant portions of Indiana's regulations during normal business hours at EPA Region 5.

FOR FURTHER INFORMATION CONTACT: Susan Mooney, Waste Management Branch (Mail code: DW–8J), U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, telephone: 312/886–3585, email: *mooney.susan@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

On March 22, 2004, EPA issued a final rule amending the municipal solid waste landfill criteria in 40 CFR part 258 to allow for research, development and demonstration (RD&D) permits. (69 FR 13242). This rule allows for variances from specified criteria for a limited period of time, to be implemented through state-issued RD&D permits. RD&D permits are only available in states with approved MSWLF permit programs which have been modified to incorporate RD&D permit authority. While States are not required to seek approval for this new provision, those States that are interested in providing RD&D permits to owners and operators of MSWLFs must seek approval from EPA before issuing such permits. Approval procedures for new provisions of 40 CFR Part 258 are outlined in 40 CFR 239.12.

Indiana's MSWLF permit program was approved on October 8, 1996 (61 FR 52791). On May 11, 2005, Indiana applied for approval of its RD&D permit provisions. Indiana submitted its rules under 329 IAC 10–11–6.5 for review.

B. Decision

After a thorough review, EPA Region 5 is proposing that Indiana's RD&D permit provisions as defined under Indiana rule 329 IAC 10–11–6.5 are adequate to ensure compliance with the Federal criteria as defined at 40 CFR 258.4.

C. Statutory and Executive Order Reviews

This action proposes to approve state solid waste requirements pursuant to RCRA Section 4005 and imposes no federal requirements. Therefore, this proposed rule complies with applicable executive orders and statutory provisions as follows: 1. Executive Order 12866: Regulatory Planning Review—The Office of Management and Budget has exempted this proposed action from its review under Executive Order (EO) 12866; 2. Paperwork Reduction Act—This proposed action does not impose an information collection burden under the Paperwork Reduction Act; 3. Regulatory Flexibility Act—After considering the economic impacts of today's proposed action on small entities under the Regulatory Flexibility Act, I certify that this proposed action would not have a significant economic impact on a substantial number of small entities; 4. Unfunded Mandates Reform Act—Because this action proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, this action does not contain any unfunded mandate, or significantly or uniquely affect small governments, as described in the Unfunded Mandates Act; 5. Executive Order 13132: Federalism—EO 13132 does not apply to this proposed action because this proposed action will not have federalism implications (*i.e.*, there are no substantial direct effects on states, on the relationship between the national government and states, or on the distribution of power and responsibilities between federal and state governments); 6. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments—EO 13175 does not apply to this proposed action because it will not have tribal implications (*i.e.*, there are no 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). 7. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks—This proposed action is not subject to EO 13045 because it is not economically significant and is not based on health or safety risks; 8. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use—This proposed action is not subject to EO 13211 because it is not a significant regulatory action as defined in EO 12866; 9. National Technology Transfer Advancement Act—This provision directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. This proposed action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects

40 CFR Part 239

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Waste treatment and disposal.

40 CFR Part 258

Reporting and recordkeeping requirements, Waste treatment disposal, Water pollution control.

Authority: This action is issued under the authority of section 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945 and 6949(a).

Dated: July 7, 2005.

Norman Niedergang,

Acting Regional Administrator, U.S. EPA, Region 5.

[FR Doc. 05–14734 Filed 7–25–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7943–4]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Red Oak City Landfill Superfund site (site) from the National Priorities List (NPL).

SUMMARY: The EPA, Region VII, is issuing a notice of intent to delete the Red Oak City Landfill Superfund site (site) located near Red Oak, Iowa, from the NPL and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental

Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found in appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the state of Iowa through the Iowa Department of Natural Resources (IDNR) have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Red Oak City Landfill Superfund site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this site must be received by August 25, 2005.

ADDRESSES: Written comments should be addressed to Bob Stewart, Remedial Project Manager, Superfund Division, U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, KS 66101.

FOR FURTHER INFORMATION CONTACT: Bob Stewart, Remedial Project Manager, U.S. EPA, Region VII, Superfund Division, Iowa/Nebraska Remedial Branch, 901 North 5th Street, Kansas City, KS 66101, fax (913) 551–9654, or 1–800–223–0425.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Information concerning this deletion decision can be found in the Deletion Docket at the information repositories at the following locations: U.S. EPA, Region VII, Superfund Division Records Center, 901 North 5th Street, Kansas City, KS 66101 and at the IDNR, Henry A. Wallace Building, 900 East Grand, Des Moines, IA 50319.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: July 5, 2005.

James B. Gulliford,

Regional Administrator, Region VII.

[FR Doc. 05–14609 Filed 7–25–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 5, 7, 14, 37, and 52

[FAR Case 2004–021]

RIN 9000–AK25

Federal Acquisition Regulation; OMB Circular A–76

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to provide language that is consistent with OMB Circular A–76 (Revised), Performance of Commercial Activities, dated May 29, 2003.

DATES: Interested parties should submit comments in writing on or before September 26, 2005 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2004–021 by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Agency Web Site: *http://www.acqnet.gov/far/ProposedRules/proposed.htm.* Click on the FAR case number to submit comments.
- E-mail: *farcase.2004–021@gsa.gov.* Include FAR case 2004–021 in the subject line of the message.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2004–021 in all correspondence related to this case. All comments received will be posted without change to *http://www.acqnet.gov/far/ProposedRules/proposed.htm,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Gerald Zaffos, Procurement Analyst, at (202) 208–6091. Please cite FAR case 2004–021.

SUPPLEMENTARY INFORMATION:

A. Background

OMB Circular A–76 (Revised), Performance of Commercial Activities, was issued in May 2003. The language at FAR Subpart 7.3, and elsewhere, reflects the policies contained in the previous version of the Circular and in Office of Federal Procurement Policy (OFPP) Policy Letter 92–1, Inherently Governmental Functions, which was superseded by the revised Circular.

To implement the policies of the revised Circular, the Councils propose to delete the language at FAR Subpart 7.3 and replace it with clear and concise information that does not duplicate the Circular. Accordingly, the following changes are proposed:

- Delete the reference to a list of commercial activities contained in an attachment to the previous Circular A–76 in the definition of inherently governmental functions at FAR 2.101.
- Revise FAR 5.205(e) to reflect the procedure contracting officers must follow when issuing public announcements of public-private competitions through the Government Point of Entry.
- Replace the reference to OFPP Policy Letter 91–2 in FAR 7.105(b)(9) with a reference to Subpart 7.5.
- Delete the title and contents of FAR 7.300 and reserve the section for future use.
- Rename FAR 7.301 as Definitions, and state that the terms used in the subpart are defined by the Circular.
- Rename FAR 7.302 and concisely set forth the general policy purposes of the Circular. Consistent with section 326 of the Ronald W. Reagan National

Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375), specifically naming the Agency Tender Official as an interested party for purposes of filing a protest with the Government Accountability Office (GAO) under FAR 33.103. GAO published a final rule to amend its Bid Protest Regulations on April 14, 2005 (70 FR 19680).

• Add a statement at FAR 7.302(c) precluding the use of discussions to permit correction of deficiencies in sealed bids in public-private competitions. During the development of the rule, some members of the Councils questioned whether the ''special considerations'' language addressing the source selection process in Attachment B of Circular A–76 was intended to permit discussions to correct deficiencies under sealed bidding. Officials from the Office of Federal Procurement Policy (OFPP) advised the Councils that the Circular should not be read to permit discussions in sealed bidding. Rather, sealed bidding under A–76 is to be conducted consistent with FAR Part 14, as stated in paragraph D.5.a of Attachment B of Circular A–76. OFPP further clarified that the Circular's special considerations coverage on deficiencies was directed at negotiated source selection procedures, where the FAR provides for exchanges under FAR 15.306. To avoid confusion on this point, the Councils, with OFPP concurrence, propose to add a statement at FAR 7.302(c) to make clear that contracting officers shall not hold discussions to correct deficiencies when using sealed bidding in public-private competitions under OMB Circular A–76. This will ensure that the Circular and the FAR are applied in a consistent manner.

• Delete the contents of FAR 7.303, 7.304, 7.306, and 7.307 and reserve FAR 7.303 and 7.304 for future use.

• Revise the language in FAR 7.305 to reflect the terminology used in the Circular.

• Amend FAR 7.500 to delete the reference to OFPP Policy Letter 92–1.

• Delete FAR 14.203–2(b) so that information dissemination requirements are consistent with the revised Circular.

• Revise FAR 37.503(c) to delete the reference to OFPP Policy Letter 92–1 and replace it with language stating that agency heads, before contracting for services, must ensure that specific policies are in place to ensure that inherently governmental functions are performed by Government personnel.

• Rename and revise the provision at 52.207–1 to reflect the current procedures that are to be followed in a standard public-private competition.

• Rename and revise the provision at 52.207–2 to reflect the current procedures that are to be followed in a streamlined public-private competition.

• Amend the clause at 52.207–3, Right of First Refusal of Employment, to cover the group of people directly affected by public-private competitions under new definitions in the Circular. The Circular uses the term ''Government personnel'' instead of the more narrow ''Government employees.'' The clause will be consistent with the Circular.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not impose any costs on either small or large businesses. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 2, 5, 7, 14, 37, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2004–021), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2, 5, 7, 14, 37, and 52

Government procurement.

Dated: July 18, 2005.

Julia B. Wise,

Director, Contract Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 2, 5, 7, 14, 37, and 52 as set forth below:

1. The authority citation for 48 CFR parts 2, 5, 7, 14, 37, and 52 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2.101 [Amended]

2. Amend section 2.101 in paragraph (b), in the definition ''Inherently governmental function'', by removing the last sentence in paragraph (2).

PART 5—PUBLICIZING CONTRACT ACTIONS

3. Amend section 5.205 by revising paragraph (e) to read as follows:

5.205 Special situations.

* * * * *

(e) *Public-private competitions under OMB Circular A–76.* (1) The contracting officer shall make a formal public announcement for each streamlined or standard competition. The public announcement shall include, at a minimum, the agency, agency component, location, type of competition (streamlined or standard), activity being competed, incumbent service providers, number of Government personnel performing the activity, name of the Competitive Sourcing Official, name of the contracting officer, name of the Agency Tender Official, and projected end date of the competition.

(2) The contracting officer shall announce the end of the streamlined or standard competition by making a formal public announcement of the performance decision. (See OMB Circular A–76.)

* * * * *

PART 7—ACQUISITION PLANNING

4. Amend section 7.105 by revising paragraph (b)(9) to read as follows:

7.105 Contents of written acquisition plans.

* * * * *

(b) * * *

(9) *Inherently governmental functions.* Address the consideration given to Subpart 7.5.

* * * * *

5. Revise Subpart 7.3 to read as follows:

Subpart 7.3—Contractor Versus Government Performance

Sec.

7.300 [Reserved]
7.301 Definitions.
7.302 Policy.
7.303 [Reserved]
7.304 [Reserved]
7.305 Solicitation provisions and contract clause.

7.300 [Reserved]

7.301 Definitions.

Definitions of ''inherently governmental activity'' and other terms applicable to this subpart are set forth at Attachment D of the Office of Management and Budget Circular No. A–76 (Revised), Performance of Commercial Activities, dated May 29, 2003 (the Circular).

7.302 Policy.

(a) The Circular provides that it is the policy of the Government to—

(1) Perform inherently governmental activities with Government personnel; and

(2) Subject commercial activities to the forces of competition.

(b) As provided in the Circular, agencies shall—

(1) Not use contractors to perform inherently governmental activities;

(2) Conduct public-private competitions in accordance with the provisions of the Circular and, as applicable, these regulations;

(3) Give appropriate consideration relative to cost when making performance decisions between agency and contractor performance in public-private competitions;

(4) Consider the Agency Tender Official an interested party in accordance with 31 U.S.C. 3551 to 3553 for purposes of filing a protest at the Government Accountability Office; and

(5) Hear contests in accordance with OMB Circular A–76, Attachment B, paragraph F.

(c) When using sealed bidding in public-private competitions under OMB Circular A–76, contracting officers shall not hold discussions to correct deficiencies.

7.303 [Reserved]

7.304 [Reserved]

7.305 Solicitation provisions and contract clause.

(a) The contracting officer shall, when soliciting offers and tenders, insert in solicitations issued for standard competitions the provision at 52.207–1, Notice of Standard Competition.

(b) The contracting officer shall, when soliciting offers, insert in solicitations issued for streamlined competitions the provision at 52.207–2, Notice of Streamlined Competition.

(c) The contracting officer shall insert the clause at 52.207–3, Right of First Refusal of Employment, in all solicitations which may result in a conversion from in-house performance to contract performance of work currently being performed by the Government and in contracts that result from the solicitations, whether or not a public-private competition is conducted. The 10-day period in the clause may be varied by the contracting officer up to a period of 90 days.

7.500 [Amended]

6. Amend section 7.500 by removing the last sentence.

PART 14—SEALED BIDDING

14.203–2 [Amended]

7. Amend section 14.203–2 by removing the paragraph designation ''(a)'' and by removing paragraph (b).

PART 37—SERVICE CONTRACTING

8. Amend section 37.503 by revising paragraph (c) to read as follows:

37.503 Agency-head responsibilities.

* * * * *

(c) Specific procedures are in place before contracting for services to ensure that inherently governmental functions are performed by Government personnel; and

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. Revise the section heading and text of section 52.207–1 to read as follows:

52.207–1 Notice of Standard Competition.

As prescribed in 7.305(a), insert the following provision:

NOTICE OF STANDARD COMPETITION (DATE)

(a) This solicitation is part of a standard competition under Office of Management and Budget Circular No. A–76 (Revised), Performance of Commercial Activities, dated May 29, 2003 (hereafter ''the Circular''), to determine whether to accomplish the specified work under contract or by Government performance.

(b) The Government will evaluate private sector offers, the agency tender, and public reimbursable tenders, as provided in this solicitation and the Circular.

(c) A performance decision resulting from this standard competition will be publicly announced in accordance with the Circular. If the performance decision favors a private sector offeror, a contract will be awarded. If the performance decision favors an agency or a public reimbursable tender, the Contracting Officer shall establish, respectively, either a Most Efficient Organization letter of obligation or a fee-for-service agreement, as those terms are defined in the Circular.

(d) As provided in the Circular, directly interested parties may file contests, which are governed by the procedures in FAR 33.103. Until resolution of any contest, or the expiration of the time for filing a contest, only legal agents for directly interested parties shall have access to the certified standard competition form, the agency tender, and public reimbursable tenders.

(End of provision)

10. Revise section 52.207–2 to read as follows:

52.207–2 Notice of Streamlined Competition.

As prescribed in 7.305(b), insert the following provision:

NOTICE OF STREAMLINED COMPETITION (DATE)

(a) This solicitation is part of a streamlined competition under Office of Management and Budget Circular No. A–76 (Revised), Performance of Commercial Activities, dated May 29, 2003 (hereafter ''the Circular''), to determine whether to accomplish the specified work under contract or by Government performance.

(b) The Government will evaluate the cost of private sector and Agency or public reimbursable performance, as provided in this solicitation and the Circular.

(c) A performance decision resulting from this streamlined competition will be publicly announced in accordance with the Circular. If the performance decision favors private sector performance, the Contracting Officer shall either award a contract or issue a competitive solicitation for private sector offers. If the performance decision favors Agency or public reimbursable performance, the Agency shall establish, respectively, either a letter of obligation or a fee-for-service agreement, as those terms are defined in the Circular.

(End of provision)

52.207–3 [Amended]

11. Amend section 52.207–3 by revising the date of the clause to read ''(DATE)''; and by removing from paragraphs (a) and (b) of the clause the word ''employees'' and adding ''personnel'' in its place.

[FR Doc. 05–14569 Filed 7–25–05; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

48 CFR Parts 247 and 252

[DFARS Case 2003–D028]

Defense Federal Acquisition Regulation Supplement; Transportation

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text on transportation matters relating to DoD contracts. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before September 26, 2005, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2003–D028, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

○ *Defense Acquisition Regulations Web Site: http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. Follow the instructions for submitting comments.

○ *E-mail: dfars@osd.mil*. Include DFARS Case 2003–D028 in the subject line of the message.

○ *Fax:* (703) 602–0350.

○ *Mail:* Defense Acquisition Regulations Council, Attn: Ms. Deborah Tronic, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

○ *Hand Delivery/Courier:* Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Tronic, (703) 602–0289.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dpap/dfars/transf.htm*.

This proposed rule is a result of the DFARS Transformation initiative. The proposed DFARS changes—

○ Delete text on transportation matters that are sufficiently addressed in the Federal Acquisition Regulation or in DoD transportation regulations;

○ Clarify requirements for inclusion of shipping instructions in solicitations and contracts; and

○ Delete procedures for contracting for the preparation of property for shipment or storage; and for preparation of consignment instructions. Text on these subjects will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). Additional information on PGI is available at *http://www.acq.osd.mil/dpap/dars/pgi*.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule deletes unnecessary or procedural text on contract transportation matters, but makes no significant change to DoD contracting policy. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D028.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 247 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR parts 247 and 252 as follows:

1. The authority citation for 48 CFR parts 247 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

PART 247—TRANSPORTATION

Subpart 247.1 [Removed]

2. Subpart 247.1 is removed.

3. Section 247.206 is amended by revising paragraph (1) to read as follows:

247.206 Preparation of solicitations and contracts.

(1) Consistent with FAR 15.304 and 215.304, consider using the following as evaluation factors or subfactors:

(i) Record of claims involving loss or damage; and

(ii) Commitment of transportation assets to readiness support (*e.g.*, Civil Reserve Air Fleet and Voluntary Intermodal Sealift Agreement).

* * * * *

247.270–1 [Removed]

4. Section 247.270–1 is removed.

247.270–2 [Redesignated]

5. Section 247.270–2 is redesignated as section 247.270–1.

247.270–3 [Removed]

6. Section 247.270–3 is removed.

247.270–4 [Redesignated]

7. Section 247.270–4 is redesignated as section 247.270–2.

247.270–5 [Removed]

8. Section 247.270–5 is removed.

247.270–6 [Redesignated]

9. Section 247.270–6 is redesignated as section 247.270–3.

247.271–1 and 247.271–2 [Removed]

10. Sections 247.271–1 and 247.271–2 are removed.

247.271–3 and 247.271–4 [Redesignated]

11. Sections 247.271–3 and 247.271–4 are redesignated as sections 247.271–1 and 247.271–2, respectively.

12. Newly designated section 247.271–1 is revised to read as follows:

247.271–1 Procedures.

Follow the procedures at PGI 247.271–1 for contracting for the preparation of personal property for shipment or storage.

13. Newly designated section 247.271–2 is amended by revising paragraph (c) to read as follows:

247.271–2 Solicitation provisions, schedule formats, and contract clauses.

* * * * *

(c) In solicitations and resulting contracts, the schedules provided by the installation personal property shipping office. Follow the procedures at PGI 247.271–2 for use of schedules.

* * * * *

14. Sections 247.305–10 and 247.305–70 are revised to read as follows:

247.305–10 Packing, marking, and consignment instructions.

Follow the procedures at PGI 247.305–10 for preparation of consignment instructions.

247.305–70 Returnable containers other than cylinders.

Use the clause at 252.247–7021, Returnable Containers Other Than Cylinders, in solicitations and contracts for supplies involving contractor-furnished returnable reels, spools, or other returnable containers if the contractor is to retain title to the containers.

247.370 [Removed]

15. Section 247.370 is removed.

247.371 and 247.372 [Redesignated]

16. Sections 247.371 and 247.372 are redesignated as sections 247.370 and 247.371, respectively.

17. Newly designated sections 247.370 and 247.371 are revised to read as follows:

247.370 DD Form 1384, Transportation Control and Movement Document.

The transportation office of the shipping activity prepares the DD Form 1384 to accompany all shipments made through a military air or water port, in accordance with DoD 4500.9–R, Defense Transportation Regulation, Part II, Chapter 203.

247.371 DD Form 1653, Transportation Data for Solicitations.

The transportation specialist prepares the DD Form 1653 to accompany requirements for the acquisition of supplies. The completed form should contain recommendations for suitable f.o.b. terms and other suggested transportation provisions for inclusion in the solicitation.

247.373 [Redesignated]

18. Section 247.373 is redesignated as section 247.372.

19. Section 247.572–1 is amended by revising paragraph (b) to read as follows:

247.572–1 Ocean transportation incidental to a contract for supplies, services, or construction.

* * * * *

(b) DD Form 1653, Transportation Data for Solicitations, shall be used—

(1) By the requesting activity in developing the Government estimate for transportation costs; and

(2) By the contracting officer in ensuring that valid shipping instructions and delivery terms are included in solicitations and contracts that may involve transportation of supplies by sea.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.247–7000 through 252.247–7002 and 252.247–7004 through 252.247–7007 [Amended]

20. Sections 252.247–7000 through 252.247–7002 and 252.247–7004 through 252.247–7007 are amended in the introductory text by removing ''247.270–6'' and adding in its place ''247.270–3''.

252.247–7008 [Amended]

21. Section 252.247–7008 is amended in the introductory text and in Alternate I introductory text by removing ''247.271–4'' and adding in its place ''247.271–2''.

252.247–7009 through 252.247–7012 [Amended]

22. Sections 252.247–7009 through 252.247–7012 are amended in the introductory text by removing ''247.271–4'' and adding in its place ''247.271–2''.

252.247–7013 [Amended]

23. Section 252.247–7013 is amended in the introductory text as follows:

a. By removing ''247.271–4'' and adding in its place ''247.271–2''; and

b. By removing the parenthetical ''(see 247.271–2(b))''.

252.247–7014 and 252.247–7016 through 252.247–7020 [Amended]

24. Sections 252.247–7014 and 252.247–7016 through 252.247–7020 are amended in the introductory text by removing ''247.271–4'' and adding in its place ''247.271–2''.

[FR Doc. 05–14626 Filed 7–25–05; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 050708184–5184–01; I.D. 070105B]

RIN 0648–AT50

Fisheries of the Northeastern United States; Atlantic Bluefish and Summer Flounder Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to amend the regulations implementing the Fishery Management Plan (FMP) for the Atlantic bluefish fishery and the FMP for the summer flounder, scup, and black sea bass fisheries. This rule would make administrative changes that would allow NMFS to consider and process state commercial quota transfer requests that address late-season circumstances that necessitate a state quota transfer and that occur through December 31 (the end of the fishing year for the bluefish and summer flounder fisheries). The intent of this action is solely to provide the flexibility to address unpredictable late-season events (such as severe weather or port obstruction) that may result in safety concerns in the commercial bluefish and summer flounder fisheries.

DATES: Written comments must be received on or before August 10, 2005.

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

- E-mail: *BF-SFtransfer@noaa.gov*. Include in the subject line the following identifier: ''Comments on Bluefish and Summer Flounder State Quota Transfer Amendment.''
- Federal e-Rulemaking portal: *http://www.regulations.gov*.
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on Bluefish and Summer Flounder State Quota Transfer Amendment.''
- Fax: (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, Fishery Policy Analyst, (978) 281–9279, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

The bluefish and summer flounder fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. Regulations implementing the Atlantic Bluefish FMP appear at 50 CFR part 648, subparts A and J. Regulations implementing the summer flounder portion of the Summer Flounder, Scup, and Black Sea Bass FMP appear at 50 CFR part 648, subparts A and G. The regulations regarding quota transfers and combinations for the bluefish and summer flounder fisheries are found at §§ 648.160 and 648.100, respectively. For each fishery, the FMPs establish state allocations of the commercial

quotas, and current Federal regulations outline a process by which a state may request written approval from the Regional Administrator to transfer all or part of its annual commercial quota to one or more other states. Two or more states may request approval from the Regional Administrator to combine their commercial quotas, or part of their quotas, into an overall regional quota. As established initially through implementation of Amendment 1 to the Bluefish FMP (65 FR 45844, July 26, 2000) and Amendment 5 to the Summer Flounder FMP (58 FR 65937, December 17, 1993), the transfer of quota or the combination of quotas, if approved, is valid only for the calendar year for which the request was made and is effective upon the filing by NMFS of a notice of the approval of the transfer or combination with the Office of the **Federal Register**. Because the regulations stipulate that quota transfers and/or combinations are effective upon filing of a notice of approval with the Office of the **Federal Register**, NMFS is precluded from making quota transfers and/or combinations that file with the Office of the **Federal Register** in January of a given year, retroactively effective for the previous fishing year.

At its March 2005 meeting, the Council raised a concern regarding the current NMFS policy of considering only quota transfer requests submitted by December 15 of each year. NMFS established this policy to ensure that a notice announcing the quota transfer could be filed with the Office of the **Federal Register** by the end of the year for which the request is made. However, the Council is concerned that unforeseen circumstances such as severe weather or physical obstruction may prevent vessels from returning safely to their intended port of landing and that this situation has arisen and may continue to arise during the second half of December in any given year. End-of-year transfers of quota allow vessels to land in another state without causing overharvest of that state's fishing year quota, provided that both states agree to the transfer. At its May 2005 meeting, the Council passed a motion requesting that NMFS remove the text regarding time of effectiveness from the state commercial quota transfer regulations for both the bluefish and summer flounder fisheries at §§ 648.160(f)(2) and 648.100(d)(4), respectively. NMFS agrees that this administrative change in the regulations would facilitate the consideration and processing of state quota transfer requests to address unpredictable late-season events and consequent safety issues in these fisheries. This proposed rule would eliminate the references to time of effectiveness in the bluefish and summer flounder quota transfer and combination regulations. With these changes, quota transfer requests addressing unforeseen conditions in either fishery that arise late in the fishing year could be approved, even if the transfer request is made early in the subsequent fishing year. Any quota transfer would continue to be valid only for the calendar year for which the request is made, and would therefore have no impact on the resource or the mortality objectives of the FMPs.

Classification

NMFS has determined that the proposed rule is consistent with the Atlantic bluefish FMP and the Summer Flounder, Scup, and Black Sea Bass FMP and has preliminarily determined that the rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed rule is administrative in nature and merely would eliminate the specification that bluefish and summer flounder quota transfer or combination requests will be effective upon filing of a notice of approval with the Office of the **Federal Register**. This would allow NMFS to consider and process state quota transfer requests that address late-season circumstances that necessitate a state quota transfer and that occur through December 31 (the end of the fishing year for the bluefish and summer flounder fisheries), even if the notice announcing the transfer were filed with the Office of the **Federal Register** after the start of the subsequent fishing year. A quota transfer would continue to be valid only for the calendar year (and fishing year) for which the request is made. This rule would not alter the results of the Regulatory Flexibility Analyses prepared annually to address economic impacts to individual vessels resulting from the specification of annual quotas in these fisheries. As a result, an initial regulatory flexibility analysis is not required and none has been prepared. The proposed action would provide flexibility to mitigate safety concerns and would impose no burden on small entities.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 20, 2005.

James W. Balsiger

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.100, revise paragraph (d)(4) to read as follows:

§ 648.100 Catch quotas and other restrictions.

* * * * *

(d) * * *

(4) The transfer of quota or the combination of quotas will be valid only for the calendar year for which the request was made.

* * * * *

3. In § 648.160, revise paragraph (f)(2) to read as follows:

§ 648.160 Catch quotas and other restrictions.

* * * * *

(f) * * *

(2) The transfer of quota or the combination of quotas will be valid only for the calendar year for which the request was made.

* * * * *

[FR Doc. 05–14725 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 70, No. 142
Tuesday, July 26, 2005

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

National Sheep Industry Improvement Center: Inviting Grant Proposals for the Sheep and Goat Industry Grant Initiative

AGENCY: National Sheep Industry Improvement Center, USDA.

ACTION: Notice of solicitation of applications.

SUMMARY: The National Sheep Industry Improvement Center (NSIIC) announces the availability of approximately $300,000 in competitive grants for product or business development, producer information or education, marketing and promotion for sheep or goats or their products, genetic retention, and animal health. Eligible applicants, including many business structures but excluding individuals (see section III), may apply for up to $50,000 in Federal Funds per proposal. The intent is to fund a variety of proposals that will benefit the U.S. sheep and goat industries.

DATES: Complete paper or electronically submitted applications must be received on or before 5 p.m. eastern time, October 14, 2005.

ADDRESSES: Applications, required forms, frequently asked questions and other helpful information can be found at *http://www.nsiic.org*.

Submit completed paper applications to one of the following addresses, depending on the delivery service used: (1) Submissions using the U.S. Postal Service should be sent to: USDA National Sheep Industry Improvement Center, P.O. Box 23483, Washington, DC 20026–3483; (2) Submissions using commercial carriers should be sent to USDA National Sheep Industry Improvement Center, 1400 Independence Avenue SW., South Building Room 2117, Washington, DC 20250–3250.

Submit electronic grant applications to the following Internet address: *http://www.grants.gov.* Before being able to submit an electronic grant application, the applicant must complete a registration process. Applicants should register at least 2 weeks prior to the application deadline to ensure timely submission of their applications.

FOR FURTHER INFORMATION CONTACT: Jay B. Wilson, Executive Director/CEO 202–690–0632 or Steve Lee, Administrative Officer 207–236–6567, or by e-mail, *info@nsiic.org*.

SUPPLEMENTARY INFORMATION:

Overview

Agency: National Sheep Industry Improvement Center.

Title: Sheep and Goat Industry Grant Initiative.

Type: Initial announcement for funding availability.

Catolog of Federal Domestic Assistance Number: 10–774.

Dates: Applications must be received by October 14, 2005 for projects that will be completed on or before September 30, 2007.

I. Funding Oportunity Description

The National Sheep Industry Improvement Center (NSIIC) is authorized under 7 U.S.C. 2008j. A NSIIC fund was established in the Treasury, without fiscal year limitation, to provide seed-money for a revolving fund that will provide financial assistance through a variety of mechanisms for the enhancement and marketing of sheep or goat products in the United States with an emphasis on infrastructure development. The NSIIC is a unique pilot program with the management vested in a Board of Directors that is appointed by, and reports to the Secretary of Agriculture. The Board of Directors consists of 7 voting members chosen from the sheep and goat industries. The Under Secretary for Rural Development and Cooperative State Research, Education, and Extension Service (CSREES) serve as non-voting members of the Board of Directors. The mission of the NSIIC is ''To assist the U.S. Sheep and Goat Industries by strengthening and enhancing the production and marketing of sheep, goats, and their products in the United States.'' The NSIIC Board of Directors has made low interest loans available through an intermediary arrangement with the National Livestock Producers Association since 2000 and has conducted the National Sheep Industry Grant Initiative in each of the past fiscal years since Fiscal Year (FY) 2002. The Board is making this grant initiative of up to $300,000 available for FY 2006.

Projects that are submitted in the proposals should be completed in a timely fashion as provided in the proposal, with a final completion date on or before September 30, 2007. The primary objective of the Sheep and Goat Industry Grant Initiative (SGIGI) is to fund a number of diverse projects that will benefit the U.S. sheep or goat industries through product or business development, producer information or education, marketing and promotion for sheep or goats or their products, genetic retention and animal health at the regional, national or international level. Examples of previously funded projects can be found at *www.nsiic.org/grants.htm.*

Definitions

The definitions published at 7 CFR 4284.3 are incorporated by reference.

II. Award Information

Type of Award: Grant.

Fiscal Year Funds: NA.

Approximate Total Funding: $300,000.

Approximate number of Awards: 15.

Approximate Average Award: $18,000, ranging in the past from $1,300 to $50,000.

Floor of Award Range: None.

Ceiling of Award Range: $50,000.

Anticipated Award Date: January 23, 2006.

Budget Period Length: 20 months.

Project Period Length: 20 months.

It is expected that there will be proposals submitted that address a variety of needs related to the U.S. sheep and goat industries. Awards may be classified so that a variety of needs will be addressed by the funded proposals. The actual number of grants funded will depend on the quality of proposals received and the amount of funding requested. A proposal may be partially funded or funded in its entirety. The primary objective of the Sheep and Goat Industry Grant Initiative (SGIGI) is to fund a number of diverse projects that will benefit the U.S. sheep or goat industries through product or business development, producer information or education, marketing and

promotion for sheep or goats or their products, genetic retention or animal health at the regional, national or international level.

No funds made available under this solicitation shall be used to do any of the following activities:

1. Duplicate current services or replace or substitute support previously provided. If the current service is inadequate, however, grant funds may be used to expand the level of effort or services beyond that which is currently being provided;

2. Pay costs of preparing the application package for funding under this program;

3. Pay costs of the project incurred prior to the date of grant approval;

4. Fund political activities;

5. Pay for assistance to any private business enterprise that does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

6. Pay any judgment or debt owed to the United States; or

7. Fund any activities prohibited by 7 CFR parts 3015, 3016, or 3019.

III. Eligibility Information

A. *Eligible applicants*—An eligible entity is one that promotes the betterment of the United States sheep or goat industries and includes: (1) A public, private, or cooperative organization; (2) an association, including a corporation not operated for profit; (3) a federally recognized Indian Tribe; or (4) a public or quasi-public agency. Eligible entities must be domestic with at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

B. *Ineligible applicants*—Individuals, organizations under the Lobbying Disclosure Act of 1995, and organizations described in section 501(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(4)) which engage in lobbying activities. Applications from ineligible applicants will be returned without review or consideration.

C. *Cost Sharing or Matching*—Cost sharing or matching funds are not required but preference may be given to proposals that have over 50 percent of the project costs in matching funds, including in kind contributions (See the Review and Selection Process). Overhead costs cannot exceed 25 percent of total project cost.

D. *Other Eligibility Requirements*—Applications without sufficient information to determine eligibility will not be considered for funding.

Applications that are missing any required elements (in whole or in part) will not be considered for funding.

There is no limit on the number of applications that an entity may submit for this announcement.

IV. Application and Submission Information

A. *Language:* English

B. *Address to Request Application Package*—Forms can be found at *http://www.nsiic.org.* They can also be obtained by: e-mailing a request to *info@nsiic.org;* faxing a request to 202–720–1053 or calling 202–690–0632.

C. Content and Form of Application Submission:

1. You may submit your application in paper or in an electronic format. If you submit your application in a paper format it must include an original, with an original signature, and 10 additional copies.

2. Each copy must be stapled in the upper left-hand corner, do not bind.

3. All copies of the proposal must be submitted in one package.

4. The proposal must be submitted on standard 8.5″ x 11″ paper with typing on one side of the page only.

5. Margins must be at least 1'', type must be 12 characters per inch (12 pitch or 10 point) or larger, no more than 6 lines per inch, and there should be no page reductions.

6. Proposals are limited to the information requested. DO NOT; exceed the narrative limit; include organizational brochures, promotional materials, slides, films, clips, books, videos, product samples, letters of support (they should be summarized in the narrative) or any other additional materials. Proposals that contain more than the requested information will be returned without review or consideration.

D. *What to Submit:*

1. SF–424 ''Application for Federal Assistance.'' This serves as the cover page and no other cover page should be included.

2. SF–424A ''Budget Information—Non Construction Programs.''

3. SF–424B ''Assurances—Non-Construction Programs.''

4. Project Summary: The proposal must contain a project summary of 1 page or less on a separate page. This page must include the title of the project, the names of the primary project contacts, the applicant entity, followed by the summary. The summary should be self-contained and should describe the overall goals and relevance of the project. The summary should also contain a listing of all organizations involved in the project. The Project Summary should immediately follow SF–424B.

5. Project Narrative: The project narrative is limited to 10 pages and the pages should be numbered, beginning with page 1 on the first page of the narrative. The narrative portion of the Project Proposal should contain the following:

a. Introduction: Substantiate the need for the proposed project. Describe the project's specific relationship to the segment of sheep or goat industry issue, product or market being addressed.

b. Potential Industry Impact—Discuss the specific objectives to be accomplished under the project. Describe the proposed project and demonstrate how it will stimulate the U.S. sheep or goat industries. Provide a detailed analysis of the sheep or goat industry issue that is being addressed by the proposal by including the: (i) Product or group that will be impacted by the proposal; (ii) geographic area affected (iii) target audience or end user; (iv) and expected results.

c. Industry Commitment—Describe the commitment of the producers, processors, end-users or other involved parties in participating in the proposed project. This may include, but is not limited to, individual producers, producer groups, processors, seminar participants, local organizations, local or state governments or trade associations.

d. Business Soundness—Discuss the specific goals and objectives to be accomplished with a timetable, quantifiable benchmarks and expected results.

e. Financial Feasibility—Provide a well-defined budget for the proposal and describe how the budget specifically relates to the completion of each goal or objective. This requirement may be accomplished, in whole or in part, by the required completion of SF–424A.

f. Management Ability—Identify the management team needed to complete the proposal objectives and describe their qualifications. Describe how the project will be coordinated among various participants and the nature of the collaborations. Describe plans for management of the project to ensure its proper and efficient administration.

g. Information that successful applicants must submit—Successful applicants will receive a letter of intent from NSIIC at which time they will be required to complete forms:

AD–1047, ''Certification Regarding Debarment, Suspension, and Other

Responsibility Matters—Primary Covered Transactions;''

AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions;''

AD–1049, ''Certification Regarding Drug-Free Workplace Requirements (Grants);''

RD–400–1, ''Equal Opportunity Agreement; Certification Regarding Lobbying—Contracts, Grants, Loans and Cooperative Agreement;''

SF–270, ''Request for Advance for Reimbursement;'' and

SF–269, ''Financial Status Report,'' which is required later with the written semi annual-reports.

V. Application Review Information

Selection Criteria—The proposal will initially be reviewed to determine whether the entity submitting the proposal meets the eligibility requirements and whether the proposal application contains the information required. After this initial evaluation, the following criteria will be used to rate and rank proposals received in response to this notice of funding availability. Failure to address any one of the criteria will disqualify the proposal and the proposal will be returned without review or consideration. Equal weight shall be given to each of the criterion listed below and points will be awarded on a scale of 5, 4, 3, 2, 1. A score of 5 indicates that the proposal was judged to be highly relevant to the criterion and a score of 1 indicates that the proposal was judged not to sufficiently address the criterion.

Each proposal will be evaluated and judged using the following criteria:

A. *Potential Industry Impact*—Describe the proposed project and demonstrate how it will stimulate the U.S. sheep or goat industries. Provide a detailed analysis of the sheep or goat industry issue that is being addressed by the proposal by including the: (1) Product or group that will be impacted by the proposal; (2) geographic area affected; (3) target audience or end user; (4) and expected results. The NSIIC will evaluate whether the industry issue and need are well-defined and the proposed project provides an effective and efficient approach to resolving the identified need.

B. *Industry Commitment*—Describe the commitment of the producers, processor, end-users or other involved parties in participating in the proposed project. This may include, but is not limited to, individual producers, producer groups, processors, seminar participants, local organizations, local or state governments or trade associations. The NSIIC will evaluate whether there is a commitment from all who are expected to participate and benefit from the proposed project.

C. *Business Soundness*—Provide a timetable and objectives along with a quantifiable benchmark and expected results. The NSIIC will evaluate whether the proposal includes (1) Clear objectives; (2) well-defined tasks that will accomplish the objectives; (3) realistic benchmarks; and (4) a realistic timetable for the completion of the proposed tasks and a business strategy have been adequately developed.

D. *Financial Feasibility*—Provide a well-defined budget for the proposal. The NSIIC will evaluate whether (1) the funding requirements and budget for the project are well defined; (2) financially feasible and the matching funds or other resources that will be used to leverage the requested funds are identified.

E. *Management Ability*—Identify the management team needed to complete the proposal objectives and describe their qualifications. The NSIIC will evaluate whether the management team is identified and capable of implementing the proposal.

Review and Selection Process—The NSIIC Board of Directors will evaluate proposal applications. Applications will be evaluated competitively and points awarded as specified in the Selection Criteria section of this Notice. Grants will be awarded on a competitive basis to eligible entities. A proposal may be partially funded. After assigning points based upon the selection criteria, applications will be funded in rank order until all available funds have been expended. The Board of Directors reserves the right to award up to five additional points for proposals with over 50 percent in matching funds or to provide a diversity of projects targeting various situations, geographic areas, subjects. Projects that are approved for further processing will be subject to the grant terms that are negotiated between the applicant and the Board of Directors including, but not limited to, the amount to be funded, project goals, timetables, completion date or other terms as deemed necessary.

Award Administration Information: All applicants will receive notification of the outcome no later than January 23, 2006. Notifications will be sent to the contact person identified on the SF–424 by traceable carrier or USPS certified, return receipt mail.

VI. Award Administration Information

Award Notices—Successful applicants can expect notification no later than January 23, 2006. A letter of intent will be sent to the contact person identified on the SF–424. The letter of intent will be followed by a letter of conditions, at that time the requirements described in the ''Information that Successful applicants must submit'' section are required. When those are completed the grant agreement will be executed.

Administrative and National Policy Requirements—Several Federal statutes and regulations apply to proposals considered for review and to grants awarded by USDA. These include, but are not limited to:

7 CFR 1.1—USDA implementation of the Freedom of Information Act.

7 CFR part 15a—USDA implementation of title VI of the Civil Rights Act of 1964.

7 CFR part 3015—USDA Uniform Federal Assistance Regulations.

7 CFR part 3016—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

7 CFR part 3017—Governmentwide Debarment.

7 CFR part 3018—New Restrictions on Lobbying.

7 CFR part 3019—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR part 3052—Audits of State, Local Governments, and Non-Profit Organizations.

The terms of the above parts will be incorporated in the grant agreement.

Reporting—In addition to any other required reports, awardees will be required to submit written project performance reports on a semi-annual basis and a final report at the completion of the project. A follow up report on the progress of the project will also be required one year after the completion of the award.

The project performance report and final report shall include, but need not be limited to:

1. SF–269 ''Financial Status Report''

2. A written report that includes:

A. A comparison of timeline, tasks and objectives outlined in the proposal as compared to the actual accomplishments;

B. If report varies from the stated objectives or they were not met, the reasons why established objectives were not met;

C. Problems, delays, or adverse conditions which will materially affect attainment of planned project objectives;

D. Objectives established for the next reporting period; and

E. Status of compliance with any special conditions on the use of awarded funds.

VII. Agency Contact(s)

Web site—Forms, previous recipients and other information can be found at *http://www.nsiic.org;* e-mail: *info@nsiic.org* ; USPS at NSIIC, PO Box 23483, Washington, DC 20026–3483; other carriers at Room 2117, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250; Telephone (202) 690–0632 or (207) 236–6567 or FAX (202) 720–1053.

VIII. Other Information

Low interest loans: For information on NSIIC intermediary low interest loan program, visit National Livestock Producers Association at *http://www.nlpa.org.*

The NSIIC Board of Directors reserves the right to award more, or less than the funds described in this announcement. In the absence of worthy application, the Board may decide not to make an award if deemed in the best interest of the Government.

Dated: July 14, 2005.

Jay B. Wilson,

Executive Director/CEO, National Sheep Industry Improvement Center.

[FR Doc. 05–14627 Filed 7–25–05; 8:45 am]

BILLING CODE 1351–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. TM–05–07]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) is announcing a forthcoming meeting of the National Organic Standards Board (NOSB).

DATES: The meeting dates are Monday, August 15, 2005, 10:30 a.m. to 5:30 p.m.; Tuesday, August 16, 2005, 8 a.m. to 5:30 p.m.; and Wednesday, August 17, 2005, 8 a.m. to 12 p.m. Requests from individuals and organizations wishing to make an oral presentation at the meeting are due by the close of business on July 25, 2005.

ADDRESSES: The meeting will take place at the Mandarin Oriental Hotel, The Hillwood Room, 1330 Maryland Avenue, SW., Washington, DC 20024. Requests for copies of the NOSB meeting agenda, requests to make an oral presentation at the meeting, or written comments may be sent to Ms. Katherine Benham at USDA–AMS–TMD–NOP, 1400 Independence Avenue, SW., Room 4008-So., Ag Stop 0268, Washington, DC 20250–0200. Requests to make an oral presentation at the meeting may also be sent via facsimile to Ms. Katherine Benham at (202) 205–7808 or electronically to Ms. Katherine Benham at *Katherine.benham@ usda.gov*.

FOR FURTHER INFORMATION CONTACT: Katherine E. Benham, Advisory Board Specialist, National Organic Program, (202) 205–7806.

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. Section 6501 *et seq.*) requires the establishment of the NOSB. The purpose of the NOSB is to make recommendations about whether a substance should be allowed or prohibited in organic production or handling, to assist in the development of standards for substances to be used in organic production, and to advise the Secretary on other aspects of the implementation of the OFPA. The NOSB met for the first time in Washington, DC, in March 1992, and currently has six committees working on various aspects of the organic program. The committees are: Compliance, Accreditation, and Certification; Crops; Livestock; Materials; Handling; and Policy Development.

In August of 1994, the NOSB provided its initial recommendations for the National Organic Program (NOP) to the Secretary of Agriculture. Since that time, the NOSB has submitted 69 addenda to its recommendations and reviewed more than 267 substances for inclusion on the National List of Allowed and Prohibited Substances. The last meeting of the NOSB was held on February 28–March 3, 2005, in Washington, DC.

The Department of Agriculture (USDA) published its final National Organic Program regulation in the **Federal Register** on December 21, 2000 (65 FR 80548). The rule became effective April 21, 2001.

The principal purposes of the meeting are to provide an opportunity for the NOSB to receive an update from the USDA/NOP and hear progress reports from NOSB committees regarding work plan items and proposed action items. The NOSB will also review materials to determine if they should be included on the National List of Allowed and Prohibited Substances.

The Policy Development Committee will discuss factors to be considered for the development of guidance regarding temporary variances for research. The committee will also discuss the future development of criteria and procedures to be used by the NOSB when reviewing substances petitioned for addition to or removal from 205.606. The committee will present, for NOSB consideration, recommended changes to the Board Policies and Procedures Manual that include the following: (1) New materials approval and TAP review information; (2) sunset review process information; (3) procedures for handling questions and answers from the NOP; (4) decision tree process; (5) Chemistry 101 background information; and (6) formatting changes. Finally, the committee will submit, for NOSB consideration, its recommendations concerning the adoption of the collaboration policy document as presented by the NOP as an amendment to the Board Policy and Procedures Manual.

The Certification, Accreditation, and Compliance Committee will present, for NOSB consideration, its recommendation on how to operationalize the process of Peer Review. The committee will present a draft statement concerning NOP's response to the American National Standards Institute (ANSI) report. It will also present, for NOSB consideration, a recommendation developed in cooperation with the Handling Committee that contains certification questions and answers related to retailers and private labelers.

*COM019*The Livestock Committee will discuss the future development of apiculture standards (based on an existing NOSB recommendation). The committee will present, for NOSB consideration, its recommendations to provide guidance on requirements for access to pasture for ruminants and the addition of Sucrose Octanoate Esters to the National List for use in Apiculture Production.

The Materials Committee will discuss priority items for the sunset review of substances identified by Crops, Livestock, Handling, and Materials Committee. The committee will also discuss possible revisions to the **Federal Register** Notice (65 FR 43259) that contains instructions for the submission of petitions to add substances to or remove substances from the National List. The committee will present recommendations to (1) restructure the National List of Allowed and Prohibited Substances to reflect the exemption

categories contained in OFPA; and (2) clarify the definition of ''synthetic'' as it applies to substances petitioned for the addition to or removal from the National List.

The Handling Committee will present, for NOSB consideration, a recommendation that provides guidance on determining the differences between agricultural products vs. non-agricultural substances.

The Crops Committee will review and consider approving the following substances for crop production: Soy Protein Isolate, Ammonium Bicarbonate, Chitosan, and Sucrose Octonate Esters. The committee will also submit, for NOSB consideration, recommendations to consider (1) guidance on the allowed uses of Compost and Compost Tea, (2) revisions to the ''natural resource'' sections of the sample NOSB Organic Farm Plan; and (3) guidance on assessing commercial availability and equivalent varieties of organic seeds.

For further information, see *http://www.ams.usda.gov/nop*. Copies of the NOSB meeting agenda can be requested from Ms. Katherine Benham by telephone at (202) 205–7806; or by accessing the NOP Web site at *http://www.ams.usda. gov/nop*.

The meeting is open to the public. The NOSB has scheduled time for public input on Monday, August 15, 2005, from 1 p.m. to 4 p.m.; and Wednesday, August 17, 2005, from 8 a.m. to 10 a.m. Individuals and organizations wishing to make an oral presentation at the meeting may forward their request by mail, facsimile, or e-mail to Katherine Benham at addresses listed in **ADDRESSES** above. While persons wishing to make a presentation may sign up at the door, advance registration will ensure that a person has the opportunity to speak during the allotted time period and will help the NOSB to better manage the meeting and to accomplish its agenda. Individuals or organizations will be given approximately 5 minutes to present their views. All persons making an oral presentation are requested to provide their comments in writing. Written submissions may contain information other than that presented at the oral presentation.

Written comments may also be submitted at the meeting. Persons submitting written comments at the meeting are asked to provide 30 copies.

Interested persons may visit the NOSB portion of the NOP Web site *http://www.ams.usda.gov/nop* to view available documents prior to the meeting. Approximately 6 weeks following the meeting interested persons will be able to visit the NOSB portion of the NOP Web site to view documents from the meeting.

Dated: July 21, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–14768 Filed 7–21–05; 3:47 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Modoc National Forest, CA; Restoration of the Sagebrush Steppe and Associated Ecosystems in Northeast California and Northwest Nevada Through Improved Management of Western Juniper and Other Natural Resources

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Modoc National Forest and partner agencies including the U.S. Departmentof the Interior's Bureau of Land Management and Modoc County, California, arecooperating to develop a management plan and environmental impact statement to addressrestoration of sagebrush steppe ecosystems that have been impacted by rapidly expandedstands of Western juniper. The management plan will broadly identify appropriate treatment methodologies by soil and range site, provide guidelines for design and implementation ofeffective treatments, and provide a broad prioritization for treatment areas to be analyzedover a 30 year horizon. The ecosystem restoration projects, derived from this managementstructure, will restore biodiversity and productivity to these ecosystems, benefiting sagebrushobligate species such as sage-grouse, improving hydrologic conditions and enhancing theforage base for wildlife and domestic animals. Restoration projects will occur on NationalForest lands and public lands administered by the BLM in parts of Modoc, Lassen, Shastaand Siskiyou counties, California and in Washoe County, Nevada. The planning area coversapproximately 6.5 million acres of public and private land.This management plan will amend the Modoc National Forest Land and Resource ManagementPlan and BLM land use plans for the Alturas, Eagle Lake and Surprise field

DATES: Comments concerning the scope of the analysis should be received no later than 30 days after the publication of this notice in the **Federal Register**. The draft environmental impactstatement is expected July 2006 and the final environmental impact statement is expected March 2007.

ADDRESSES: Stanley G. Silva, Sagebrush-Steppe Restoration, Modoc National Forest, 800 West 12th Street, Alturas, CA 96101.

FOR FURTHER INFORMATION CONTACT: Robinson (Rob) Jeffers, ProjectCoordinator, Modoc National Forest, Supervisor's Office, 800 W. 12th, Alturas, CA 96101 (530–233–8816). Comments sent via e-mail must be in MS Word or Rich Text Format sent to *rgjeffers@fs.fed.us*.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action: Over the past 100 to 150 years, Western juniper has increasedapproximately 15 fold in the 6.5 million acre analysis area. This expansion of Westernjuniper is largely attributed to the removal of fire from the ecosystem. Computer modelingbased on soils types, and validated by state mapping of juniper coverage in 1887, indicatedthe presence of approximately 198,000 acres of juniper in the analysis area. Digital mappingand analysis was completed in 2002 that identified juniper occurrence on approximately 3 million acres.

This conversion of the sagebrush ecosystem to a predominantly juniper woodland type hasresulted in a dramatic loss of biodiversity on the landscape, severely diminished habitatvalues, particularly for sage obligate species, and substantially degraded hydrologicconditions on many watersheds.

This pervasive loss of the sagebrush ecosystem, and its attendant vegetative, habitat, andhydrologic values, represents a compelling need for management action. The purpose of this project is to develop and institutionalize a juniper management strategyfor public lands and National Forest System Lands encompassed by the 6.5 million acreanalysis area, to restore the sagebrush ecosystem and associated vegetative communities todesired habitat conditions existing historically.

More specifically the strategy seeks, through improved juniper management, to restoresagebrush ecosystem vegetation composition, structure, function and distribution to historic configurations, so that historic fire return intervals can be sustained.

Additional objectives include improving watershed function and condition, managing fuels toconform to the National Fire Plan requirements, and implementing, where appropriate,national renewable energy direction.

Proposed Action: Federal managers of the Forest Service and the Bureau of LandManagement propose to establish a long range strategy to restore the sagebrush-steppeecosystem and related species habitat. The Environmental Impact Statement may result inamendment or revision of their respective land management plans to incorporate the landallocations, management direction, desired future conditions, treatment areas, methodologicalpriorities, conservation measures and implementation schedule derived from the Sagebrush-Steppe Restoration Strategy.

For the Forest Service, this means amending/revising the Modoc National Forest Land and Resource Management Plan utilizing the information from this analysis. The Modoc National Forest will be publishing a separate notice to revise its Forest Plan in 2006 utilizing the 2004 Planning Rule. It is also anticipated that the Lassen, Shasta Trinity and Klamath National Forests may choose to amend their Land and Resource Management Plans based on this analysis as appropriate. The Alturas Field Office of the Bureau of Land Management will amend its Resource Management Plan to reflect the restoration strategy. It is anticipated that the Eagle Lake and Surprise Field Offices will also amend their plans as appropriate. The objective is to adopt an integrated management strategy to reduce the current level of western juniper encroachment across a 6.5 million acre planning area in an environmentally sensitive manner. Primary methods to be employed for western juniper reduction include fire treatment, mechanical treatment and hand treatment. Using this integrated approach, managers hope to treat up to 50,000 acres per year across all jurisdictions within the planning area. Annual treatments would require site specific environmental analysis to meet the objectives of the proposed strategy.

Once the western juniper canopy cover has been reduced on various habitat sites, maintenance of desired future conditions is the goal of the proposed action. Key representative range sites to be treated and desired future conditions include:

Loamy 14–16″ 50% grasses such as Idaho fescue, bluebunch wheatgrass, and Nevada bluegrass; 10% forbs such as mulesear, buckwheat and lupine; and 40% shrubs such as mountain big sagebrush, bitterbursh and mountain mahogany.

Shallow Loam 14″+ 30% grasses such as needlegrass, bluegrass and bluebunch wheatgrass, 20% forbs such as hawksbeard, lupine and yarrow and 50% shrubs such as low sagebrush, bitterbrush and rabbitbrush.

It is intended that western juniper will also be removed from associated upland range sites as well as ponderosa pine, Jeffrey pine, white fir forest associations, aspen stands and riparian sites.

For the purpose of developing the proposed action, certain landscape level planning assumptions were made regarding the viability of various treatment options. These assumptions would not necessarily apply to all site specific treatments. Among these assumptions:

- Where western juniper canopy cover exceeds 20%, there is probably inadequate understory or ladder fuel to carry a prescribed fire.
- By definition, wildland-urban interface (WUI) areas are in close proximity to residential, industrial or agricultural structures thereby increasing the complexity of fire treatments.
- 20% western juniper canopy cover is the approximate point at which it may become viable to remove juniper as a biomass product.
- Mechanical harvesting equipment operates most efficiently on less than 30% slopes.
- Using various techniques, it is possible to mechanically harvest juniper for biomass up to 1 mile distant from a road capable of supporting tractor-trailer traffic.
- Areas with less than 14″ of average annual precipitation are particularly susceptible to cheatgrass and noxious weed encroachment following disturbance and may require special attention relative to seeding and revegetation.
- On certain areas, juniper reduction efforts should be limited to hand treatment. These areas include heavy juniper canopy cover on slopes greater than 30%, juniper in riparian areas and steep drainages, juniper encroachment in sensitive wildlife habitat and juniper encroachment on archaeological sites.

Conservation measures relative to historic juniper sites, noxious weed prevention, cultural resource protection, wildlife habitat conservation, vegetation seeding and revegetation, and livestock grazing are included in the proposed action.

Proposed treatment strategies and approximate acreages potentially affected are described below:

Methodologies	Acres
Protection—Areas of naturally occurring juniper would be protected from disturbance	198,000
Priority Mechanical Treatment—>20% juniper canopy cover, <30% slope, <1 mile from serviceable access road, 14″ precipitation	337,000
Secondary Mechanical Treatment—>20% juniper canopy cover, <30% slope, <1 mile from serviceable access road, <14″ precipitation. During treatment, these areas would generally receive special attention in terms of revegetation and potential noxious weed issues.	30,000
Isolated Mechanical Treatment—>20% juniper canopy cover, <30% slope, >1 mile from serviceable access road, >14″ precipitation. These areas would generally require new road construction to remove juniper.	52,600
Secondary Isolated Mechanical Treatment—>20% juniper canopy cover, <30% slope, >1 mile from serviceable access road, <14″ precipitation. These areas would generally require new road construction to remove juniper and during treatment these areas would generally receive special attention in terms of revegetation and potential noxious weed issues.	1,400
Timber Management Mechanical Treatment—<20% juniper canopy cover associated with stands of pine and fir. Juniper would be removed during timber stand thinning operations.	751,000
Priority Prescribed Fire Treatment—<20% juniper canopy cover, >14″ precipitation, outside WUI	847,000
Secondary Prescribed Fire Treatment—<20% juniper canopy cover, <14″ precipitation, outside WUI. These areas would generally receive special attention in terms of revegetation and potential noxious weed issues.	261,000
Priority WUI Prescribed Fire Treatment—<20% juniper canopy cover, >14″ precipitation, inside WUI. These fires would generally be of higher complexity due to their proximity to structures and people.	378,000
Secondary WUI Prescribed Fire Treatment—<20% juniper canopy cover, <14″ precipitation, inside WUI. These fires would generally be of higher complexity due to their proximity to structures and people. These areas would generally receive special attention in terms of revegetation and potential noxious weed issues.	105,000
Sensitive Area Hand Treatment—>20% juniper canopy cover, >30% slope or juniper stands of various canopy covers associated with sensitive resources such as within 100′ of perennial or seasonal drainages, cultural sites, sensitive habitat.	96,000

Summary: Of the 3,057,000 acres of western juniper within the 5.6 million acre planning area:

198,000 acres would be protected as naturally occurring juniper.
1,591,000 acres would be assess for potential prescribed fire treatment.
751,000 acres would be assessed for treatment in association with timber management.
421,000 acres would be assessed for potential mechanical treatment.
96,000 acres would be assessed for potential hand treatment.

3,057,000 acres

As part of the planning process, an implementation schedule for priority treatment areas would be developed.

Preliminary issues: Based on the public listening sessions held in July 2004 preliminary issues to be addressed in the EIS include: short term impacts on riparian areas, visual resources, wildlife habitat, and cultural resources; and long term potential for the introduction or spread of invasive species, impacts on rangeland permit holders, and nutrient cycling as a result of various treatment methods. In addition the risks associated with the introduction of a large scale prescribed fire treatment program will be evaluated.

Tentative Alternatives: At this time the agencies have identified the proposed action measured against the no-action alternative.

Lead Agency

USDA Forest Service, Modoc National Forest

Cooperating Agencies

USDI, Bureau of Land Management Alturas Field Office, 708 West 12th Street, Alturas CA 96101 (Contact Tim Burke (530) 233–4666)

Modoc County, California, Planning Department, Attention: Sean Curtis, 203 West 4th Street, Alturas, CA 96101.

Responsible Officials

Modoc National Forest Supervisor Stan Sylva and BLM Alturas Field Manager Tim Burke are the responsible officials for this planning effort.

Nature of Decision To Be Made

The responsible officials will utilize information from the environment impact statement to guide decision making concerning coordinating treatment projects across ownerships and in amending or revision of their resource management plans that provide guidance for subsequent site specific project analysis. Decisions related to the environmental impact statement are policy and strategic in nature and do not require implementation of projects or cause environmental impacts their positive or negative.

Scoping Process

The agencies held a series of seven informational meetings in communities across the planning area during the summer of 2004. The times and location for issue scoping meetings will be announced through the news media in the region and in direct mailings. Information on the proposed action will also be posted on the forest Web site, *http://www.fs.ged.us/r5/modoc/projects/juniperstrategy.shtml,* and advertised in the Modoc Record.

Comment Requested

This notice of intent initiates the scoping process which guides development of the environmental impact statement. The agencies will seek scoping comments relative to the extent of degradation of the sagebrush steppe ecosystems and associated natural resource issues to be addressed in the management plan and environmental impact statement. This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Comments submitted during this scoping process should be in writing and should be specific to the proposed action. The comments should describe as clearly and completely as possible any issues the commenter has with the proposal. The scoping process includes:

(a) Identifying potential issues.

(b) Identifying issues to be analyzed in depth.

(c) Eliminating non-significant issues or those previously covered by a relevant previous environmental analysis.

(d) Exploring additional alternatives.

(e) Identifying potential environmental effects of the proposed action and alternatives.

Early Notice of Importance of Public Participation in the Subsequently Environmental Review: A draft environmental impact statement will be prepared for public review and comment. A 45-day public comment period will be announced, starting from the date that the Environmental Protection Agency publishes a Notice of Availability in the **Federal Register**. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposed so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

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

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

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

Dated: July 18, 2005.

Stanley G. Sylva,

Forest Supervisor, Modoc National Forest.

[FR Doc. 05–14638 Filed 7–25–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Pacific Islands Region Seabird-Fisheries Interaction Recovery Reporting.

Form Number(s): None.

OMB Approval Number: 0648–0456.

Type of Request: Regular submission.

Burden Hours: 3.

Number of Respondents: 1.

Average Hours Per Response: 3 hours.

Needs and Uses: The seabird mitigation measures to reduce interactions between seabirds and the Hawaii-based pelagic longline fishery, include a requirement for longline vessel operators to notify NMFS in the event an endangered short-tailed albatross (STAL) is hooked or entangled during fishing operations. Following the retrieval of a STAL from the ocean, as required by Federal regulations, the vessel captain must record the condition of the injured STAL on the recovery data form. The information is used by a veterinarian in providing advice to the captain caring for the STAL. If the albatross is dead, the vessel captain must attach an identification/information tag to the STAL carcass, as well as the specimen bag, to assist the U.S. Fish and Wildlife Service (FWS) biologists in follow-up studies on the specimen. This collection is one of the terms and conditions contained in a biological opinion issued by FWS.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: July 20, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–14651 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Region Logbook Family of Forms.

Form Number(s): None.

OMB Approval Number: 0648–0213.

Type of Request: Regular submission.

Burden Hours: 38,990.

Number of Respondents: 1,143.

Average Hours Per Response: 25 minutes.

Needs and Uses: This collection-of-information affords an increasingly more efficient and accurate database for monitoring and management of the groundfish fisheries of the Exclusive Economic Zone in the waters off Alaska for purposes of conservation of the fisheries as well as for the enforcement of fisheries regulations. Parts of this collection are also used by the fishermen recording catch information on the Bering Sea and Aleutian Islands crab fisheries, and the Individual Fishing Quota Program for Pacific halibut.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Annually and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: July 20, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–14652 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northeast Region Dealer Purchase Reports.

Form Number(s): NOAA 88–30.

OMB Approval Number: 0648–0229.

Type of Request: Regular submission.

Burden Hours: 2,176.

Number of Respondents: 631.

Average Hours Per Response: 4 minutes.

Needs and Uses: Federally-permitted dealers in specified fisheries are required to submit information weekly regarding their fish purchases. Other dealers are asked to submit the information on a voluntary basis. A small number of commercial fishermen may also be asked to voluntarily provide information related to the purchase. The information obtained is used by economists, biologists, and managers in the management of the fisheries, NOAA is seeking to renew Paperwork Reduction Act approval for these requirements.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Weekly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: July 20, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–14653 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Notice Request for Comments.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD JUNE 18, 2005–JULY 15, 2005

Firm name	Address	Date etition ccepted	Product
Epley Enterprises, Inc.	3916 S. Chadbourne, San Angelo, TX 76902.	21–Jun–05	Precision frill bits, hole openers and downhole air hammers.
Moosehead Manufacturing Company	123 Chapin Avenue, Monson, ME 04464	23–Jun–05	Household and office furniture of wood.
G. C. International, Inc.	4671 Calle Caraga Camarillo, CA 93012	24–Jun–05	Precision aluminum and zinc castings.
Stitch Meisters d.b.a. VP Sports	4717 Osborne #500, El Paso, Tx 79922	24–Jun–05	Men's cotton shirts.
Whole Earth Hat Co., Inc. d.b.a. Korber Hats and Green Club Hats.	394 Kilburn Street, Fall River, MA 02724	24–Jun–05	Straw and felt hats.
Paper Service, Ltd.	30 Recycle Way, Ashuelot, NH 03441	6–Jul–05	Tissue paper for wrapping.
Applied Industrial & Architectural Plastics, Inc. d.b.a. AIA Plastics, Inc.	290 East 56th Avenue, Denver, CO 80216.	8–Jul–05	Plastic boxes and/or crates for display purposes.
FiberLok, Inc.	811 Stockton Avenue, Fort Collins, CO 80524.	12–Jul–05	Embroidered appliques of man-made fiber.
Palacios Seafood Co., Inc., d.b.a. Anchor Seafood.	1318 Perryman, Palacios, TX 77465	12–Jul–05	Shrimp.
QX, Inc.	2705 West Highway 55, Hamel, MN 55340.	12–Jul–05	Recreational motorcycle wheels.
Amercan Polishing, Inc.	141 Industrial Park Dr., Salem, AR 72576	14–Jul–05	Aluminum castings.
Ashly Audio, Inc.	847 Holt Road, Webster, NY 14580	14–Jul–05	Audio frequency electric power equipment.
All Packaging Company	14806 East 33rd Place, Aurora, CO 80011.	15–Jul–05	Folding cartons, boxes, and cases, and sanitary food and beverage containers.
Blind Maker, Inc. (The)	2013 Centimeter Circle, Austin, TX 78758	15–Jul–05	Wooden, plastic and aluminum blinds.
Kautza Furniture, Inc.	11509 Summer Street, Aniwa, WI 55408	15–Jul–05	Wooden furniture and wooden furniture legs and arms for chairs and sofas.
Together-West, Inc., & Sew-Together, Inc.	220 West 25th Street, National City, CA 91950.	15–Jul–05	Women's coats and jackets.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm. Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7812, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: July 20, 2005.

Anthony J. Meyer,

Senior Program Analyst, Office of Strategic Initiatives.

[FR Doc. 05–14679 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–821–811

Ammonium Nitrate from the Russian Federation: Extension of Preliminary and Final Results of a Full Five-year Sunset Review of Suspended Antidumping Duty Investigation

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

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for its preliminary results in the full sunset review of the suspended antidumping duty investigation on ammonium nitrate from the Russian Federation (''Russia''). As a result of this extension, the Department intends to issue the preliminary results of this sunset review on or about October 18, 2005 and the final results of this sunset review by February 27, 2006.

EFFECTIVE DATE: July 26, 2005.

FOR FURTHER INFORMATION CONTACT: Judith Wey Rudman or Aishe Allen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0192, or 482–0172, respectively.

SUPPLEMENTARY INFORMATION:

Extension of Preliminary and Final Results

On April 1, 2005, the Department initiated a sunset review of the suspended antidumping duty investigation on ammonium nitrate from Russia pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Notice of Initiation of Five-year (''Sunset'') Reviews*, 70 FR 16800, (April 1, 2005). On the basis of notices of intent to participate filed on behalf of domestic interested parties and adequate substantive comments filed on behalf of domestic and respondent interested parties, the Department is conducting a full (240-day) review to determine whether termination of the suspension agreement on ammonium nitrate would lead to the continuation or recurrence of dumping. The Department's preliminary results of this review were scheduled for July 20, 2005 and its final results of this review were scheduled for November 29, 2005; however, the Department needs additional time for its analysis.

In accordance with section 751(c)(5)(B) of the Act, the Department may extend the period of time for making its preliminary determination in a sunset review by not more than 90 days, if it determines that the review is extraordinarily complicated. As set forth in section 751(c)(5)(C), the Department may, among other reasons, treat a sunset review as extraordinarily complicated if: (i) there are a large number of issues, (ii) the issues to be considered are complex or (iii) there are a large number of firms involved. In this proceeding, the Department has to consider complex issues related to the likelihood of continuation or recurrence of dumping, the appropriate margins likely to prevail if the suspension agreement is terminated, and developments during the administration of the suspension agreement. Therefore, the Department has determined, pursuant to section 751(c)(5)(C) of the Act, that the sunset review of the suspension agreement on ammonium nitrate from Russia is extraordinarily complicated and requires additional time for the Department to complete its analysis. Accordingly, the Department is extending the deadline in this proceeding, and, as a result, intends to issue the preliminary results of the sunset review of the suspension agreement on ammonium nitrate from Russia on or about October 18, 2005 and the final results of the sunset review by February 27, 2006.

This notice is issued and published in accordance with sections 751(c)(5)(B) and (C) of the Act.

Dated: July 19, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–14727 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey from the People's Republic of China: Extension of Time Limit for Preliminary Results of 2003/2004 New Shipper Review

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

EFFECTIVE DATE: July 26, 2005.

FOR FURTHER INFORMATION CONTACT: Anya Naschak at (202) 482–6375; AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2001, the Department published in the **Federal Register** an antidumping duty order covering honey from the PRC. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey from the People's Republic of China*, 66 FR 63670 (December 10, 2001). On December 22, 2004, the Department received a timely request from Kunshan Xin'an Trade Co., Ltd. (''Xinan'') in accordance with 19 CFR 351.214 (c), for a new shipper review of the antidumping duty order on honey from the PRC, which has a December annual anniversary month. On January 31, 2005, the Department initiated a review for Xinan. *See Honey from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review*, 70 FR 6412 (February 7, 2005) (''NSR Xinan Initiation'')

The Department has issued its antidumping duty questionnaire, and two supplementals to Xinan. The deadline for completion of the preliminary results is currently August 1, 2005.

Extension of Time Limits for Preliminary Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(i)(1) require the Department to issue the preliminary results of a new shipper review within 180 days after the date on which the new shipper review was initiated and final results of a review within 90 days after the date on which the preliminary results were issued. The Department may, however, extend the deadline for completion of the preliminary results of a new shipper review to 300 days if it determines that the case is extraordinarily complicated (19 CFR 351.214 (i)(2)).

Pursuant to section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214 (i)(2), we determine that this review is extraordinarily complicated and that it is not practicable to complete this new shipper review within the current time limit. Specifically, the Department requires additional time to analyze all questionnaire responses and issues of affiliation, and to conduct verification of the responses submitted to date. Accordingly, the Department is extending the time limit for the completion of the preliminary results by 45 days, to September 16, 2005, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2). The final results will, in turn, be due 90 days after the date of issuance of the preliminary results, unless extended.

Dated: July 18, 2005.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 05–14729 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–588–867)

Initiation of Antidumping Duty Investigation: Metal Calendar Slides from Japan

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

EFFECTIVE DATE: July 26, 2005.

FOR FURTHER INFORMATION CONTACT: Scott Lindsay or Nicholas Czajkowski, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0780 or (202) 482–1395, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 29, 2005, the Department of Commerce (the Department) received a petition on imports of metal calendar

slides from Japan filed in proper form by Stuebing Automatic Machine Company (the petitioner). *See Petition for Imposition of Antidumping Duties on Metal Calendar Slides from Japan* (June 29, 2005) (petition). On July 5, 2005, the Department issued a request for additional information and clarification of certain areas of the petition. On July 6, 2005, the Department met with the petitioner's counsel to clarify issues regarding the information requested by the Department's July 5, 2005 questionnaire. *See Memorandum from Dara Iserson through Thomas Gilgunn to the File, Antidumping Duty Investigation of Calendar Metal Slides from Japan* (July 8, 2005). On July 8, 2005, the petitioner filed a petition amendment. *See Imposition of Antidumping Duties on Metal Calendar Slides from Japan* (July 11, 2005) (petition amendment). On July 13, 2005, the Department spoke with the vice president of the market research firm used by the petitioner to discuss information included in the petition. *See Memorandum from Nicholas Czajkowski through Thomas Gilgunn to the File, Telephone Call to Market Research Firm Regarding the Antidumping Petition on Metal Calendar Slides from Japan* (July 19, 2005).

In accordance with section 732(b) of the Tariff Act of 1930, as amended (''the Act''), the petitioner alleges that imports of metal calendar slides are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act, and petitioner has demonstrated sufficient industry support with respect to the investigation that the petitioner is requesting the Department to initiate (*see* ''Determination of Industry Support for the Petition'' below).

Scope of Investigation

The merchandise covered in this investigation is ''V'' and/or ''U'' shaped metal calendar slides manufactured from cold–rolled steel sheets, whether or not left in black form, tin plated or finished as tin free steel (''TFS''), typically with a thickness from 0.19 mm to 0.23 mm, typically in lengths from 152 mm to 915 mm, typically in widths from 12 mm to 29 mm when the slide is lying flat and before the angle is pressed into the slide (although they are not typically shipped in this ''flat'' form), that are typically either primed to protect the outside of the slide against oxidization or coated with a colored enamel or lacquer for decorative purposes, whether or not stacked, and excluding paper and plastic slides. Metal calendar slides are typically provided with either a plastic attached hanger or eyelet to hang and bind calendars, posters, maps or charts, or the hanger can be stamped from the metal body of the slide itself. These metal calendar slides are believed to be classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 7326.90.1000 (Other articles of iron and steel: Forged or stamped; but not further worked: Other: Of tinplate). This HTSUS number is provided for convenience and U.S. Customs and Border Protection purposes. The written description of the scope of this investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties, Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC) is responsible for determining whether ''the domestic industry'' has been injured and must also determine what constitutes a domestic like product in order to define the industry. While the Department and the ITC must apply the same statutory definition regarding the domestic like product, they do so for different purposes and pursuant to separate and distinct authority. *See* section 771(10) of the Act. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.[1]

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

With regard to domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information presented by the petitioner, we have determined that there is a single domestic like product, metal calendar slides, which is defined in the ''Scope of Investigation'' section above, and we have analyzed industry support in terms of the domestic like product.

We received no opposition to this petition. The petitioner accounts for 100 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A) are met. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See* ''Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Metal Calendar Slides from Japan,'' at Att. I (July 19, 2005) (*Initiation Checklist*) on file in the

[1] *See USEC, Inc. v. United States*, 25 CIT 49, 132 F. Supp. 2d 1, 8 (Jan. 24, 2001) (citing *Algoma Steel Corp. v. United States*, 12 CIT 518, 523, 688 F. Supp. 639, 642-44 (June 8, 1988)).

Central Records Unit, Room B–099 of the Department of Commerce.

Period of Investigation

The anticipated period of investigation (POI) is April 1, 2004, through March 31, 2005.

U.S. Price and Normal Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to U.S. price and normal value are discussed in greater detail in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculation, if appropriate.

The petition identified four producers of metal calendar slides in Japan. *See* petition, at 8; and petition amendment, at 2. We have relied on an actual sale price provided by the petitioner for establishing U.S. price (*see* petition, at Exh. 13a, at pp. 5 and 13b). This price is for metal calendar slides from Japan sold to a customer in the United States during 2004.

The petitioner deducted an amount for freight costs to the United States from the price provided to the petitioner. However, we have also made some revisions to the calculation of freight. *See Initiation Checklist* at Att. 4. We examined the information provided regarding U.S. price; we have determined that it represents information reasonably available to the petitioner; and, we have reviewed it for adequacy and accuracy.

Pursuant to section 773(a)(1)(B)(i) of the Act, the petitioner calculated normal value based on a written offer for sale by the Japanese producer. The petitioner obtained the information on home market prices and volume discounts for metal calendar slides, sold in the Japanese market in 2004, from two foreign market research reports. We reviewed the prices in the written offer and we determined that it represents information reasonably available to the petitioner. We have also reviewed the normal–value information the petitioner provided for adequacy and accuracy. However, we re–calculated normal value to apply exchange rates consistent with our normal practice. *See Initiation Checklist* at Att. 4.

Critical Circumstances

The petitioner alleges, based on trade statistics since 2002 and the seasonal nature of the industry, that there is a reasonable basis to believe or suspect that critical circumstances will exist with regard to imports of metal calendar slides from Japan. *See* petition, at 10 and 39.

Section 733(e)(1) of the Act states that if a petitioner alleges critical circumstances, the Department will find that such circumstances exist, at any time after the date of initiation, when there is a reasonable basis to believe or suspect that under, subparagraph (A)(i), there is a history of dumping and there is material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h) of the Department's regulations defines ''massive imports'' as imports that have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration. Section 351.206(i) of the regulations states that a relatively short period will normally be defined as the period beginning on the date the proceeding begins and ending at least three months later.

The petitioner alleges that importers knew, or should have known, that metal calendar slides were being sold at less than fair value. Specifically, the petitioner's recalculated margins are as high as 48.24 percent, a level high enough to impute importer knowledge that merchandise was being sold at less than its fair value. *See e.g., Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Prestressed Concrete Steel Wire Strand from Thailand*, 68 FR 68,348 (Dec. 8, 2003) (*citing Preliminary Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate From the People's Republic of China*, 62 FR 31,972, 31,978 (June 11, 1997)). In addition, the petitioner provided direct evidence that the importer knew, or should have known, that the exporter was selling subject imports at less than fair value. *See* petition, at 37–38, and Exh. 3A and 13B.

The petitioner requests that the Department immediately begin reviewing import data of the subject merchandise and that the Department request U.S. Customs & Border Protection (CBP) to compile information on an expedited basis regarding entries of subject merchandise. *See* petition, at 35–40. Section 732(e) of the Act states that when there is a reasonable basis to believe or suspect (1) there is a history of dumping in the United States or elsewhere of the subject merchandise, or (2) the person by whom, or for whose account, the merchandise was imported knew, or should have known, that the exporter was selling the subject merchandise at less than its fair value, the Department may request the CBP to compile information on an expedited basis regarding entries of the subject merchandise.

Taking into consideration the foregoing, we will analyze this matter further. We will monitor imports of metal calendar slides from Japan and we will request that CBP compile information on an expedited basis regarding entries of subject merchandise. *See* Section 732(2) of the Act. If, at any time, the criteria for a finding of critical circumstances are established, we will issue a critical circumstances finding at the earliest possible date. *See* Policy Bulletin 98/4, 63 FR 55364 (Oct. 15, 1998).

Fair Value Comparisons

Based on a comparison of export prices to normal values calculated in accordance with Section 773(a) of the Act, the Department recalculated estimated dumping margins ranging from 22.09 percent to 48.24 percent for metal calendar slides from Japan. Therefore, there is reason to believe that imports of metal calendar slides are being, or are likely to be, sold in the United States at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured and is threatened with material injury by reason of the imports of the subject merchandise sold at less than fair value. The petitioner contends that the industry's injury is evidenced by reduced market share, lost sales, reduced production, lower capacity and capacity utilization rates, decreased U.S. shipments and inventories, decline in prices, lost revenue, reduced employment, decreased capital expenditures, decreased investment in research and development, and a decline in financial performance.

These allegations are supported by relevant evidence including import data, evidence of lost sales, and pricing information. We assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation and have determined that

these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklist* at Att. 2.

Initiation of Antidumping Investigation

Based upon the examination of the petition on metal calendar slides from Japan and other information reasonably available to the Department, the Department finds that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of metal calendar slides from Japan are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Government of Japan. We will attempt to provide a copy of the public version of the petition to the producers named in the petition.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the International Trade Commission

The ITC will preliminarily determine, no later than August 15, 2005, whether there is a reasonable indication that imports of metal calendar slides are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: July 19, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–14728 Filed 7–25–05; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty–Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, D.C.

Docket Number: 05–024. Applicant: Massachusetts Institute of Technology, Plasma Science and Fusion Center, 190 Albany Street, Cambridge, MA 02139. Instrument: Diagnostic Neutral Beam Injector (Hydrogen). Manufacturer: Budker Institute of Nuclear Physics, Russia. Intended Use: The instrument is intended to be used to inject a multi–ampere collimated beam of high–velocity (near 1%) neutral hydrogen atoms (or deuterium or helium) into a tokomak plasma. Interactions between the beam atoms and the plasma will generate characteristic spectral emission lines from which crucial information about the hot plasma core can be extracted and studied including motional Stark effect, plasma ion temperature and flow velocity, beam emission spectroscopy and confinement and transport of fast particles in the tokamak plasma. It will also be used for education and research of graduate students and guest scientists from other plasma research facilities. Application accepted by Commissioner of Customs: June 23, 2005.

Docket Number: 05–025. Applicant: The Massachusetts Institute of Technology, 150 Albany Street, Cambridge, MA 02139. Instrument: Nuclear Magnetic Resonance Magnet, Model JMTC-600/140. Manufacturer: Jastec, Japan. Intended Use: The instrument is intended to be used to construct a persistent mode 600MHz, 125 mm room temperature bore LTS high–resolution NMR spectrometer by combining the foreign NMR magnet with a 1.76 T HTS insert built by the applicant. The resulting high homogeneity NMR spectrometer will be used to study a number of materials, such as nucleic acid molecules, helical peptides, bacteriorhodopsin and phenomena, such as frequency–selective heteronuclear dephasing and polarization and determination of structure and dynamics under physiological conditions. It will also be used for undergraduate, graduate and postdoctoraleducation and research. Application accepted by Commissioner of Customs: June 23, 2005.

Docket Number: 05–026. Applicant: Cornell University, Baker Lab, Ithaca, NY 14853–1301. Instrument: Horizontal Bounce Monochromater. Manufacturer: Oxford–Danfysik, England. Intended Use: The instrument is intended to be used to determine the molecular structures of macro–molecules of importance in the life sciences, particularly in the composition of the human genome and metabolic processes. Materials will include proteins, viruses, enzymes, and other related entities. X–ray crystallographic techniques will be used through studies of the scattering of monoenergetic x–rays from single crystals of these materials utilizing the intense beams of x–rays provided by the Advanced Photon Source located at the Department of Energy's Argonne National Laboratory. The objective is to understand more fully how various metabolic and physiological systems function. Application accepted by Commissioner of Customs: July 28, 2005.

Docket Number: 05–029. Applicant: University of Illinois at Chicago, Department of Physics (m/c 273), 845 West Taylor Street (Room 2236), Chicago, Il 60607–7059. Instrument: Excimer Laser and Preamplifier. Manufacturer: Laser–Laboratorium, Gottingen, Germany. Intended Use: The instrument is intended to be used to study nonlinear optical phenomena and x–ray amplification in gases, solids, atomic clusters and plasmas. Measured quantities of x–rays and their spectral properties will be examined for an understanding of new physics associated with coherent x–ray production which will serve as a preamplifier in an ultraviolet laser system. Application accepted by Commissioner of Customs: July 7, 2005.

Docket Number: 05–030. Applicant: National Animal Disease Center, U.S. Department of Agriculture, 2300 Dayton Avenue, Ames, IA, 50010. Instrument: Electron Microscope, Model Technai G^2 12 TWIN/BioTWIN. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument is intended to be

used for high resolution and high contrast imaging of thin-sectioned tissues of animals of major economic importance to U.S. agriculture. Basic and applied research on selected diseases of importance to the U.S. livestock and poultry industries will be conducted to:

1. Reduce economic losses from animal disease for the livestock and poultry industries and the associated rural agricultural communities.

2. Reduce or eliminate pre–harvest contamination/infection of animals with food–borne human pathogens.

3. Prevent suffering and death caused by diseases. Application accepted by Commissioner of Customs: July 6, 2005.

Docket Number: 05–031. Applicant: University of Illinois, Department of Crop Sciences, 384A Edward R. Madigan Lab, 1201 West Gregory Drive, Urbana, IL . Instrument: Qarray2 Microarraying System. Manufacturer: Genetix, Ltd., United Kingdom. Intended Use: The instrument is intended to be used in genomics research to ''print'' thousands of DNA specimens representing laboratory–produced soybean genes onto glass slides in a process known as microarray. The glass slide microarrays produced with the Qarray2 instrument will then be exposed to tissue extracts and used to determine how and when the genes are active or ''expressed'' in the plant, providing information on plant growth, disease resistance and production of nutritionally significant compounds. The instrument will also be used for instruction in several lab courses. Application accepted by Commissioner of Customs: July 8, 2005.

Gerald A. Zerdy,

Program Manager Statutory Import Programs Staff.

[FR Doc. 05–14731 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

University of California, San Diego, et al., Notice of Consolidated Decision on Applications for Duty–Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW, Washington, D.C.

Docket Number: 05–020. Applicant: University of California, San Diego, La Jolla, CA 92093–0332. Instrument: Electron Microscope, Model Technai G_2 Sphera. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 70 FR 36117, June 22, 2005. Order Date: December 9, 2004.

Docket Number: 05–021. Applicant: University of California, San Diego, La Jolla, CA 92093–0332. Instrument: Electron Microscope, Model Technai G_2 Polara. Manufacturer: FEI Company, The Netherlands. Intended Use: See notice at 70 FR 36117, June 22, 2005. Order Date: December 9, 2004.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument OR at the time of receipt of application by U.S. Customs and Border Protection.

Gerald A. Zerdy,

Program Manager Statutory Import Programs Staff.

[FR Doc. 05–14730 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071905C]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; South Atlantic Snapper Grouper Regulatory Amendment

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

ACTION: Notice; intent to prepare a draft environmental impact statement (DEIS); supplement.

SUMMARY: NMFS and the South Atlantic Fishery Management Council (Council) are evaluating the environmental impacts of a range of management actions for red porgy, black sea bass, vermilion snapper, snowy grouper, and golden tilefish in a DEIS. These management actions are being developed in a regulatory amendment to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region (FMP). This notice is intended to supplement notices published in January 2002 and in September 2003, announcing the preparation of DEISs for FMP Amendments 13 and 13B, respectively.

DATES: Written comments on the scope of the DEIS will be accepted through August 25, 2005.

ADDRESSES: Comments should be sent to Jack McGovern, NMFS Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, phone: 727–824–5305; fax: 727–824–5308; e-mail: *John.McGovern@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; toll free 1–866–SAFMC–10 or 843–571–4366; *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: The snapper grouper fishery operating in the South Atlantic exclusive economic zone is managed under the FMP. Following Council preparation, this FMP was approved and implemented by NMFS in March 1983, under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The Council began developing FMP Amendment 13 in 2001 to address multiple Magnuson-Stevens Act requirements, as well as the scheduled sunset of regulations protecting the Oculina Experimental Closed Area, and other administrative issues. The Notice of Intent (NOI) for the DEIS associated with FMP Amendment 13 was published in the **Federal Register** on January 31, 2002 (67 FR 4696). A subsequent notice announcing the division of actions in FMP Amendment 13 into FMP Amendments 13A and 13B was published on September 12, 2003 (68 FR 53706). FMP Amendment 13A contained a single action to extend the regulations in the Oculina Experimental Closed Area, and was supported by an Environmental Assessment. The remaining actions in FMP Amendment 13 were transferred to FMP Amendment 13B, for which the Council continued to prepare a DEIS.

Stock assessments have been completed for red porgy, black sea bass, vermilion snapper, golden tilefish, and snowy grouper through the Southeast Data, Assessment, and Review process. The assessments revealed that: all the stocks, except red porgy, are subjected to overfishing; all the stocks, except for golden tilefish and vermilion snapper, are overfished (the biomass level of

vermilion snapper is unknown); and the red porgy stock is recovering as planned, indicating the rebuilding schedule approved for that stock in FMP Amendment 12 would support a moderate harvest increase.

It is anticipated that management actions proposed in FMP Amendment 13B will not be implemented until 2007. The Council decided at its June 2005 Council meeting to consider management actions for these five recently assessed stocks in a regulatory amendment as the most practical avenue to address necessary management measures. Regulatory amendments differ from FMP amendments in that they allow the Council to implement specific regulations through abbreviated rulemaking. The FMP outlines the actions that may be implemented and/or adjusted using this regulatory framework process.

This NOI is intended to inform the public that management actions previously considered in FMP Amendment 13B for select stocks are being developed in a regulatory amendment. Proposed actions in this regulatory amendment would address overfishing of black sea bass, vermilion snapper, golden tilefish, and snowy grouper, and increase red porgy harvest to a level supported by the approved rebuilding schedule for that stock. Management measures currently being evaluated for the commercial sector in this DEIS include new or adjusted: catch quotas, size limits, trip limits, seasonal closures, fishing year start dates, and gear restrictions. Management measures currently being evaluated for the recreational sector include new or adjusted: catch allocations, bag limits, size limits, and seasonal closures.

The Council will continue to work on FMP Amendment 13B while preparing the regulatory amendment. Management actions still being considered in FMP Amendment 13B would: redefine, divide into multispecies units, and identify indicator species within the snapper grouper fishery management unit; review and define, as needed, management reference points for snapper grouper stocks; review and define, as needed, rebuilding schedules and strategies for overfished stocks; reduce directed and incidental fishing mortality on select species through new or adjusted catch quotas, seasonal closures, size limits, and/or bag limits; and change permit renewal and transferability provisions. Amendment 13B also will include a bycatch practicability analysis. The full suite of alternatives currently being considered in the regulatory amendment can be obtained from the Council (see ADDRESSES for contact information). The DEIS and/or final EIS (FEIS) associated with this amendment may include additional management measures identified during the public comment processes.

A **Federal Register** notice will announce the availability of the DEIS associated with this amendment, as well as the 45-day public comment period, pursuant to regulations issued by the Council on Environmental Quality for implementing the National Environmental Policy Act and to NOAA Administrative Order 216–6. NMFS and the Council will consider public comments received on the DEIS in developing the FEIS. NMFS will announce in the **Federal Register** the availability of the FEIS for public review and will consider all public comments prior to final agency action to approve, disapprove, or partially approve the amendment.

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

Dated: July 21, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–14722 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel Meeting

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

ACTION: Notice of open meeting.

SUMMARY: The Hydrographic Services Review Panel (HSRP) was established by the Secretary of Commerce to advise the Under Secretary of Commerce for Oceans and Atmosphere on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act of 1998, its amendments, and such other appropriate matters that the Under Secretary refers to the Panel for review and advice.

DATE AND TIME: The meeting will be held Thursday, August 18, 2005, from 8 a.m. to 5 p.m., and Friday, August 19, 2005, from 8 a.m. to 4 p.m.

Location: The New England Center, 15 Strafford Avenue, University of New Hampshire (UNH), Durham, New Hampshire 03824; Telephone: 603–862–2801. The times and agenda topics are subject to change. Refer to the Web site listed below for the most up-to-date meeting agenda.

FOR FURTHER INFORMATION CONTACT: Captain Roger L. Parsons, NOAA, Designated Federal Officer (DFO), Office of Coast Survey, National Ocean Service, NOAA (N/CS), 1315 East West Highway, Silver Spring, Maryland 20910; Telephone: 301–713–2770, Fax: 301–713–4019; e-mail: *Hydroservices.panel@noaa.gov* or visit the NOAA HSRP Web site at *http://nauticalcharts.noaa.gov/ocs/hsrp/hsrp.htm*.

SUPPLEMENTARY INFORMATION: The meeting will be open to public participation for verbal comments and questions at the end of the day on August 18 and 19, 2005, with a 30-minute period that will be extended if needed. Each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments (at least 30 copies) should be submitted to the DFO by August 12, 2005. Written comments received by the HSRP DFO after August 12, 2005, will be distributed to the HSRP, but may not be reviewed prior to the meeting date. Approximately 40 seats will be available for the public, on a first-come, first-served basis.

Matters To Be Considered: Topics planned for discussion include: (1) Workgroup Reports and Proposed Recommendations on: NOAA Hydrographic Surveying Cost Analysis, National Ocean Service Mapping and Charting Contracting Policy and Expansion Strategy, NOAA Hydrographic Service User Requirements, NOAA Hydrographic Services' Role in the Integrated Ocean Observing System (IOOS), and Suggested Revisions to the Reauthorization of the Hydrographic Services Improvement Act, (2) Overview and Government Perspectives on NOAA Contracting Strategies, (3) Emerging Technologies and Educational Curriculum in Surveying, Analysis and Data Processing through NOAA's Joint Hydrographic Center at UNH, (4) Progress Report on IOOS Development, (5) NOAA Electronic Navigational Chart Data Encryption Policy and (6) Public Statements.

Dated: July 19, 2005.

Captain Roger L. Parsons,

NOAA, Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 05–14650 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072105C]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Magnuson-Stevens Committee in August, 2005 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Wednesday, August 10, 2005, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Framingham Hotel, 1657 Worcester Road, Framingham, MA 01701; telephone: (508) 879–7200.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Committee will meet to review past comments on reauthorization as well as revisit and possibly revise draft comments presented at the June 2005 Council meeting in Portland, ME. Any committee recommendations will be forwarded for approval at the Council's September Council meeting scheduled in Fairhaven, MA.

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 listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is 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 dates.

Dated: July 21, 2005.

Alan D. Risenhoover,

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

[FR Doc. E5–3973 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071405B]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Application for a scientific research permit (1535).

SUMMARY: Notice is hereby given that NMFS has received a scientific research permit application request relating to Pacific salmon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts.

DATES: Comments or requests for a public hearing on the application must be received no later than 5 p.m. Pacific daylight-saving time on August 25, 2005.

ADDRESSES: Written comments on the application should be sent to Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by e-mail to *resapps.nwr@NOAA.gov*.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR (ph.: 503–231–2005, Fax: 503–230–5441, e-mail: *Garth.Griffin@noaa.gov*). Permit application instructions are available at *http://www.nwr.noaa.gov*.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species (evolutionarily significant unit) is covered in this notice:

Puget Sound (PS) Chinook salmon (*Oncorhynchus tshawytscha*).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 et. seq) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on findings that such permits: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 1535

R2 Resource Consultants, Inc. (R2RC) is requesting a 2–year permit to take juvenile PS Chinook salmon during the course of two studies in the lower Green River watershed in Washington State. Study 1 would take place in the Green River Natural Resources Area (GRNRA), near the City of Kent, Washington, and Study 2 would take place in numerous streams and waterways within the City of Kent itself. The purpose of both studies is to ascertain where juvenile salmonids reside within the city's waters. The first study would determine how and when salmonids use the constructed habitat of the GRNRA detention lagoon. The second would identify streams and waterways within the city that contain salmonids. The fish would benefit from the research because the city of Kent would better be able to protect these important habitat areas once they are identified.

R2RC proposes to use two types of electrofishing set-ups: barge-based and backpack. The barge-based system would be used in Study 1, in the GRNRA detention lagoon. The backpack electrofishing unit would be used in Study 2. Depending on flow conditions, a fyke net may be used to monitor fish migration in the GRNRA. The net would be deployed and monitored for five consecutive days. Supplemental sampling may be conducted using minnow traps. All fish would be captured with a dip net and placed into a darkened recovery unit where they would be anesthetized, identified by species, and measured. R2RC does not intend to kill any of the fish being captured in either study, but a small number may die as an unintended result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated

documents, and comments submitted to determine whether the application meets the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30–day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: July 21, 2005.

Donna Wieting,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–14719 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071405A]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of scientific research permits and permit modifications and permit amendment.

SUMMARY: Between November 5, 2004, and June 15, 2005, NMFS' Northwest Region issued 23 permits and permit modifications (and one permit amendment) allowing endangered and threatened species of Pacific salmon and steelhead to be taken for scientific research purposes under the Endangered Species Act (ESA) of 1973, as amended. The research actions and the species they affect are listed in the **SUPPLEMENTARY INFORMATION** section below.

ADDRESSES: The permits, permit applications, and related documents are available for review during business hours by appointment at NMFS' Protected Resources Division, F/NWO3, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274 (ph: 503–230–5400, fax: 503–230–5441).

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR (phone: 503–231–2005, fax: 503–230–5441, e-mail: *Garth.Griffin@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Authority

The ESA requires that permits, modifications, and amendments be issued based on findings that such actions: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species that are the subject of the actions; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits, modifications, and amendments are issued in accordance with, and are subject to, the ESA and NMFS' regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Species Covered in This Notice

The ESA-listed species/evolutionarily significant units (ESUs) covered by this notice are identified below and listed in the subsequent table by the numbers that precede each of them in the following text:

(1) Threatened Puget Sound Chinook salmon (*Oncorhynchus tshawytscha*)

(2) Threatened Lower Columbia River (LCR) Chinook salmon (*O. tshawytscha*)

(3) Threatened Snake River (SR) spring/summer Chinook salmon (*O. tshawytscha*)

(4) Threatened SR fall Chinook salmon (*O. tshawytscha*)

(5) Endangered Upper Columbia River (UCR) spring-run Chinook salmon (*O. tshawytscha*)

(6) Threatened Upper Willamette River (UWR) Chinook salmon (*O. tshawytscha*)

(7) Threatened Hood Canal summer-run chum salmon (*O. keta*)

(8) Threatened Columbia River chum salmon (*O. keta*)

(9) Threatened LCR steelhead (*O. mykiss*)

(10) Threatened Middle Columbia River steelhead (*O. mykiss*)

(11) Threatened SR steelhead (*O. mykiss*)

(12) Threatened UWR steelhead (*O. mykiss*)

(13) Endangered UCR steelhead (*O. mykiss*)

(14) Threatened Southern Oregon/Northern California Coasts coho salmon (*O. kisutch*)

(15) Candidate Oregon Coast coho salmon (*O. kisutch*)

(16) Endangered SR sockeye salmon (*O. nerka*)

(17) Threatened Ozette lake sockeye salmon (*O. nerka*)

TABLE 1. TWENTY-FOUR SCIENTIFIC RESEARCH PERMIT ACTIONS AFFECTING LISTED PACIFIC SALMONIDS

Permit Number	Affected Species/ESUs	Permittee	FEDERAL REGISTER Notice of Application Receipt
1119M2	5, 13	U.S. Fish and Wildlife Service (FWS)	April 28, 2005 (70 FR 22001)
1135Am1	9	U.S. Geological Survey (USGS)	April 12, 2002 (67 FR 17970)
1322M3	2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13.	Northwest Fisheries Science Center (NWFSC).	February 15, 2005 (70 FR 7719)
1338M1	2, 8, 9	FWS	April 28, 2005 (70 FR 22001)
1403M1	3, 10, 11	NWFSC	July 26, 2004 (69 FR 44511)
1410M2	2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17.	NWFSC	March 23, 2005 (70 FR 14657)
1479M1	2, 8, 9	USGS	March 23, 2005 (70 FR 14657)
1487	2, 8, 9	FWS	July 26, 2004 (69 FR 44511)
1496	9	U.S. Forest Service (USFS)	July 26, 2004 (69 FR 44511)
1498	1	Port of Bellingham	September 7, 2004 (69 FR 54131)
1499	1	Battelle Marine Sciences Laboratory	October 14, 2004 (69 FR 60986)
1500	3, 4, 11, 16	University of Idaho	July 26, 2004 (69 FR 44511)
1502	5, 13	USFS	September 7, 2004 (69 FR 54131)
1504	1, 7	Pacific Shellfish Institute	September 7, 2004 (69 FR 54131)
1511	14	Oregon Department of Fish and Wildlife (ODFW).	November 18, 2004 (69 FR 67541)
1513	1	Washington Trout	February 15, 2005 (70 FR 7719)
1515	6	Water Work Consulting	January 3, 2005 (70 FR 2395)
1519	2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 16.	Columbia River Estuary Study Taskforce.	February 15, 2005 (70 FR 7719)
1521	1	Wyllie-Echeverria Associates	February 15, 2005 (70 FR 7719)
1523	6, 12	National Council for Air and Stream Improvements.	March 23, 2005 (70 FR 14657)
1524	1	NWFSC	March 23, 2005 (70 FR 14657)
1525	2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13.	NWFSC	March 23, 2005 (70 FR 14657)
1531	14	Southern Oregon University	April 28, 2005 (70 FR 22001)
1532	10	Columbia River Intertribal Fish Commission.	April 28, 2005 (70 FR 22001)

It should also be noted that permit 1203, noticed on September 7, 2004 (69 FR 54131) was withdrawn by the applicant.

Dated: July 21, 2005.

Donna Wieting,

Deuty Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–14720 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072005A]

Marine Mammals; Permit No. 699–1720–01

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

ACTION: Notice; receipt of application for amendment.

SUMMARY: Notice is hereby given that Dr. Kathryn A. Ono, Associate Professor, Department of Biological Sciences, University of New England, 11 Hills Beach Road, Biddeford, ME, 04005, has requested an amendment to scientific research Permit No. 699–1720–01.

DATES: Written, telefaxed, or e-mail comments must be received on or before August 25, 2005.

ADDRESSES: The amendment request 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; and

Assistant Regional Administrator for Protected Resources, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9328; fax (987)281–9394.

Written comments or requests for a public hearing on this request should be submitted 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 amendment 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. 699–1720–01.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 699–1720–01, issued on July 23, 2003 (68 FR 59163) 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).

Permit No. 699–1720–01 authorizes the permit holder to take harbor seals (*Phoca vitulina concolor*) annually by capture, physical restraint, morphometric measurements, placement of flipper tags, blood sampling, fecal sampling, skin biopsy, attachment of satellite tags, incidental harassment, and accidental mortality. Incidental harassment and accidental capture of small numbers of gray seals

(*Halichoerus grypus*), harp seals (*Phoca groenlandica*), and hooded seals (*Cystophora cristata*) are also authorized.

The permit holder now requests authorization to extend the sampling location authorized under Permit No. 699–1720–01 from the coast of Maine through to the Massachusetts/Rhode Island border.

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: July 20, 2005.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–14723 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072005C]

Marine Mammals; File Nos. 782–1768 and 486–1790

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

ACTION: Notice; issuance of permit amendment, receipt of application.

SUMMARY: Notice is hereby given of the following actions: (1) the National Marine Mammal Laboratory, Alaska Fisheries Science Center, Seattle, WA (NMML: File No. 782–1768), has been issued a major amendment to a permit for research on Steller sea lions (*Eumetopias jubatus*) in California and Oregon; and (2) Brent Stewart, Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, California 92109 (File No. 486–1790), has applied for a permit to conduct research on California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), harbor seals (*Phoca vitulina*), and northern fur seals (*Callorhinus ursinus*) on the southern California Channel Islands and surrounding waters.

DATES: Written, telefaxed, or e-mail comments must be received on or before August 25, 2005.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

File Nos. 782–1768 and 486–1790: 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;

File No. 782–1768: Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426; and

File Nos. 782–1768 and 486–1790: Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Written comments or requests for a public hearing on the application File No. 486–1790 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 on the application File No. 486–1790 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.

In addition, comments on the application File No. 486–1790 may 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. 486–1790.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: File No. 782–1768: On June 4, 2003, notice was published in the **Federal Register** (68 FR 33477) that a request for a scientific research permit to take Steller sea lions and other pinnipeds California and Oregon had been submitted by NMML (File No. 782–1702). The requested permit was issued on October 10, 2003 (68 FR 58663) under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226). However, this permit did not include the requested capture, sampling, and marking of Steller sea lions in California and Oregon. A decision on these activities was deferred pending completion of the appropriate analyses under the ESA and the National Environmental Policy Act of 1969 (NEPA: 42 U.S.C. 4321 *et seq.*).

In compliance with NEPA, an environmental assessment was prepared analyzing the effects of the proposed permitted activities. After a Finding of No Significant Impact, the determination was made that it was not necessary to prepare an environmental impact statement. Subsequent to that analysis, a decision was made by the applicant and the NMFS to include the activities on Steller sea lions in California and Oregon proposed for File No. 782–1702 in a permit recently issued to NMML for range-wide studies of Steller sea lions, Permit No. 782–1768–00. Permit No. 782–1768–00 was issued on May 31, 2005 (70 FR 35065). The amendment to Permit No. 782–1768–00 now incorporates capture, blood and tissue sampling, hot-branding, flipper tagging, and attachment of scientific instruments to up to 12 Steller sea lions per year in California and Oregon to determine predation rates of individual sea lions on endangered salmonids, to perform disease screening and genetic analyses, and to document movements and migration rates of individuals.

Issuance of this amendment to Permit No. 782–1768–00, as required by the ESA, was based on a finding that such permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

File No. 486–1790: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant, Dr. Stewart, proposes to capture individuals of any age of the above mentioned pinniped species for continuation of studies begun in 1978 on the demography, physiological ecology, foraging ecology, and behavior of pinnipeds in California. Marine mammals would be captured by a variety of techniques; physically or chemically immobilized; have blood, skin, blubber, muscle, urine, feces, and

various skin and mucousal swabs collected; receive flipper tags; have radio transmitters attached; receive exams of musculoskeletal and cardiovascular systems, ears, nares, oral cavity, and eyes. Dr. Stewart requests allowance for mortality of up to two animals of each species per year incidental to the research.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application from Dr. Stewart, File No. 486–1790, to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 20, 2005.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–14724 Filed 7–25–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 26, 2005.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 20, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Reinstatement.

Title: Performance Report for the Leveraging Educational Assistance Program (LEAP) and Special Leveraging Educational Assistance Program (SLEAP) Programs.

Frequency: Annually.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 56. Burden Hours: 560.

Abstract: The LEAP and SLEAP programs use matching Federal and State Funds to provide a nationwide system of grants to assist postsecondary educational students with substantial financial need. On this performance report the states provide information the Department requires about the state's use of program funds in order to demonstrate compliance with the program's statutory and regulatory requirements. Federal program officials use the performance report data for monitoring program funds distribution. With the clearance of this collection, the Department is seeking to automate the performance reporting process for both the LEAP Program and the subprogram, SLEAP. There are no significant changes to the current LEAP form data elements, there are however, additional items pertaining to the SLEAP program.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2737. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–14629 Filed 7–25–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services, Rehabilitation Act of 1973, as Amended

ACTION: Notice of a public meeting.

SUMMARY: The Secretary announces plans to hold a public meeting to seek comments and suggestions about the Rehabilitation Services Administration's (RSA's) monitoring process.

DATES: The public meeting will be held from 9 a.m. to 5 p.m. Wednesday, August 24, 2005 and 9 a.m. to 4 p.m. Thursday, August 25, 2005 in Washington, DC.

ADDRESSES: The meeting will be held at the Renaissance Hotel, 999 Ninth St., NW, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: David Esquith, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW., room 5175, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–7336. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 107 of the Act requires the RSA Commissioner to conduct annual reviews and periodic on-site monitoring of programs authorized under Title I. According to the Act, the purpose of monitoring is determine compliance

with the assurances made in the VR agency's State Plan as required under Section 101(a)(15), and with the Evaluation Standards and Performance Indicators established under Section 106.

RSA is in the process of restructuring. Under the new structure, monitoring activities will be carried out by the State Monitoring and Program Improvement Division (SMPID). This public meeting will be an opportunity for stakeholders in the vocational rehabilitation process to provide RSA with their input on the monitoring process that will be implemented by the SMPID.

Individuals who need accommodations for a disability in order to attend the meetings (i.e., interpreting services, assistive listening devices, or material in alternative formats) should notify the contact person listed under **FOR FURTHER INFORMATION CONTACT**. The meeting locations will be accessible to individuals with disabilities.

Electronic Access to this Document: You may view this document, as well as all other documents this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Dated: July 20, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–14646 Filed 7–25–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–185–B]

Application to Export Electric Energy; Morgan Stanley Capital Group Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: Morgan Stanley Capital Group Inc. (MSCG) has applied to renew its authorization to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before August 10, 2005.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability (Mail Code OE–20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–586–5860).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9506 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On August 21, 1998, the Department of Energy (DOE) issued Order No. EA–185 authorizing MSCG to transmit electric energy from the United States to Canada as a power marketer. On August 14, 2000, in Order No. EA–185–A, DOE renewed the MSCG authorization to export electric energy to Canada for a five-year term that will expire on August 21, 2005.

On July 14, 2005, MSCG filed an application with DOE for renewal of the export authority contained in Order No. EA–185–A for a five-year term. MSCG proposes to purchase surplus electricity from selling entities and to export that electricity to Canada over the international transmission facilities presently owned by Basin Electric Power Corporative, Bonneville Power Administration, Eastern Maine Electric Power Cooperative, International Transmission Company, Joint Owners of the Highgate Interconnection Facilities, Long Sault Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power & Light, Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corp., Northern States Power, Vermont Electric Company, and Vermont Electric Transmission Company.

In its application, MSCG requested that DOE expedite the processing of this application so that MSCG is able to continue to supply power to neighboring parts of Canada during this summer's peak load periods. Accordingly, DOE has shortened the public comment period to 15 days.

Procedural Matters: Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to these applications should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the MSCG application to export electric energy to Canada should be clearly marked with Docket EA–185–B. Additional copies are to be filed directly with William F. McCoy, Managing Director and Counsel, Morgan Stanley & Co. Inc., 2000 Westchester Avenue, Purchase, NY 10577 and Daniel E. Frank, Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, NW., Washington, DC 20004–2415.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the program's home page at *http://www.fe.doe.gov.* Upon reaching the program's home page select ''Electricity Regulation'', then ''Pending Proceedings'' from the options menus.

Issued in Washington, DC, on July 20, 2005.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery & Energy Reliability.

[FR Doc. 05–14687 Filed 7–25–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Saturday, August 13, 2005, 4 p.m.

ADDRESSES: Pollard Auditorium, 210 Badger Avenue, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov* or check the Web site at *http://www.oakridge.doe.gov/em/ssab*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Election of Board Officers for Fiscal Year 2006

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Center at 475 Oak Ridge Turnpike, Oak Ridge, TN between 8 a.m. and 5 p.m., Monday through Friday, or by writing to Pat Halsey, Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC on July 20, 2005.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–14686 Filed 7–25–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 05–25–NG]

Office of Fossil Energy; Ocean State Power I; Order Granting Authority To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy (FE) gives notice that it issued DOE/FE Order No. 2103 granting Ocean State Power I authority to import up to 50,679 million British thermal units per day of natural gas from Canada, under a North American Energy Standards Board base contract with ProGas Limited, for a term of three years that began on March 1, 2005.

This Order may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation). It is also available for inspection and copying in the Office of Natural Gas Regulatory Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0334, (202) 586–9478. The Docket Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 20, 2005.

R.F. Corbin,

Manager, Natural Gas Regulatory Activities, Office of Global Supply and Security, Office of Fossil Energy.

[FR Doc. 05–14692 Filed 7–25–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 05–24–NG]

Office of Fossil Energy; Ocean State Power II; Order Granting Authority To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy (FE) gives notice that it issued DOE/FE Order No. 2104 granting Ocean State Power II authority to import up to 25,339 million British thermal units per day of natural gas from Canada, under a North American Energy Standards Board base contract with Cargill Gas Marketing Ltd., for a term of three years that began on March 1, 2005.

This Order may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation). It is also available for inspection and copying in the Office of Natural Gas Regulatory Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0334, (202) 586–9478. The Docket Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 20, 2005.

R.F. Corbin,

Manager, Natural Gas Regulatory Activities, Office of Global Supply and Security, Office of Fossil Energy.

[FR Doc. 05–14691 Filed 7–25–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 05–27–NG]

Office of Fossil Energy; Ocean State Power II; Order Granting Authority to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy (FE) gives notice that it issued DOE/FE Order No. 2105 granting Ocean State Power II authority to import up to 25,339 million British thermal units per day of natural gas from Canada, under a North American Energy Standards Board base contract with ProGas Limited, for a term of three years that began on March 1, 2005.

This Order may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation). It is also available for inspection and copying in the Office of Natural Gas Regulatory Activities Docket Room, 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0334, (202) 586–9478. The Docket Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 20, 2005.

R.F. Corbin,

Manager, Natural Gas Regulatory Activities, Office of Global Supply and Security, Office of Fossil Energy.

[FR Doc. 05–14693 Filed 7–25–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

July 19, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 349–100.

c. *Date Filed:* May 26, 2005.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Lake Martin Hydroelectric Project.

f. *Location:* Lake Martin is located in Tallapoosa County, Alexander City, Alabama. The project does not occupy any tribal or Federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a) 825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Keith Bryant, Alabama Power Company, 600 North 18th Street, Birmingham, Alabama 35291.

FERC Contact: Any questions on this notice should be addressed to Brian Romanek at (202) 502–6175 or by e-mail: *Brian.Romanek@ferc.gov.*

j. *Deadline for filing comments and or motions:* August 10, 2005.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–349–100) on any comments or motions filed. 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 e-filings.

k. *Description of Request:* Alabama Power has requested authorization to allow Russell Lands, Inc. to expand the footprint and modify the design of a previously approved marina (Order Approving Non-Project Use of Project Lands issued June 29, 2005, 95 FERC ¶ 62,285). The boat slips would serve the residents of ''The Ridge'' community. The facilities are located near Alexander City, Alabama. The number of boat docks would remain the same (accommodating 228 boats) however, some of the slips would now accommodate larger boats and the avenues between docks would be widened. No dredging is proposed and no other facilities such as boat launches or fueling facilities are proposed.

l. *Location of the Application:* 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 field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions To Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents: Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments: Federal, State, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3950 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Soliciting Comments, Motions To Intervene, and Protests

July 19, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands.

b. *Project No:* 2210–116.

c. *Dates Filed:* March 4, 2005 and revised June 21, 2005.

d. *Applicant:* Appalachian Power Company (APC).

e. *Name of Project:* Smith Mountain Pumped Storage Project.

f. *Location:* The project is located on the Roanoke River, in Bedford, Pittsylvania, Franklin, and Roanoke Counties, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r) and 799 and 801.

h. *Applicant Contact:* Teresa P. Rogers, Hydro Generation Department, American Electric Power, P.O. Box 2021, Roanoke, VA 24022–2121, (540) 985–2441.

i. *FERC Contact:* Any questions on this notice should be addressed to Mrs. Heather Campbell at (202) 502–6182, or e-mail address: *heather.campbell@ferc.gov.*

j. Deadline for filing comments and or motions: August 22, 2005.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–2210–116) on any comments or motions filed. 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 at *http://www.ferc.gov* under the e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Request:* APC is requesting an amendment to an approved non-project use of project lands application and a variance to the shoreline classification in the shoreline management plan. The Commission previously approved two docks with 24 covered slips each, 32 floating slips to serve a restaurant and conference center, and 8 floating slips at The Pointe. APC is requesting approval to permit an additional 110 stationary covered slips and 36 floating docks. The proposed slips will serve The Pointe Condominiums and may be rented to the general public if residents of either The Pointe or Mariner's Landing do not wish to rent the slips. Upon approval of this filing, there would be a total of 158 covered slips and 76 floating slips at The Pointe.

The licensee is also requesting the shoreline classification be modified to High Density Commercial which is consistent with the Bedford County zoning and because the adjacent shoreline is already classified as such.

l. *Location of the Application:* This filing is available for review at the Commission in the Public Reference Room 888 First Street, NE., Room 2A, Washington, DC 20426 or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''e-library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail

FERCOnlineSupport@ferc.gov. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions To Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents: Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments: Federal, State, and local agencies are invited to file comments on the described applications. Copies of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3949 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–564–003]

Dominion Cove Point LNG, LP; Notice of Negotiated Rate

July 19, 2005.

Take notice that on July 15, 2005, Dominion Cove Point LNG, LP (Cove Point) tendered for filing a negotiated rate agreement with Statoil Natural Gas, LLC (Statoil), to become effective August 1, 2005.

Statoil states that it has agreed to pay higher reservation rates to reflect additional costs related to Cove Point's reactivation of its LNG import terminal that are not currently reflected in the LTD–1 recourse rates. Statoil further states that the negotiated rates will increase revenues from jurisdictional services by approximately $2.7 million for the remainder of 2005 and by approximately $3.9 million per year beginning in 2006.

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. E5–3953 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–506–001]

Dominion Cove Point LNG, LP; Notice of Compliance Filing

July 19, 2005.

Take notice that on July 14, 2005, Dominion Cove Point LNG, LP (Cove Point) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute Third Revised Sheet No. 247, to become effective August 8, 2005.

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 § 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. E5–3959 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–507–001]

Dominion Transmission, Inc.; Notice of Compliance Filing

July 19, 2005.

Take notice that on July 14, 2005, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Second Revised Sheet No. 1153, to become effective August 8, 2005.

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. E5–3960 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–378–001]

MIGC, Inc.; Notice of Filing

July 19, 2005.

Take notice that on July 15, 2005, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Sixth Revised Sheet No. 58, to become effective August 1, 2005.

MIGC asserts that the purpose of this filing is to incorporate an inadvertently overlooked change in reference from ''GISB'' to ''Standards Board'' to recognize the change in name to the North American Energy Standards Board.

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 § 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. E5–3956 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–509–000]

MIGC, Inc.; Notice of Tariff Filing

July 19, 2005.

Take notice that on July 13, 2005 MIGC, Inc. (MIGC), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, an Eighth Revised Sheet No. 4 with a proposed effective date of October 1, 2005.

MIGC states that the purpose of the filing is to reflect the annual charge adjustment unit charge authorized by the Commission for the fiscal year beginning October 1, 2005.

MIGC states that copies of its filing are being mailed to its jurisdictional customers and interested state commissions.

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 § 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. E5–3961 Filed 7–25–05; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–404–017]

Northern Natural Gas Company; Errata Notice

July 19, 2005.

On July 14, 2005, the Commission issued a ''Notice of Filing of a Report on Field Area Segmentation''. The third paragraph of the notice is revised to include a specific date for the filing of protests should read as follows:

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before August 1, 2005. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

Magalie R. Salas,
Secretary.
[FR Doc. E5–3952 Filed 7–25–05; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–405–002]

Ozark Gas Transmission, L.L.C.; Notice of Compliance Filing

July 19, 2005.

Take notice that on July 15, 2005, Ozark Gas Transmission, L.L.C. (Ozark) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute Sixth Revised Sheet No. 109, to be effective September 1, 2005.

Ozark states that it has served copies of this filing upon the company's jurisdictional customers and interested State commissions.

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. E5–3957 Filed 7–25–05; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–485–001]

Paiute Pipeline Company; Notice of Filing

July 19, 2005.

Take notice that on July 15, 2005, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective September 1, 2005:

Second Revised Sheet No. 56C.1
Second Revised Sheet No. 58B.1

Paiute indicates that the purpose of the filing is to correct pagination errors on certain tariff sheets submitted with its July 1, 2005 compliance filing in Docket No. RP05–485–000.

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 § 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. E5–3958 Filed 7–25–05; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

[Docket Nos. RP05–349–002 and RP05–401–001]

Questar Pipeline Company; Notice of Tariff Filing

July 19, 2005.

Take notice that on July 15, 2005, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

To be effective June 21, 2005: Substitute Thirty-Fourth Revised Sheet No. 5
To be effective July 25, 2005: Substitute Thirty-Fifth Revised Sheet No. 5

Questar states that copies of this filing were served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

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 § 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. E5–3955 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–122–000]

South Carolina Electric and Gas Company; Notice of Institution of Proceeding and Refund Effective Date

June 17, 2005.

On June 16, 2005, the Commission issued an order that instituted a proceeding in Docket No. EL05–122–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, concerning the justness and reasonableness of South Carolina Electric and Gas Company's (SCE&G) market-based rates in the SCE&G control area. *South Carolina Electric and Gas Company,* 111 FERC ¶ 61,410 (2005).

The refund effective date in Docket No. EL05–122–000, established pursuant to section 206(b) of the FPA, will be 60 days from the date of publication of this notice in the **Federal Register**.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3963 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–276–005]

Southern Star Central Gas Pipeline, Inc.; Notice of Refund Report

July 19, 2005.

Take notice that on July 13, 2005, Southern Star Central Gas Pipeline, Inc. (Southern Star) tendered for filing a refund report pursuant with the provisions of Article VI of the stipulation and agreement (Agreement) in the above-referenced docket and complying with subpart F of part 154.501 of the Commission's regulations.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible 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 25, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3954 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–510–000]

Transwestern Pipeline Company, LLC; Notice of Tariff Filing

July 19, 2005.

Take notice that on July 14, 2005, Transwestern Pipeline Company, LLC (Transwestern) tendered for filing a letter in accordance with its FERC Gas Tariff, Third Revised Volume No. 1 to notify the Commission of changes to the Point Catalog posted on Transwestern's Web site.

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 § 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. E5–3948 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

July 20, 2005.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER05–1221–000.

Applicants: Commonwealth Edison Company.

Description: Commonwealth Edison Company submits a transmission interconnection agreement with Ameren Services Company, as designated agent for AmerenCILCO, Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, LLC.

Filed Date: 7/15/2005.

Accession Number: 20050719–0063.

Comment Date: 5 p.m. Eastern Time on Friday, August 5, 2005.

Docket Numbers: ER05–1222–000.

Applicants: Niagara Mohawk Power Corporation.

Description: Flat Rock Windpower, LLC submits Exhibits B & C to the interconnection agreement between Niagara Mohawk Power Corporation and Flat Rock Windpower, LLC filed on 1/16/04 by Niagara Mohawk Power Corporation and accepted by the Commission by a 3/15/04 letter order in Docket Nos. ER04–423–000 and 001.

Filed Date: 7/15/2005.

Accession Number: 20050719–0065.

Comment Date: 5 p.m. Eastern Time on Friday, August 5, 2005.

Docket Numbers: ER05–113–001; ER05–125–001.

Applicants: Pacific Gas & Electric Company.

Description: Compliance Electric Refund Report of Pacific Gas and Electric Company pursuant to the Commission's order issued March 23, 2005, 110 FERC 61,308.

Filed Date: 6/2/2005.

Accession Number: 20050602–5039.

Comment Date: 5 p.m. Eastern Time on Thursday, August 1, 2005.

Docket Numbers: ER99–3571–003.

Applicants: Legacy Energy Group, LLC.

Description: The Legacy Energy Group, LLC submits updated market power analysis report and revised market-based rate tariff.

Filed Date: 7/13/2005.

Accession Number: 20050719–0062.

Comment Date: 5 p.m. Eastern Time on Monday, August 1, 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. E5–3965 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–12–000]

Order Terminating Proceeding

Issued July 19, 2005.

Before Commissioners: Joseph T. Kelliher, Chairman; Nora Mead Brownell, and Suedeen G. Kelly. Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design; Order Terminating Proceeding.

1. In 2002, the Commission issued the Standard Market Design (SMD) Notice of Proposed Rulemaking (NOPR) in this proceeding.[1] For the reasons given below, we are exercising our discretion to terminate this proceeding.

Background

2. On July 31, 2002, the Commission issued a NOPR proposing to remedy remaining undue discrimination and establish a standardized transmission service and wholesale electric market design to provide a level playing field for all entities seeking to participate in wholesale electric markets, while recognizing certain regional variations. The Commission explained that it was proposing to provide new choices through a flexible transmission service and an open and transparent spot market design that would provide the right pricing signals for investment in transmission and generation facilities. The Commission also explained that it was proposing regulatory backstops to protect customers against the exercise of market power when structures do not support a competitive market, *i.e.,* market monitoring and market power mitigation. The Commission further proposed to exercise jurisdiction over the transmission component of bundled retail transactions and to require all transmission owners and operators that had not yet joined a regional transmission organization (RTO) to contract with an independent entity to operate their transmission facilities.

[1] *Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design, Notice of Proposed Rulemaking,* 67 Fed. Reg. 55,452 (Aug. 29, 2002), FERC Stats. & Regs. ¶ 32,563 (2002).

3. The Commission received extensive comments on its proposed rule raising a variety of concerns, including the following: (1) The Commission's proposed assertion of jurisdiction over transmission used to provide retail service to native load customers infringed on state jurisdiction; (2) other specific features of the proposed rule also would infringe on state jurisdiction; (3) the transition process to the new proposed transmission service would not provide sufficient protection for existing customers; (4) the proposed rule was too prescriptive in substance and implementation and did not sufficiently accommodate regional differences; and (5) the proposed rule did not provide sufficient clarity on cost recovery for investment in new transmission facilities.

4. On April 28, 2003, in response to the comments it received on its proposed rule, the Commission issued a Wholesale Power Market Platform White Paper laying out a revised proposal for building a wholesale electric market. The Commission reiterated its overall goals, proposed a more flexible approach to regional needs and expressed an intent to focus on the formation of RTOs. The Commission recognized the need for additional changes to its proposed rule and indicated that: (1) It would not assert jurisdiction over the transmission rate component of bundled retail service; (2) nothing in the Final Rule would change state authority over resource adequacy requirements and regional transmission planning requirements; (3) regional state committees would determine how firm transmission rights should be allocated to current customers; (4) implementation would be tailored to each region and modifications would be allowed to benefit customers in each region; (5) each RTO would be required to have a clear transmission cost recovery policy outlined in its tariff; and (6) it would eliminate the proposed requirement that public utilities create or join an independent entity, but would require them to join an RTO or independent system operator (ISO).

5. While a number of entities expressed support for certain of the changes proposed by the Commission in its White Paper, many entities continued to oppose the Commission's fundamental goals. For example, several entities spoke out against any national one size fits all approach, even with the modifications set forth in the White Paper, while others expressed concern with the ever-escalating costs of RTOs. Still others preferred that the Commission take a more regional approach that would allow markets to develop on a voluntary basis, instead of the mandatory approach to RTOs proposed by the Commission. A number of entities also expressed concern about the proposed regional state committees, including their concern that they would have to spread their scarce resources over a multitude of forums.

Discussion

6. Since issuance of the SMD NOPR, the electric industry has made significant progress in the development of voluntary RTOs/ISOs (*e.g.,* Midwest Independent Transmission System Operator, Inc. and Southwest Power Pool, Inc.). This has allowed interested parties, through region-specific proceedings, to shape the development of independent entities to reflect the needs of each particular region. The Commission has also indicated that it intends to consider revisions to the Order No. 888 pro forma Open Access Transmission Tariff to reflect the electric utility industry's and the Commission's experience with open access transmission over the last decade.

7. Given the continuing development of voluntary RTOs and ISOs and the Commission's expressed intent to look into revisions to the Order No. 888 pro forma tariff in a separate proceeding, we have concluded that the SMD NOPR has been overtaken by events. Accordingly, we will exercise our discretion to terminate this proceeding.

The Commission orders:

Docket No. RM01–12–000 is hereby terminated.

By the Commission.

Linda Mitry,

Deputy Secretary.

[FR Doc. 05–14710 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6662–006]

City of St. George; Notice of Availability of Environmental Assessment

July 19, 2005.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Project's staff has prepared an Environmental Assessment (EA) for the City of St. George's application requesting Commission approval to surrender the exemption for the Lower Gunlock Hydroelectric Project, FERC No. 6662. The project is located on the Santa Clara River in Washington County, Utah. The project does not occupy any tribal or Federal lands.

The EA concludes the staff's analysis of the potential environmental impacts of the proposal and concludes that approval of the surrender would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is attached to a Commission Order entitled *Order Modifying and Accepting Surrender of Exemption* issued on July 15, 2005 (112 FERC ¶ 62,034) which is available for review at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number (Prefaced by P–) and excluding the last three digits, in the docket number field to access the document. For assistance please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free 866–208–3676, or, for TTY, contact (202) 502–8659.

For further information, contact Kate DeBragga at (202) 502–8961.

Magalie R. Salas,

Secretary.

[FR Doc. E5–3951 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–361–000]

Freeport LNG Development, L.P.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Freeport LNG Phase II Project and Request for Comments on Environmental Issues

July 19, 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 Freeport LNG Development, L.P.'s (Freeport LNG) proposal to site, construct, and operate the following additional facilities at its liquefied natural gas (LNG) import terminal on Quintana Island, Brazoria County, Texas: (1) An additional marine berthing dock and associated unloading facilities for LNG ships, (2) new and expanded vaporization systems; and (3) an additional LNG storage tank.

These facilities would constitute Freeport LNG's ''Phase II Project'' which would complement the ''Phase I Project'' that was authorized by the Commission on June 18, 2004 in Docket No. CP03–75–000. The Phase I Project is currently under construction. The Freeport LNG Phase II Project would increase the LNG import terminal's planned send-out capacity from 1.5 billion cubic feet per day (Bcfd) to 4.0 Bcfd and the number of LNG ships from 200 to 400 ships per year.

This notice announces the opening of the scoping period that will be used to gather environmental input from the public and interested agencies on the project. Please note that the scoping period will close on August 22, 2005. Details on how to submit comments are provided in the Public Participation section of this notice.

This notice is being sent to potentially affected landowners; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American Tribes, other interested parties; local libraries and newspapers. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including how to participate in the Commission's proceedings.

Summary of Proposed Project

In the Commission's June 18, 2004 Order for the Phase I Project, Freeport LNG was authorized to construct and operate an LNG import terminal consisting of a single LNG ship berth, two LNG storage tanks, associated vaporization facilities, and a 9.6-mile-long natural gas send-out pipeline.[1] The Freeport LNG Phase II Project would require removal of an abandoned barge dock and the dredging of a second ship berth adjacent to the Phase I berth, expansion of the Phase I vaporization facilities and utility systems to accommodate the increased terminal capacity, and construction of a third LNG tank west of and adjacent to the Phase I storage tanks. The Freeport LNG Phase II facilities would be adjacent to or within the boundary of the Phase I site. The location of the Phase I and Freeport LNG Phase II site boundaries are shown on the map in Appendix 1.[2]

Land Requirements for Construction

The Freeport LNG Phase II Project would affect a total of 94.4 acres of land and water. Of this total, approximately 38.3 acres (34.7 acres of land and 3.6 acres of water) would be new impacts (*i.e.*, not affected by Phase I construction activities). Of the new area to be disturbed, 13.2 acres would be temporary impacts and 25.1 acres would be permanently impacted for operation.

Non-Jurisdictional Facilities

Freeport LNG also proposes to develop an underground natural gas storage facility at Stratton, near the end of the Phase I send-out pipeline. This facility would include the following major components: two salt dome natural gas storage caverns, two well pads and two well heads, one salt dome test well, one natural gas handling facility, one solution mining plant, two natural gas pipelines totaling 1.51 miles, two raw water disposal pipelines totaling 1.92 miles, two brine disposal pipelines totaling 1.92 miles, and one diesel pipeline totaling 0.46 mile. Construction of these facilities would affect approximately 50.7 acres of open land, and an additional 9.6 acres of land that would be disturbed as part of construction of the Phase I send-out pipeline. Approximately 25 acres would be permanently impacted by operation. This natural gas storage facility would be authorized and regulated by the Texas Railroad Commission.

The EA Process

We[3] are preparing this EA to comply with the National Environmental Policy Act (NEPA) which 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. By this notice, we are also asking Federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments below.

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.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed modifications and the environmental information provided by Freeport LNG. The following list of issues may be changed based on your comments and our analysis:

- Effects of dredging and disposal of 754,000 cubic yards of material to expand the existing berth area and an additional 144,000 cubic yards of surface materials;
- Additional sedimentation associated with the additional dredging; and
- Impacts associated with the additional LNG ship traffic on the Freeport Harbor Channel.

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.

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

[1] On April 1, 2005, Freeport LNG filed an amendment to its Phase I Project and requested authorization to change the diameter of its previously approved pipeline from 36 inches to 42 inches. This proposal will be the focus of a separate environmental review. The Notice of Intent to Prepare an Environment Assessment for this proposal was issued on June 13, 2005.

[2] 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.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and 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 Number CP05–361–000.
- Mail your comments so that they will be received in Washington, DC on or before August 22, 2005.

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 and account which can be created on-line.

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).[4] 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

If you wish to remain on our environmental mailing list, please return the Information Request Form included in Appendix 3. If you do not return this form, you will be removed from our mailing list.

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 TYY, 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.*

Magalie R. Salas,

Secretary.

[FR Doc. E5–3962 Filed 7–25–05; 8:45 am]

BILLING CODE 6717–01–P

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Western Area Power Administration

Construction and Operation of the Proposed Big Stone II Power Plant and Transmission Project, South Dakota and Minnesota

AGENCY: Western Area Power Administration, DOE.

ACTION: Extension of scoping period.

SUMMARY: This notice advises the public that the Western Area Power Administration (Western), U.S. Department of Energy (DOE), is extending the scoping period for the Construction and Operation of the Proposed Big Stone II Power Plant and Transmission Project, South Dakota and Minnesota, Environmental Impact Statement (EIS) to August 29, 2005.

DATES: The scoping period for the EIS is extended from July 27, 2005, to August 29, 2005. Written comments are requested by the end of the day on August 29, 2005, to help define the scope for the EIS. Other opportunities to comment will be provided during the EIS process.

ADDRESSES: Written comments regarding the scoping process should be addressed to NEPA Document Manager, Big Stone II EIS, A7400, Western Area Power Administration, PO Box 281213, Lakewood, CO 80228–8213, telephone (800) 336–7288, fax (720) 962–7263 or 7269, e-mail *BigStoneEIS@wapa.gov*.

FOR FURTHER INFORMATION CONTACT: NEPA Document Manager, Big Stone II EIS, A7400, Western Area Power Administration, PO Box 281213, Lakewood, CO 80228–8213, telephone (800) 336–7288, fax (720) 962–7263 or 7269, e-mail *BigStoneEIS@wapa.gov*. For general information on DOE's National Environmental Policy Act (NEPA) review procedures or status of a NEPA review, contact Ms. Carol M. Borgstrom, Director of NEPA Policy and Compliance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: By notice dated May 27, 2005 (70 FR 30716), Western announced the Notice of Intent to prepare an EIS for the construction and operation of the proposed Big Stone II Power Plant and Transmission Project in South Dakota and Minnesota. In that notice, Western described the schedule for scoping meetings for the EIS, and advised that the scoping period would close Wednesday, July 27, 2005. The public meetings were held as scheduled.

Otter Tail Power Company, as part of the Minnesota Public Utilities Commission permit requirements for siting high-voltage transmission lines, intends to notify landowners about the proposed transmission corridors in late July 2005. To provide the landowners ample opportunity to provide input to the scope of the EIS, Western will extend the scooping period to August 29, 2005.

Dated: July 19, 2005.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 05–14690 Filed 7–25–05; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. [FRL–7943–7]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permits ExxonMobil Refining and Supply Company (ExxonMobil)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to State operating permits.

SUMMARY: The EPA Administrator signed an order, dated June 29, 2005, denying a petition to object to State operating permits issued by the Louisiana Department of Environmental Quality (LDEQ) for the Clean Air Commitment Project of ExxonMobil. The project consists of one Prevention of Significant Deterioration permit and ten title V permits affecting multiple fuel processing units at the ExxonMobil facilities located at the Baton Rouge Refinery in East Baton Rouge Parish and the Anchorage tank farm in West Baton Rouge Parish. Pursuant to section 505(b)(2) of the Clean Air Act (Act), the petitioners may seek judicial review of this petition response in the United States Court of Appeals for the Fifth Circuit. Any petition must be filed within 60 days of the date this notice appears in the **Federal Register**, pursuant to seciton 307(d) of the Act.

ADDRESSES: You may review copies of the final order, the petition, and other supporting information at EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. The final order is also available electronically at the following address: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb2002.htm.*

FOR FURTHER INFORMATION CONTACT: Ms. Mary Stantion, Air Permits Section, Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–8377, or e-mail at *Stanton.Marya@epa.gov.*

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review and, as appropriate, object to operating permits proposed by State permitting authorities under title V of the Act, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not objected on its won initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

The Louisiana Environmental Action Network and Ms. Stephanie Anthony submitted a petition requesting that the Administrator object to the title V operating permits issued by LDEQ to ExxonMobil for modifications affecting multiple fuel processing units at the ExxonMobil facilities located at the Baton Rouge Refinery in East Baton Rouge Parish and the Anchorage tank farm in West Baton Rouge Parish. The petition maintains that the permits are inconsistent with the Act because:

1. The permits allow ExxonMobil to evade Nonattainment New Source Review (NNSR) requirements by using ''paper reductions'' to claim emission reduction credits;

2. The permits unlawfully expand the contemporaneous netting window by reaching more than four years into the past for emission reductions to offset future increases of nitrogen oxides (NO_X) and volatile organic compounds (VOCs) and thereby avoid NNSR;

3. The permits allow the use of speculative future reductions from an unbuilt project to unlawfully net out of NNSR for (NO_X);

4. The permits rely on invalid credits from the closure of tanks at ExxonMobil's Maryland Tank Farm to offset increased VOC emissions;

5. The permits violate New Source Review requirements by relying on an invalid emission reduction credit banking system; and

6. The LDEQ improperly denied a request for a public hearing.

On June 29, 2005, the Administrator issued an order denying the petition. The order explains the reasons for the Administrator's decision that the petition does not demonstrate that the permits are not in compliance with the Act.

Dated: July 14, 2005.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 05–14735 Filed 7–25–05; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7943–8]

Science Advisory Board (SAB) Staff Office, Notification of Upcoming Meetings of the Science Advisory Board Arsenic Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference and a public face-to-face meeting of the SAB Arsenic Review Panel.

DATES: August 11, 2005: The Panel will hold a public teleconference on August 11, 2005, from 1 p.m. to 3 p.m. (e.s.t.). September 12 –13, 2005: The Panel will hold a public face-to-face meeting starting September 12 & September 13, 2005, at 8:30 a.m., adjourning at approximately 5 p.m. (e.s.t.) on September 12 & 13, 2005.

ADDRESSES: The public teleconference will take place via telephone only. The public face-to-face meeting of the SAB Arsenic Review Panel will be held at the Doubletree Hotel, located at 1515 Rhode Island Avenue, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number and access code to participate in the teleconference may contact Mr. Tom Miller, Designated Federal Officer, Science Advisory Board Staff Office (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW.; Washington, DC 20460; telephone/voice mail: (202) 343–9982 or via e-mail at *miller.tom@epa.gov.* Technical Contact: The technical contact in EPA's Office of Research and Development (ORD) is Dr. Reeder Sams, who can be reached via e-mail at *sams.reeder@epa.gov* or via telephone/voice mail: (919) 541–0661.

SUPPLEMENTARY INFORMATION:

Background

Human exposure to arsenic compounds can be through various environmental media including drinking water, food, soil and air and anthropogenic sources such as wood preservatives and industrial wastes. Additionally, humans are exposed to organic arsenic when they are used as pesticides (*e.g.,* monomethylarsenic acid and dimethylarsenic acid or cacodylic acid). EPA regulates various sources of environmental exposures to arsenic compounds including establishing national standards in public drinking

water supplies under the Safe Drinking Water Act (SDWA) and setting food tolerance limits as mandated by the Food Quality Protection Act (FQPA). EPA's Office of Research and Development (ORD) requested the SAB to provide advice on scientific issues underlying the Agency's assessments of the carcinogenic potential of arsenic compounds. In response to EPA's request, the SAB Staff Office formed a SAB Review Panel for Arsenic. Background information on the formation of the SAB Arsenic Panel can be found in the **Federal Register** Vol. 70, Number 35, page 8803–8804. This panel will provide advice and recommendations to EPA through the Chartered SAB and comply with the provisions of the Federal Advisory Committee Act (FACA) and all appropriate SAB procedural policies.

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the SAB Arsenic Review Panel will hold a public teleconference and a face-to-face meeting. The purpose of the August 11, 2005 public teleconference is for the SAB Arsenic Review Panel to discuss the draft charge questions and the agenda for the September face-to-face meeting. The purpose of the September 12–13, 2005 face-to-face meeting is for the Arsenic Review Panel to discuss its response to the Agency's charge.

Availability of Meeting Materials: A final roster of the SAB Arsenic Review Panel, meeting agendas, and charge questions to the SAB will be posted on the SAB Web site (*http://www.epa.gov/sab/*) prior to the meeting. EPA's ''Toxicological Review of Inorganic Arsenic'' and related background information on inorganic arsenic may be found at: *http://www.epa.gov/waterscience/sab/*. The technical contact for the above information on inorganic arsenic is Dr. Elizabeth Doyle, (202) 566–0056, of the Office of Water. EPA's assessment for organic arsenic, entitled ''Science Issue Paper: Cancer Mode of Action of Cacodylic Acid (Dimethylarsinic Acid, DMA^V)'' and Recommendations for Dose Response Extrapolation'' and other related background information on organic arsenic may be found at: *http://www.epa.gov/oppsrrd1/reregistration/cacodylic_acid/*. The technical contact for the above information on organic arsenic is Dr. Anna Lowit, (703) 308–4135, of the Office of Pesticide Programs.

Procedures for Providing Public Comment: The EPA Science Advisory Board (SAB) Staff Office accepts written public comments and will accommodate oral public comments, whenever possible. Requests to provide oral comments at August 11 public teleconference or the September 12–13 meeting must be made in writing (e-mail, fax or mail) and received by Mr. Miller no later than August 4 and September 2, respectively. *Oral Comments:* For the teleconference, oral comments will be limited to no more than five minutes per speaker or organization. For the face-to-face meeting, opportunities for oral comments will be limited to no more than ten minutes per speaker or organization. Speakers should bring at least 75 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Written comments should be received in the SAB Staff Office so that the comments may be made available to the committee for their consideration. Comments should be supplied to the DFO at the address/contact information noted above in the following formats: one hard copy with original signature and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 98/2000/XP format).

Dated: June 19, 2005.

Anthony F. Maciorowski,

Acting Director, EPA Science Advisory Board Staff Office.

[FR Doc. 05–14732 Filed 7–25–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRC–7943–6]

Proposed Agreement and Covenant Not To Sue Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act of 1986; In Re: Tin Corporation Superfund Site, Operable Unit Number One, Texas City, TX

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed agreement; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response Compensation, and Liability Act, as amended (''CERCLA'', 42 U.S.C. 9601, *et. seq.*, notice is hereby given of a proposed Agreement and Covenant Not to Sue between the United States, on behalf of the U.S. Environmental Protection Agency (''EPA'') and Phoenix International Terminal, LLC (''Purchaser''). The Purchaser plans to acquire approximately 140 acres of property known as the Tex Tin Corporation Superfund Site, Operable Unit Number One (''Site''), that is currently owned by the Tex Tin Site Custodial Trust. The Purchaser intends to use the property to construct support facilities for the Texas City deep-water terminal at Shoal Point, now under construction, approximately 1.5 miles from the Site. Under the Proposed Agreement, the United States grants a Covenant Not to Sue to the Purchaser with respect to existing contamination at the Site in exchange for the Purchaser's agreement to pay $1,000,000 to the Trustee of the Tex Tin Custodial Trust. The Trustee will pay any outstanding liens on the property and any other expenses required by the Custodial Trust Agreement, and pay the balance of the purchase price left after payment of Trust expenses to EPA. In addition, the Purchaser agrees to provide an irrevocable right of access to representatives of EPA. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, TX 75202.

DATES: Comments must be submitted on or before August 25, 2005.

ADDRESSES: Comments should be addressed to James Bove, Assistant Regional Counsel, U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Suite 1200, Mail code 6RC–S, Dallas, Texas 75202, and should refer to: In re: Tex Tin Superfund Site, Operable Unit One, Docket No. 6–10–05.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed Agreement and Covenant Not to Sue can be obtained from Patrice Miller, Cost Recovery Officer, U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Suite 200, Mail code 6RC–S, Dallas, Texas 75202, (214) 665–6712.

Dated: July 15, 2005.

Richard Greene,

Regional Administrator, Region VI.

[FR Doc. 05–14733 Filed 7–25–05; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY:

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before September 26, 2005.

ADDRESSES: You may submit comments, identified by FR 2248, FR 3033, FR 2030, FR 2056, FR 2086, FR 2087, FR 2083, by any of the following methods:

- Agency Web site: *http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- FAX: 202/452–3819 or 202/452–3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Michelle Long, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, with revision of the following reports:

1. *Report title:* Domestic Finance Company Report of Consolidated Assets and Liabilities.

Agency form number: FR 2248.

OMB control number: 7100–0005.

Frequency: Monthly, Quarterly, and Semi-annually.

Reporters: Domestic finance companies and mortgage companies.

Annual reporting hours: 352 hours.

Estimated average hours per response: Monthly, 18 minutes; Quarterly, 25 minutes; Semi-annually, 10 minutes.

Number of respondents: 80.

General description of report: This information collection is voluntary (12 U.S.C. 225(a)). Individual respondent data are confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552).

Abstract: The monthly FR 2248 report collects balance sheet data on major categories of consumer and business credit receivables, major short-term liabilities, and securitized assets. For quarter-end months (March, June, September, and December), additional asset and liability items are collected to provide a full balance sheet. If the need arises, a special addendum may be used, no more than semi-annually, for timely information on questions of immediate concern to the Federal Reserve.

The data are used to construct universe estimates of finance company holdings, which are published in the monthly statistical releases Finance Companies (G.20) and Consumer Credit (G.19), in the quarterly statistical release Flow of Funds Accounts of the United States (Z.1), and in the Federal Reserve Bulletin (Tables 1.51, 1.52, and 1.55).

Current Actions: The Federal Reserve proposes to change the respondent panel definition to include mortgage companies. In addition, the Federal Reserve proposes to instruct finance companies to include the assets and liabilities of their mortgage company subsidiaries. In addition, the Federal Reserve is concurrently proposing similar revisions on the FR 3033.

The inclusion of mortgage companies would improve estimates of financial flows, particularly household mortgage debt growth, as measured by the Federal Reserve Board's Flow of Funds accounts. Since Housing and Urban Development discontinued its Survey of Mortgage Lending Activity in the late 1990s, the Federal Reserve has been without a regular data source on the activities of mortgage companies. During this time, these firms may have accumulated inventories of loans that the estimates are not measuring. Also, as the front end of the mortgage ''pipeline,'' mortgage companies may at times temporarily hold significant balances of mortgages awaiting securitization or sale. Thus, expanding the scope of the FR 2248 to include mortgage companies would improve the estimate of the overall stock of mortgage

debt, and also mitigate likely measurement error in the quarterly flow measures of household debt growth from our failure to observe transitory mortgage holdings of these firms.

2. *Report title:* Quinquennial Finance Company Questionnaire and Survey.

Agency form number: FR 3033.

OMB control number: 7100–0277.

Frequency: One-time.

Reporters: Domestic finance companies and mortgage companies.

Annual reporting hours: Questionnaire, 1,000; Survey, 315 hours.

Estimated average hours per response: Questionnaire, 0.25 hours; Survey, 0.42 hours.

Number of respondents: Questionnaire, 4,000; Survey, 750. Small businesses are affected.

General description of report: This information collection is voluntary (12 U.S.C. 225a, 263, and 353–359). Individual respondent data are confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552).

Abstract: Since June 1955, the Federal Reserve System has surveyed the assets and liabilities of finance companies at five-year intervals. The first stage is a questionnaire (FR 3033p), which is sent to all domestic finance companies. The questionnaire asks for information on each company's total net assets, areas of specialization, and other characteristics. From the universe of FR 3033p questionnaire respondents, the Federal Reserve would draw a stratified random sample of finance companies for the second stage, the survey itself (FR 3033s). The survey would request detailed information, as of December 31, 2005, from both sides of the respondents' balance sheets.

Current Actions: The Federal Reserve proposes two major revisions: (1) To change the respondent panel definition to include mortgage companies and (2) to instruct finance companies to include the assets and liabilities of their mortgage company subsidiaries. In addition, the Federal Reserve is concurrently proposing similar revisions on the FR 2248.

The inclusion of mortgage companies would improve estimates of financial flows, particularly household mortgage debt growth, as measured by the Federal Reserve Board's Flow of Funds accounts. Since Housing and Urban Development discontinued its Survey of Mortgage Lending Activity in the late 1990s, the Federal Reserve has been without a regular data source on the activities of mortgage companies. During this time, these firms may have accumulated inventories of loans that the estimates are not measuring. Also, as the front end of the mortgage ''pipeline,'' mortgage companies may at times temporarily hold significant balances of mortgages awaiting securitization or sale. Thus, expanding the scope of the FR 3033 to include mortgage companies would improve the estimate of the overall stock of mortgage debt, and also mitigate likely measurement error in the quarterly flow measures of household debt growth from our failure to observe transitory mortgage holdings of these firms.

3. *Report title:* Application for Membership in the Federal Reserve System.

Agency form number: FR 2083, 2083A, 2083B, and 2083C.

OMB control number: 7100–0046.

Frequency: On occasion.

Reporters: Newly organized banks that seek to become state member banks, or existing banks or savings institutions that seek to convert to state member bank status.

Annual reporting hours: 320 hours.

Estimated average hours per response: 4 hours.

Number of respondents: 80.

General description of report: This information collection is authorized by Section 9 of the Federal Reserve Act (12 U.S.C. 321, 322, and 333) and is required to obtain or retain a benefit. Most individual respondent data are not considered confidential. Applicants may, however, request that parts of their membership applications be kept confidential, but in such cases the applicant must justify its request by demonstrating that disclosure would cause ''substantial competitive harm'' or result in ''an unwarranted invasion of personal privacy.'' Because the confidentiality status of the information submitted will be judged on a case-by-case basis, the forms themselves raise no issues under the Freedom of Information Act, (5 U.S.C. 552).

Abstract: The application for membership is a required one-time submission that collects the information necessary for the Federal Reserve to evaluate the statutory criteria for admission of a new or existing state bank into membership in the Federal Reserve System. This application provides managerial, financial, and structural data.

Current actions: Section I of the FR 2083 form would be modified to reflect the Federal Reserve's fingerprint requirement, which differs from that of the other banking agencies. Section II would be modified to clarify certain information that needs to be submitted with a membership proposal. Information about recent or contemplated changes in the management, ownership, or the business plan of an existing bank must be known before action can be taken on a related membership application. The proposed new questions in Section II about new principal ownership, anticipated changes in management of applicant (or applicant's parent company), and management plans for the bank do not represent new information requirements, but rather information that has always been gathered as part of the overall review of a membership proposal.

The FR 2083A and 2083B would be modified so that they request the same capital and surplus data (as of the bank's most recent Consolidated Reports of Condition and Income (Report of Condition) (FFIEC 031 and 041; OMB No. 7100–0036) or a contemplated merger or consolidation date) as requested in the Application for Federal Reserve Bank Stock (FR 2030; OMB No. 7100–0042). The FR 2083B also would be modified to eliminate a reference to the most recent examination of the applying bank by the Reserve Bank; it would now refer only to the most recent Report of Condition for deposit information. The FR 2083C would be modified to include more signature lines as the current four lines are often not sufficient.

Three sections of the General Information and Instructions of the FR 2083 would be modified to recognize new sources of available information, provide other practical advice to an applicant, and ensure further consistency with other applications. The Preparation of Application section has been modified to reflect that the Federal Reserve's public website now contains substantial filing information, including relevant regulations, which an applicant may find helpful when preparing a membership filing. As in other application filing instructions, the applicant is encouraged to consult with the appropriate Reserve Bank about the informational needs of a specific membership proposal. The section also recognizes a new requirement adopted by the Federal Reserve in May 2003 that an individual associated with a banking proposal may need to submit fingerprint cards as part of the name check process. Also, to ensure proper handling of a filing, applicants are encouraged to clearly identify when expedited processing is being sought. All of the proposed revisions to the Confidentiality and Compliance sections are to ensure consistency with the bank holding company application and notifications forms. (The Application for Prior Approval to

Become a Bank Holding Company or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company (FR Y–3), the Notification for Prior Approval to Become a Bank Holding Company or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company (FR Y–3N), and the Notification for Prior Approval to Engage Directly or Indirectly in Certain Nonbanking Activities (FR Y–4) (OMB No. 7100–0121).

4. *Report title:* Applications for Subscription to, Adjustment in the Holding of, and Cancellation of Federal Reserve Bank Stock.

Agency form number: FR 2030, FR 2030a, FR 2056, FR 2086, FR 2086a, FR 2087.

OMB control number: 7100–0042.

Frequency: On occasion.

Reporters: National, State Member, and Nonmember banks.

Annual reporting hours: FR 2030: 27 hours; FR 2030a: 13 hours; FR 2056: 775 hours; FR 2086: 4 hours; FR 2086a: 19 hours; FR 2087: 2 hours.

Estimated average hours per response: .5 hours.

Number of respondents: FR 2030: 54; FR 2030a: 25; FR 2056: 1,550; FR 2086: 7; FR 2086a: 37; FR 2087: 4.

General description of report: These information collections are required to obtain or retain a benefit.

- FR 2030 and FR 2030a: (12 U.S.C. 222, 282, 248(a) and 321)
- FR 2056: (12 U.S.C. 287, 248(a) and (i))
- FR 2086: (12 U.S.C. 287, 248(a) and (i))
- FR 2086a: (12 U.S.C. 321, 287, and 248(a))
- FR 2087: (12 U.S.C. 288, 248(a) and (i))

Most individual respondent data are not considered confidential. Applicants may, however, request that parts of their membership applications be kept confidential, but in such cases the applicant must justify its request by demonstrating that disclosure would cause ''substantial competitive harm'' or result in ''an unwarranted invasion of personal privacy.'' Because the confidentiality status of the information submitted will be judged on a case-by-case basis, the forms themselves raise no issues under the Freedom of Information Act, (5 U.S.C. 552).

Abstract: These application forms are required by the Federal Reserve Act and Regulation I. These forms must be used by a new or existing member bank (including a national bank) to request the issuance, and adjustment in, or cancellation of Federal Reserve Bank stock. The forms must contain certain certifications by the applicants, as well as certain other financial and shareholder data that is needed by the Federal Reserve to process the request.

Current actions: No changes are contemplated to four of the six application forms (the FR 2030, 2030a, 2086, and 2087). The changes proposed for the other two forms (the 2056, and 2086a) are generally technical in nature. The FR 2056 and its attachment would be modified to allow for their usage by a mutual savings bank (which currently has no adjustment form) and to ensure that the correct capital and surplus data is provided when the requested adjustment relates to a proposed merger or consolidation. The modifications would allow this form to be used by a member bank that survives the merger or consolidation of two member banks, an adjustment not clearly addressed by the current stock forms. The FR 2086a also would be slightly modified to reflect that it could be used by a member bank that is eliminated during the merger or consolidation of two member banks for the cancellation of its Federal Reserve Bank stock.

Board of Governors of the Federal Reserve System, July 20, 2005.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 05–14717 Filed 7–25–05; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 9, 2005.

A. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Nikki C. Cook, Kansas City, Missouri, as co–trustee of the George N. Cook, Jr. Living Trust and the Nikki C. Cook Living Trust; Judy A. Denesia, Overland Park, Kansas, as trustee of the Denesia Family Trust; Tiffany L. Self, Oklahoma City, Oklahoma; Swords Associates, Inc., Kansas City, Missouri; Suzanne Untersee, Kansas City, Missouri; Gebra Holdings, LLC, Oklahoma City, Oklahoma; and Mark C. Parman, Overland Park, Kansas; to become members of a group acting in concert to acquire voting shares of First Medicine Lodge Bancshares, Inc., and thereby indirectly acquire voting shares of SolutionsBank, both in Overland Park, Kansas.

Board of Governors of the Federal Reserve System, July 20, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–14654 Filed 7–25–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 05-14205) published on page 41758 of the issue for Wednesday, July 20, 2005.

Under the Federal Reserve Bank of St. Louis heading, the entry for Union Bankshares, Inc., Mena, Arizona, is revised to read as follows:

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Union Bankshares, Inc., Mena, Arkansas; to acquire 100 percent of the voting shares of First Paris Holding Company, Little Rock, Arkansas, and thereby indirectly acquire voting shares of The First National Bank at Paris, Paris, Arkansas.

Comments on this application must be received by August 8, 2005.

Board of Governors of the Federal Reserve System, July 20, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–14655 Filed 7–25–05; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP); NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM); Availability of Revised Analyses and Proposed Reference Substances for In Vitro Test Methods for Identifying Ocular Corrosives and Severe Irritants

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Availability of analyses and proposed reference substances and request for comments.

SUMMARY: NICEATM announces the availability of revised analyses for four in vitro test methods proposed for detecting ocular corrosives and severe irritants [the Bovine Corneal Opacity and Permeability (BCOP) assay, the Hen's Egg Test—Chorion Allantoic Membrane (HET–CAM), the Isolated Rabbit Eye (IRE) assay, and the Isolated Chicken Eye (ICE) assay]. A revised list of proposed reference substances for validation studies on *in vitro* test methods for identifying ocular corrosives and severe irritants is also available. The revised analyses and list of proposed reference substances are provided in an addendum that is applicable to each of four draft Background Review Documents (BRDs) that were released to the public on November 3, 2004. The NICEATM invites public comment on the information provided in this addendum. Copies of the draft BRDs and addendum may be obtained on the ICCVAM/NICEATM Web site (*http://iccvam.niehs.nih.gov* see ''Reports & Background Documents''), or by contacting NICEATM at the address given below.

DATES: Written comments and additional information should be received by August 25, 2005.

ADDRESSES: Comments and additional information should be sent by mail, fax, or e-mail to Dr. Raymond Tice, at NICEATM, NIEHS, P. O. Box 12233, MD EC–17, Research Triangle Park, NC 27709, (phone) 919–541–4482, (fax) 919–541–0947, (e-mail) *niceatmcomments@niehs.nih.gov.* Courier address: NICEATM, 79 T.W. Alexander Drive, Building 4401, Room 3113, Research Triangle Park, NC 27709

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2004, NICEATM released draft BRDs that provided information about the current validation status of four *in vitro* test methods for detecting ocular corrosives and severe irritants (**Federal Register**, Vol. 69, No. 212, pp. 64081–64082, November 3, 2004, available at *http://iccvam.niehs.nih.gov/* see ''Reports & Background Documents''). The test methods are the BCOP assay, the HET-CAM assay, the IRE assay, and the ICE assay. NICEATM in conjunction with ICCVAM convened an expert panel meeting on January 11–12, 2005, to independently assess the validation status of the four *in vitro* test methods. The expert panel report is available electronically at *http://iccvam.niehs.nih.gov/methods/eyeirrit.htm.* Public comments at the meeting indicated that additional data could be made available that had not been provided in response to earlier requests for data announced in the **Federal Register** in March and November 2004 (Vol. 69, No. 212, pp. 64081–64082, November 3, 2004; Vol. 69, No. 57, pp. 13859–13861, March 24, 2004). The expert panel recommended that NICEATM conduct a reanalysis of the accuracy and reliability of each test method that would include these data. In response to this recommendation, NICEATM published a notice in the **Federal Register** (Vol. 70, No. 38, pp. 9661–9662, February 28, 2005) requesting additional *in vitro* data on these four *in vitro* ocular irritancy test methods, corresponding *in vivo* rabbit eye test method data, as well as any human ocular exposure/injury data (either from ethical human studies or accidental exposure). In response to this request, NICEATM received additional *in vitro* and *in vivo* data that were used for the revised analyses and considered in revising the list of proposed reference substances.

The revised analyses and list of proposed reference substances are provided in an addendum that is applicable to each of four draft BRDs that were released to the public on November 3, 2004 (available at *http://iccvam.niehs.nih.gov/* see ''Reports & Background Documents''). Following the public comment period, NICEATM in coordination with ICCVAM plans to reconvene the expert panel during a public teleconference to comment on the proposed reference substances and finalize their conclusions regarding the current validation status of the four methods for detecting ocular corrosives and severe irritants. The date and time for this teleconference will be announced in a future **Federal Register** announcement.

Request for Comments

NICEATM invites the submission of written comments on the revised analyses and the proposed list of reference substances. When submitting written comments please include appropriate contact information (name, affiliation, mailing address, phone, fax, email and sponsoring organization, if applicable). All written comments received by the deadline listed above will be posted on the ICCVAM/NICEATM website and made available to the expert panel and ICCVAM.

Background Information on ICCVAM and NICEATM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that use or generate toxicological information. ICCVAM conducts technical evaluations of new, revised, and alternative methods with regulatory applicability, and promotes the scientific validation and regulatory acceptance of toxicological test methods that more accurately assess the safety and hazards of chemicals and products and that refine, reduce, and replace animal use. The ICCVAM Authorization Act of 2000 (Pub. L. 106–545, available at *http://iccvam.niehs.nih.gov/about/PL106545.htm*) establishes ICCVAM as a permanent interagency committee of the NIEHS under the NICEATM. NICEATM administers the ICCVAM and provides scientific and operational support for ICCVAM-related activities. NICEATM and ICCVAM work collaboratively to evaluate new and improved test methods applicable to the needs of Federal agencies. Additional information about ICCVAM and NICEATM can be found at the following Web site: *http://www.iccvam.niehs.nih.gov.*

Dated: July 13, 2005.

David A. Schwartz,

Director, National Institute of Environmental Health Sciences and National Toxicology Program.

[FR Doc. 05–14707 Filed 7–25–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–05–05AU]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 371–5983 or send an email to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Fire Fighter Fatality Investigation and Prevention Program (FFFIPP)—NEW—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description:

The Fire Fighter Fatality Investigation and Prevention Program (FFFIPP) addresses an important public health need to protect the lives of America's front line emergency responders, those whose job is to save lives and protect property. FFFIPP was established in fiscal year 1998 in order to investigate the deaths and severe injuries that occur to fire fighters for the purpose of identifying high risk situations and to develop recommendations for prevention.

The purpose of this project is to evaluate the impact of the Fire Fighter Fatality Investigation and Prevention Program (FFFIPP), and the effects of FFFIPP recommendations and information products which are periodically distributed to the nation's 30,000 fire departments. This study will examine career and volunteer; large and small size; and urban and rural fire departments to determine the extent to which firefighter reports, recommendations and other information products are being implemented by fire departments. This evaluation will also measure the effects of FFFIPP on the knowledge, behavior, attitudes, and safety practices of fire department management.

This study will consist of a mail survey given to 1,140 fire departments to obtain information from the officers (Captain, Safety Officer and Training Officer or Lieutenants) regarding use of FFFIPP information products. There will also be a set of six focus groups for active, front-line firefighters; each focus group will have approximately 9 participants.

FFFIPP investigated approximately 114 injury fatalities and 101 cardiovascular disease fatalities over the first 5 years of operations. Reports based on these investigations are mailed to select fire departments on a regular basis. An evaluation of the program at this time is appropriate because FFFIPP has acquired sufficient data on firefighter fatalities to permit substantial improvements in knowledge, awareness and the practice of fire fighting. FFFIPP information products have been published and disseminated with sufficient time to allow positive changes. An evaluation at this time could ultimately reduce risk for firefighters through elimination of barriers to better knowledge, behavior, attitudes and safety practices for fire department leadership/management and for front-line firefighters. Evaluation provides a means to strengthen the impact of the program through modification or re-direction of the FFFIPP strategy.

CDC proposes to conduct an evaluation survey that will include 1,140 fire departments. A fire department survey and focus groups will be used to collect data for this evaluation. The fire department survey will use a cross-sectional design with restricted random sampling. The sample will include each of the 215 fire departments where investigations were conducted. For comparison, a random sample of 300 fire departments where there were no investigations conducted will be selected and surveyed. The ten largest fire departments will be deliberately included in the sample because of their unique status. The random selection of additional fire departments will be restricted to balance various factors such as the number of volunteer vs. career, rural vs. urban and other considerations. To supplement findings from the Fire Department Survey, the evaluation team will conduct a series of six focus groups with firefighters from across the country. These focus group discussions will serve as avenues for exploring how and why the FFFIPP may have had an impact. Information collected in the focus groups will thus complement the Fire Department Survey by providing rich descriptions of the ways in which FFFIPP may have affected firefighter knowledge, attitudes, behaviors, and safety practices. The focus groups will take place either at a national conference of firefighters or at local venues convenient to the fire departments represented by the participants. Each focus group will take 1½ hours. Questions will address firefighter knowledge, attitudes, behavior, and safety practices. There are no costs to respondents except their time to participate in the survey. The total estimated annualized burden hours are 238.

ESTIMATED ANNUALIZED BURDEN TABLE

Survey instruments	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)
Fire Dept. Survey	570	1	25/60
Focus Group Participants Eligibility Screening Form	81	1	5/60
Focus Group	27	1	1.5

Dated: July 20, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–14680 Filed 7–25–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–05–0466X]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 371–5983 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Validating Autism Surveillance Methodology in Metropolitan Atlanta Developmental Disabilities Surveillance Program (MADDSP)—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

MADDSP was established in 1991 as an ongoing active surveillance system for select developmental disabilities (mental retardation, cerebral palsy, vision impairment, and hearing loss) in 3 to 10 year old children. In 1996, autism spectrum disorders (ASD) was added to MADDSP due to growing concern about the prevalence of the condition. MADDSP defines ASD as a constellation of social, communicative, and behavioral impairments consistent with the DSM–IV–TR diagnostic criteria for Autistic Disorder, Asperger's Disorder, and Pervasive Developmental Disorders not otherwise specified.

MADDSP relies on an extensive review of records to identify children with an ASD. Potential case records are identified from multiple sources which are likely to maintain evaluation or treatment records for children with ASD. Pertinent ICD–9, DSM–IV codes and predetermined behavioral descriptions are used to trigger records for abstraction. Clinical experts then review the abstracted data and determine case status based on a behavioral coding scheme that is in accordance with the DSM–IV–TR definition for Pervasive Developmental Disorders.

This record review methodology for ASD surveillance has been executed and is being used; however, the method is not currently validated by a clinical sample which is considered the gold standard for identifying ASD. For this reason, it is important to validate surveillance methods in a clinical sample in order to determine whether current surveillance methodology accurately captures prevalence estimates for this developmental outcome. The sensitivity and specificity of MADDSP will be measured using judgments from the clinical exam as the gold standard. The results from this study will provide important implications for how ASD surveillance is maintained.

Primary caregivers of children already identified through surveillance methods will be contacted, informed of the study, and asked to participate through telephone contact. Clinic visits will be scheduled for all children whose primary caregiver agrees to take part in the study and who signs a written informed consent; child assent will be obtained at the time of the clinic visit. Data collection methods will consist of: (1) Parental questionnaires, which will focus on questions about their child's behavior and developmental history; and, (2) a developmental evaluation for the child participant, which includes a play based assessment specific to ASD and a measure of cognitive development. There is no cost to respondents other than their time. The total estimated annualized burden hours are 646.

ESTIMATED ANNUALIZED BURDEN TABLE

Survey instruments	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)
Telephone Contact	500	1	10/60
Parental Interviews and Questionnaires	125	1*2.5	
Developmental Evaluation of the Child	125	1	2

*One response per hour for an estimated 2.5 hours of clinic time; estimation of clinic time takes into consideration that parents and children will be encouraged to complete assessment simultaneously and that additional clinic time may be required due to individual differences.

Dated: July 20, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–14681 Filed 7–25–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–05–04JN]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 371–5974 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Internet Survey on Household Drinking Water—New ''National Center

for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Drinking water in the United States comes from many different sources. A recent survey of the public's perceptions of water quality reports that 86% of adults have some concern about drinking water quality and more than half worry about possible contaminants in water (Water Quality Association, 2001 National Consumer Water Quality Survey). Public concern about drinking water quality has given rise to the increased use of bottled water, vended water, and water-treatment devices. The same survey reported that in the past six years, use of home water-treatment systems rose 60%. Bottled water consumption has risen from 10.5 gallons per capita in 1993 to 22.6 gallons per capita in 2003, making bottled water the second largest commercial beverage category, accounting for $8.3 billion in sales for 2003 (Beverage Marketing Corporation, News Release, April 8, 2004). Many consumers believe that bottled water is 'healthier' than tap water. However the Food and Drug Administration (FDA), the agency responsible for regulating the quality of bottled water, reports that the relative safety of bottled vs. tap water remains under debate (FDA Consumer Magazine, July–August 2002).

The proposed internet survey is designed to obtain information about why the public is using water-treatment devices, bottled water, and vended water as alternatives to tap water. The survey asks both opinion and knowledge questions about the safety of each type of water and requests information on the frequency and costs of using bottled water, vended water, and water-treatment devices. The survey also contains knowledge and opinion questions about general water topics, including perceptions of the chemical and microbial quality of water and any health incidents participants have experienced associated with drinking various types of water. The survey will be posted on the CDC Web site and recruitment will be sought through an announcement on the Web site inviting visitors to complete the survey. We anticipate that survey participants will come from all regions of the United States. No personal identifiers are requested as part of the survey. There are no costs to the respondents other than their time. The total annual burden hours are 333.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Respondents	Number of of respondents	Number of responses per respondent	Average burden per response
CDC Internet SurveyRespondents	1,000	1	20/60

Dated: July 20, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–14682 Filed 7–25–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Strengthening Existing National Organizations Serving Racial and Ethnic Populations Capacity Development Programs: Strategies To Advance Program Implementation, Coordination, Management, and Evaluation Efforts

Announcement Type: New.

Funding Opportunity Number: RFA 05055.

Catalog of Federal Domestic Assistance Number: 93.283.

Key Dates: Application Deadline: August 19, 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 241b(k)(2))], as amended.

Purpose: The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2005 funds to support and strengthen existing National and Regional Minority Organizations (NMOs/RMOs) that engage in health advocacy, promotion, education and preventive health care with the intent of improving the health and well-being of racial and ethnic minority populations. National and Regional Minority Organizations (NMOs/RMOs) serving racial and ethnic populations are those with a proven track record of providing direct or indirect service to minority and high-risk populations through a community-based approach and proven delivery system channels. They support national and/or regional initiatives to develop, expand, and enhance health promotion, educational, and community-based programs targeting racial and ethnic populations.

Note: For the purpose of this program announcement, racial and ethnic minority populations are African-American, American Indian and Alaska Native, Asian-American, Hispanic or Latino, and Native Hawaiian and Other Pacific Islander.

If the applicant is an NMO, it must serve at least four (4) HHS regions either independently or as the lead agency within a coalition or collaboration. If the applicant is an RMO, it must serve at least two (2) HHS regions either independently or as the lead agency within a coalition or collaboration.

Specifically, the program is intended to assist existing NMOs and/or RMOs in:

- Expanding and enhancing culturally and linguistically appropriate health educational and community-based programs targeting racial and ethnic minorities, thereby contributing to the goal of eliminating health disparities within the racial and ethnic minority population.
- Promoting and advancing policy analysis efforts, program assessment and program development activities, formative evaluation, training and technical assistance programs, and project management.
- Strengthening coalition building and collaboration and leadership that improve the health status and access to programs for racial and ethnic minority populations.
- Providing innovative capacity-building assistance to support and strengthen minority community-based organizations in management, fiscal management, and program operations.

This program addresses the ''Healthy People 2010'' focus areas of Educational and Community-Based Programs and Health Communication targeting a variety of public health issues affecting the racial and ethnic minority populations.

Directions and guidance for the implementation and execution of this program will be facilitated by the Office

of Minority Health (OMH), Office of the Director, CDC. OMH provides leadership, coordination, assessment, and evaluation for minority health initiatives, as well as policy initiatives targeting improving the health of ethnic populations. The office also supports cooperative agreements with academic institutions and national non-governmental organizations to conduct prevention research, program development, and analysis and evaluation to improve the health status of racial, ethnic, and minority populations and reduce health disparities.

Measurable outcomes of this program will be in alignment with one (or more) of the following performance goal(s) for the Office of Minority Health:

- *Goal 1:* Support racial and ethnic minority institutions, including tribal colleges and universities, by increasing the number of funding mechanisms and the number of racial and ethnic minority-serving institutions receiving support.
- *Goal 2:* Foster innovative approaches and building of stronger public health capacity within organizations serving racial and ethnic communities to address identified health risks and disease burdens of these underserved populations.
- *Goal 3:* Promote health and quality of life by reducing the disproportionate burden of preventable disease, death and injury among racial and ethnic minorities.

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

Awardee activities for this program should focus on health education, promotion, and marketing strategies to describe a comprehensive approach to address associated risk factors and diseases that result in the most efficient and cost effective strategies to achieve the proposed activities. Activities shall include, but are not limited to the following:

a. Strengthening existing collaborations with public health professionals serving minority communities with the expressed purpose of delivering culturally-proficient and linguistically-appropriate public health services to racial and ethnic minority populations by developing, promoting, and marketing health promotion and professional training and educational programs and materials.

b. Policy analysis, program assessment and development, formative evaluation, training and technical assistance efforts to improve the health and well-being of the targeted racial and ethnic populations.

c. Participating in CDC-sponsored meetings and events, as appropriate.

d. Developing partnerships with organizations to implement new ways to support providers and professionals with effective methods for serving racial and ethnic minority communities.

e. Working with academic institutions and public and private health partners on health promotion, education, social marketing and program service delivery endeavors to reduce health disparities in racial and ethnic minority communities.

f. Applicants working with public health partners must develop, coordinate and conduct technical assistance and/or training activities to increase cultural competency of public health professionals and partners.

g. Incorporating population-based approaches to disease prevention and health promotion programs that focus on strengthening organizational capacity and information technology assets for community-based organizations.

In a cooperative agreement, CDC staff is substantially involved in the program activities.

CDC Activities for this program are as follows:

a. Partnering with recipient in the development, implementation, evaluation, and dissemination of educational programs and material designed to improve knowledge and attitudes to prevent and control various preventable diseases and injuries within racial and ethnic minority communities.

b. Providing periodic updates about public knowledge, attitudes, and practices regarding disease and injury prevention and control, including up-to-date scientific information.

c. Partnering with recipient to identify appropriate and specific venues to share and disseminate information.

d. Identifying liaisons with other organizations that are interested in disease and injury education and health promotion in local racial and ethnic minority communities.

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: $1,300,000.

Approximate Number of Awards: Up to five.

- Approximately 1–2 awards will be made to organizations serving each racial and ethnic population.

Consideration will be given to NMOs/RMOs which demonstrate a clear need or demand for capacity building assistance; have appropriate staff expertise and other sources of support and/or realistic projections; build on existing programs or services; and involve the target audience in the planning, implementation and design of program activities (e.g, coalition development, focus groups, trainings).

Approximate Average Award Range: $200,000–500,000. This amount is for the first 12-month budget period, and includes both direct and indirect costs.

Anticipated Award Date: August 31, 2005.

Budget Period Length: 12 months.

Project Period Length: Four 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

Eligible applicants are national organizations (NOs), including national minority organizations (NMOs) and regional minority organizations (RMOs). National and Regional Minority Organizations (NMOs/RMOs) serving racial and ethnic populations are those with a proven track record of five (5) or more years of providing direct or indirect service to minority and high-risk populations through a community-based approach and proven delivery system channels. [**Note:** For the purpose of this program announcement, racial and ethnic minority populations are African-American, American Indian and Alaska Native, Asian-American, Hispanic or Latino, and Native Hawaiian and Other Pacific Islander.]

If the applicant is an NMO, it must serve at least four (4) HHS regions either independently or as the lead agency within a coalition or collaboration. If the applicant is an RMO, it must serve tribes/communities in at least two HHS regions either independently or serve as the lead agency within a coalition or collaboration. A coalition or collaboration may consist of any combination of four (4) or more national, regional or local minority organizations. The applicant, or lead

agency, must be the legal applicant and all applicants must provide documentation proving that they meet the following criteria:

a. Be an established national (defined by charter or bylaws to operate nationally), nonprofit organization (a non-governmental, nonprofit corporation or association whose net earnings in no part accrue to the benefit of private shareholders or individuals). Bylaws and/or charter must be furnished with the application.

Note: A copy of a currently valid Internal Revenue Service (IRS) tax exemption certificate is acceptable evidence of nonprofit status.

b. Demonstrate at least a 5-year record of service to community-based organizations serving the targeted ethnic and racial minority community/population. Acceptable documentation includes letters of support, agency annual reports, client satisfaction survey summaries, and memoranda of agreement.

c. Demonstrate a primary relationship to the proposed target population. A primary relationship is one in which there is a documented history of assisting, serving, or representing the priority population as the most important component of the organizations' mission.

d. Provide evidence of collaborative relationships with at least five other organizations (*i.e.* coalitions, memorandums of understanding (MOUs), memorandums of agreement (MOAs), government to government relations, and federal trust). Please include a current list of participating chapters, offices, affiliates, or organizations who are receiving funds under this application.

Additionally, eligible applicants must be able to demonstrate at least a five-year history in conducting at least three (3) of the following activities:

a. Providing community-based solutions that improve the health and well-being of a specific racial/ethnic minority group in the United States.

b. Developing and implementing effective strategies for the delivery of community health promotion and disease prevention programs and messages that address the priority health needs identified by their community using a variety of culturally and linguistically competent community-based approaches.

c. Providing capacity-building assistance to community-based organizations, health departments and other partners in providing health promotion and prevention education targeting racial/ethnic minority populations.

d. Policy analysis, program assessment and development, formative evaluation, training and technical assistance programs.

e. Developing program strategies to provide a better understanding of the health care access barriers facing racial/ethnic minority communities.

f. Working in partnership with the state and local and or tribal program planning bodies.

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 $500,000, 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: If your application is incomplete or non-responsive to the requirements listed in this section, it will not be entered into the review process. You will be notified that your application did not meet the submission requirements.

- Late applications will be considered non-responsive. See section ''IV.3. Submission Dates and Times'' for more information on deadlines.

- The applicant should provide a concise summary that clearly describes: (a) Their status as a national or regional organization with experience and capacity for conducting disease prevention and health promotion programs targeting racial and ethnic minority communities and at-risk populations; (b) demonstrated outcome/accomplishments from previous national/regional disease prevention and health promotion efforts targeting racial and ethnic minority communities and at-risk populations; and, (c) demonstrated experience and capacity coordinating and implementing public health programs within the targeted population.

- Each applicant may submit no more than one proposal under this announcement. If an organization submits more than one proposal, all proposals will be deemed ineligible and returned without comment.

- **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 the applicant to submit the 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 on-line 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 access to the Internet is not available, or if there is difficulty accessing the forms on-line, contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) staff at 770–488–2700 and the application forms can be mailed.

IV.2. Content and Form of Submission

Application: A project narrative must be submitted with the application forms. The narrative must be submitted in the following format:

- Maximum number of pages: 30 pages—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, double spaced.
- Held together only by rubber bands or metal clips, not bound in any other way.

The narrative should address activities to be conducted over the entire project period with a comprehensive approach, and must include the following items in the order listed.

1. Executive Summary

Describe your organization's prior experience implementing and coordinating a national/regional public health program targeting racial and ethnic minority communities to address risk factors and disease prevention. Describe your organization's capacity and ability to conduct national/regional programs and activities related to promoting health through education and social marketing strategies; and

information dissemination in collaboration with and through racial and ethnic minority coalitions, community organizations, and public health partners. Describe your organization's previous experience and accomplishments in implementing and conducting a national/regional education, health promotion and prevention program with the targeted population.

2. Background and Need

Document the need for the proposed activities and the context in which the work will be conducted. Describe the targeted population and your organization's role in conducting these activities.

3. Method

Submit a plan that describes the methodologies for a comprehensive approach to conduct recipient activities as outlined below:

a. Strengthening existing collaborations with public health professionals serving minority communities with expressed purpose of delivering culturally-proficient and linguistically-appropriate public health services to racial and ethnic minority populations by developing, promoting, and marketing health promotion and professional, training, educational programs and materials.

b. Policy analysis, program assessment and development, formative evaluation, training and technical assistance efforts to improve the health and well-being of the targeted racial and ethnic populations.

c. Participating in CDC-sponsored meetings and events, as appropriate.

d. Developing partnerships with organizations to implement new ways to support providers and professional with effective methods for serving racial and ethnic minority communities.

e. Working with academic institutions and public and private public health partners on health promotion, education, social marketing and program service delivery endeavors to reduce health disparities in racial and ethnic minority communities.

f. Applicants working with public health partners must develop, coordinate and conduct technical assistance and/or training activities to increase cultural competency of public health professionals and partners.

g. Incorporating population-based approaches to disease prevention and health promotion programs that focus on strengthening organizational capacity and information technology assets for community-based organizations.

Identify strategies and activities for increasing the applicant's involvement in health education and promotion activities over the next four years.

Explain how planned activities relate to the purpose of this program announcement. The plan should identify and establish a timeline for the completion of each component or major activity. The plan should identify how previous experience conducting and implementing public health programs in racial and ethnic minority communities will inform the proposed program activities and efforts.

4. Goals and Objectives

Describe goals and objectives in narrative form and provide a timetable, with specific activities that are related to each objective during the projected 12-month budget period. Provide objectives that are specific, measurable, feasible, and time-phased to be accomplished during the projected 12-month budget period. Indicate when each activity will occur, as well as when preparations for activities will occur. Also indicate who will be responsible for each activity and identify staff assigned to each activity. [**Note:** Objectives should relate directly to the project goals and recipient activities.]

5. Project Management and Staffing Plan

Provide appropriate staff, based on experience and capability, to successfully implement national public health programs in the targeted populations.

6. Evaluation Plan

Provide a summary of how project activities will be evaluated (*i.e.*, a plan to determine if the methods used to deliver these activities are effective and if the objectives are being achieved). Develop a well-designed evaluation plan that is realistic and time-phased to determine progress toward achievement of established goals and objectives.

The evaluation plan should address measures considered critical to determine the success of the program outlined by the applicant, and results should be used to monitor and achieve program activities.

7. Budget and Accompanying Justification

For each of the categorical project areas, provide a separate detailed line-item budget and narrative justification describing operating expenses consistent with the proposed objectives and planned activities. For comprehensive strategies and activities, identify the funds that will be requested from each funding source in the detailed line-item budget and narrative justification. Provide a precise description for each budget item and itemize calculations when appropriate. Applicants should include budget items for travel trips to two CDC-sponsored meetings. The budget and accompanying justification will not be counted in the stated page limit.

Additional information may be included in the application appendices. The appendices will not be counted toward the narrative page limit. This additional information includes:

- Curricula Vitae
- Job Descriptions
- Organizational Charts
- Any other supporting documentation

The agency or organization is 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/grantmain.htm.* If the application form does not have a DUNS number field, please write the DUNS number at the top of the first page of the application, and/or include the DUNS number in the application cover letter.

Additional requirements that may require submittal of additional documentation with the application are listed in section ''VI.2. Administrative and National Policy Requirements.''

IV.3. Submission Dates and Times

Application Deadline Date: August 19, 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 the submission does not meet the deadline above, it will not be eligible for review, and will be discarded. The applicant will be notified the application did not meet the submission requirements.

IV.4. Intergovernmental Review of Applications

Executive Order 12372 does not apply to this program.

IV.5. Funding Restrictions

Restrictions, which must be taken into account while writing your budget, are as follows:

- Funds may not be used for research.
- Funds may be spent for reasonable program purposes, including personnel, travel, supplies, and services.
- Equipment may be purchased, with appropriate justification, including cost comparison of purchase to lease. Although contracts with other organizations are allowable, the recipient of this grant must perform a substantial portion of activities for which funds are requested.
- Cooperative agreement funds may not supplant existing funds from any other public or private source.
- Funds may not be expended for construction, renovation of existing facilities, or relocation of headquarters or affiliates.
- Funds may not be used for clinical services.
- Reimbursement of pre-award costs is not allowed.

If requesting indirect costs in the budget, a copy of the indirect cost rate agreement is required. If the 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 05055, 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 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.

The application will be evaluated against the following criteria: Evaluation Criteria (100 points total)

1. Capacity (30 Points)

The extent to which the applicant describes its capacity and ability to carry out activities related to disease prevention and health promotion through racial and ethnic minority coalitions, and other public health partners.

2. Method (20 Points)

The extent to which the applicant provides a plan that describes the methodologies for conducting recipient activities outlined in the activities section. The extent to which the applicant identifies strategies and activities for increasing their involvement in public health programs in the targeted populations over the next four years.

3. Goals and Objectives (20 Points)

a. The extent to which the applicant lists and describes goals specifically related to program requirements and indicates expected program outcomes for the projected 12-month budget period and four-year project period.

b. The extent to which the applicant provides objectives that are specific,

measurable, feasible, and time-phased to be accomplished.

4. Background and Need (10 Points)

The extent to which the applicant describes the targeted population and their organization's role in conducting these activities.

5. Project Management and Staffing Plan (10 Points)

a. The extent to which the applicant describes the proposed staffing for the project, and submits job descriptions to exemplify the level of organizational responsibility for professional staff that will be assigned to the project.

b. The extent to which the applicant describes the organization's structure and function and how that structure will support the program goals and objectives outlined in the program and the applicant's proposed activities.

6. Evaluation Plan (10 Points)

a. The extent to which the applicant describes how each of the activities will be monitored and evaluated toward achieving proposed program objectives.

b. The extent to which the applicant's evaluation plan addresses measures considered critical to determining the success of the plan outlined by the applicant, and how the results should be used for improvement of the intended plan.

7. Budget and Accompanying Justification (Reviewed, But Not Scored)

a. The extent to which the applicant provides a detailed line-item budget and narrative justification describing operating expenses consistent with the proposed objectives and planned activities.

b. The extent to which the applicant identifies the funds that will be requested from each funding source in the detailed line-item budget and narrative justification for comprehensive strategies and activities.

c. The extent to which the applicant provides a precise description for each budget item and itemized calculations when appropriate.

d. The extent to which the applicant includes budget items for travel trips to two CDC-sponsored meetings. The budget and accompanying justification will not be counted in the stated page limit.

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. Incomplete and non-responsive applications will not advance through the review process. Applicants will be notified that their application did not meet submission requirements.

A special emphasis panel will evaluate complete and responsive applications according to the criteria listed in the ''V.1. Criteria'' section above. Applications competing for federal funds receive an objective and independent review performed by a committee of experts qualified by training and experience in particular fields or disciplines related to the program being reviewed. In selecting review committee members for the special emphasis panel, other factors in addition to training and experience may be considered to improve the balance of a panel. Each reviewer is screened to avoid conflicts of interest and is responsible for providing an objective, unbiased evaluation based on the review criteria noted above. The panel provides expert advice on the merits of each application to program officials responsible for final selections for awards. Before final award decisions are made, CDC may make pre-decisional site visits to those applicants who rank high on the initial scoring to review the agency's program, business management, and fiscal capabilities. CDC may also check with the health department, the organization's board of directors, and community partners to obtain additional information about the organizational structure and the availability of needed services and support.

In addition, the following factors may affect the funding decision:

- No more than five awards will be made. Consideration will be given to applicants which demonstrate a clear need or demand for capacity development programs; have appropriate staff expertise and other sources of suppport and/or realistic projections; build on existing programs or services; and, involve the target audience in the planning, implementation and design of program activities (*e.g.*, coalition development, focus groups, trainings).
- Applicants that demonstrate a strong community partnership and national access to predominantly American Indian and Alaska Native communities and provide programmatic support that incorporate concepts that are key to the cultural context, identity, adaptability, and perseverance of American Indians and Alaska Natives include a holistic approach to life, a desire to promote the well-being of the group, an enduring spirit, and a respect for all ways of healing.[1]
- Applicants that expound on efforts to track the racial and ethnic composition and changing health care needs of predominately Asian-American populations.[2]
- Applicants that demonstrate strong community partnerships and national access to predominantly Hispanic and Latino communities in order to address linguistic and cultural barriers to health care and health services.[3]
- Applicants that address the disproportionate 'third world' health conditions experienced by predominately Native Hawaiian and other Pacific Islander populations. Additionally, disproportionate conditions also include situations where health promotion affects high rates of childhood malnutrition, chronic diseases such as heart disease and diabetes, and infectious diseases such as hepatitis B, cholera, dengue fever, and Hansen disease (leprosy). Health promotion efforts, health care services and infrastructures are also limited.[4]

V.3. Anticipated Announcement 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. The following

[1] CDC. MMWR. Health Disparities Experienced by American Indians and Alaska Natives. August 1, 2003 / Vol. 52 / No. 30. *http://www.cdc.gov/mmwr/PDF/wk/mm5230.pdf.*

[2] Institutes of Medicine. Eliminating Health Disparities: Measurement and Data Needs (2004). National Academies Press.

[3] CDC. MMWR. Health Disparities Experienced by Hispanics—United States. October 15, 2004 53(40); 935–937. *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5340a1.htm.*

[4] CDC. Chronic Disease Notes and Reports. Health Disparities Among Native Hawaiians and Other Pacific Islanders Garner Little Attention. Volume 15 • Number 2, Spring/Summer 2002.

additional requirements apply to this project:

AR–4 HIV/AIDS Confidentiality Provisions
AR–8 Public Health System Reporting Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status

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.*

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 the Grants.gov electronic submission only. Applicants should refer to *http://www.cdc.gov/od/pgo/funding/PHS5161-1-Certificates.pdf.* Once the applicant has filled out the form, it should be attached to the Grants.gov submission as Other Attachments Form.

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. Detailed Line-Item Budget and Justification.

e. Measures of Effectiveness.

f. Additional Requested Information.

2. Financial status report and annual progress report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the project period.

These reports must be mailed to the Grants Management 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: Sonsiere Cobb-Souza, Project Officer, CDC Office of the Director, Office of Minority Health, 1600 Clifton Rd., MS E–67, Atlanta, GA 30333, Telephone: 404–498–2310; E-mail: *SCobbSouza@cdc.gov.*

For financial, grants management, and budget assistance, contact: Mattie Jackson, Grants Management Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341, Telephone: 770–488–2696; E-mail: *mij3@cdc.gov.*

VIII. Other Information

Other CDC funding opportunity announcements can be found on the CDC Web site, Internet address: *http://www.cdc.gov.*

Information on existing cooperative agreements with the CDC Office of Minority Health may be found at *http://www.cdc.gov/omh/.* Click on ''Cooperative Agreements.''

Dated: July 20, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–14683 Filed 7–25–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect: Conference Call Meeting

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) announce the following Federal advisory committee conference call meeting.

Name: National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect (NTFFASFAE).

Time and Date: 3 p.m.–4 p.m., August 22, 2005.

Place: The conference call will originate at the National Center on Birth Defects and Developmental Disabilities (NCBDDD), in Atlanta, Georgia. Please see **SUPPLEMENTARY INFORMATION** for details on accessing the conference call.

Status: Open to the public, limited only by the availability of telephone ports.

Purpose: The Secretary is authorized by the Public Health

Service Act, Section 399G, (42 U.S.C. 280f, as added by Pub. L. 105–392) to establish a National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect to:

(1) Foster coordination among all governmental agencies, academic bodies and community groups that conduct or support Fetal Alcohol Syndrome (FAS) and Fetal Alcohol Effect (FAE) research, programs and surveillance; and

(2) To otherwise meet the general needs of populations actually or potentially impacted by FAS and FAE.

Matters To Be Discussed: The Task Force will convene via conference call to discuss and approve the content of a letter to be sent to the Department of Education on behalf of the National Task Force recommending inclusion of fetal alcohol syndrome in the regulations of the Individuals with Disabilities Education Act (IDEA).

Agenda items are subject to change as priorities dictate.

Supplementary Information: This conference call is scheduled to begin at 3 p.m., eastern time. To participate in the conference call, please dial 1–877–546–1565. The passcode: MWEBER and the leader's name: Mary Kate Weber will be required to join the call. You will then be automatically connected to the call.

For Further Information Contact: Mary Kate Weber, MPH, Designated Federal Official, NCBDDD, CDC, 1600 Clifton Road, NE, (E–86), Atlanta, Georgia 30333, telephone (404) 498–3926, fax (404) 498–3550.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the CDC and the Agency for Toxic Substances and Disease Registry.

Dated: July 19, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–14677 Filed 7–25–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Program Peer Review Subcommittee of the Board of Scientific Counselors (BSC), Centers for Disease Control and Prevention (CDC), National Center for Environmental Health (NCEH)/Agency for Toxic Substances and Disease Registry (ATSDR): Teleconference.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), The Centers for Disease Control and Prevention, NCEH/

ATSDR announces the following subcommittee meeting:

Name: Program Peer Review Subcommittee (PPRS).

Time and Date: 12:30 p.m.–2 p.m., August 8, 2005.

Place: The teleconference will originate at the National Center for Environmental Health/Agency for Toxic Substances and Disease Registry in Atlanta, Georgia. Please see **SUPPLEMENTARY INFORMATION** for details on accessing the teleconference.

Status: Open to the public, teleconference access limited only by availability of telephone ports.

Purpose: Under the charge of the Board of Scientific Counselors, NCEH/ATSDR the Program Peer Review Subcommittee will provide the BSC, NCEH/ATSDR with advice and recommendations on NCEH/ATSDR program peer review. They will serve the function of organizing, facilitating, and providing a long-term perspective to the conduct of NCEH/ATSDR program peer review.

Matters To Be Discussed: Review of the program peer review questionnaires; review of the Environmental Health Services Branch program review report, and a review of action items. Agenda items are subject to change as priorities dictate.

Supplementary Information: This conference call is scheduled to begin at 12:30 p.m. eastern standard time. To participate in the teleconference, please dial (877) 315-6535 and enter conference code 383520.

For Further Information Contact: Sandra Malcom, Committee Management Specialist, Office of Science, NCEH/ATSDR, M/S E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone (404) 498–0003.

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 National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

Dated: July 19, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–14675 Filed 7–25–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0012]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Allergen Labeling of Food Products Consumer Preference Survey and Experimental Study on Allergen Labeling of Food Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Allergen Labeling of Food Products Consumer Preference Survey and Experimental Study on Allergen Labeling of Food Products'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857,301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 10, 2005 (70 FR 24603), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0567. The approval expires on July 31, 2008. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: July 20, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–14694 Filed 7–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0565]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; State Petitions for Exemption From Preemption

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''State Petitions for Exemption From Preemption'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857,301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 8, 2005 (70 FR 18029), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0133. The approval expires on July 31, 2008. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: July 20, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–14697 Filed 7–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2002E–0097] (formerly Docket No. 02E–0097)

Determination of Regulatory Review Period for Purposes of Patent Extension; CLARINEX

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for CLARINEX and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Claudia Grillo, Office of Regulatory Policy (HFD–013), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 240–453–6699.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product CLARINEX (desloratadine). CLARINEX is indicated for the relief of the nasal and non-nasal symptoms of allergic rhinitis in patients 12 years of age and older, and for the symptomatic relief of pruritis, reduction in the number and size of hives, in patients with chronic, idiopathic urticaria 12 years of age and older. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for CLARINEX (U.S. Patent No. 4,659,716) from Schering Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 26, 2002, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of CLARINEX represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for CLARINEX is 1,354 days. Of this time, 561 days occurred during the testing phase of the regulatory review period, while 793 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: April 9, 1998. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on April 9, 1998.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: October 21, 1999. FDA has verified the applicant's claim that the new drug application (NDA) for CLARINEX (NDA 21–165) was initially submitted on October 21, 1999.

3. *The date the application was approved*: December 21, 2001. FDA has verified the applicant's claim that NDA 21–165 was approved on December 21, 2001.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,074 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by September 26, 2005. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by January 23, 2006. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 29, 2005.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 05–14695 Filed 7–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(b)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grand 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 Eye Institute Special Emphasis Panel, NEI Clinical Application.

Date: August 8, 2005.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Anne E. Schaffner, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892–9300, (301) 451–2020, *aes@nei.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 18, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14700 Filed 7–25–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel, Institutional Training Grant Applications.

Date: August 1, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Houman H. Araj, PhD, Scientific Review Administrator, Divisions of Extramural Research, National Eye Institute, NIH, 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892–9602, 301–451–2020 *haraj@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 18, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14701 Filed 7–25–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel, NEI Review for Career Development Applications.

Date: August 2, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at Chevy Chase Hotel, Washington, DC 20015.

Contact Person: Houmam H. Araj, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, NIH, 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892–9602, 301–451–2020, *haraj@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 15, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14705 Filed 7–25–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel, AREDS II Contract Review.

Date: July 26, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5635 Fishers Lane, Conference Room, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Samuel Rawlings, PhD,Chief, Scientific Review Branch,Division of Extramural Research,National Eye Institute,5635 Fishers Lane, Suite 1300,MSC 9300,Bethesda, MD 20892–9300,301–451–2020.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: July 15, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14706 Filed 7–25–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel.

Date: July 28, 2005.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rudy O. Pozzatti, PhD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 432–0838.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: July, 18, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14704 Filed 7–25–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Erythropoietin and Myocardial Infraction.

Date: July 26, 2005.

Time: 9 a.m. to 11 a.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Aging, 7201 Wisconsin Avenue, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: July 18, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14699 Filed 7–25–05; 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, Nature and Acquisition of the Speech Code and Reading.

Date: July 25, 2005.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Bethesda North Hotel + Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, 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: July 18, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14702 Filed 7–25–05; 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 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, Development of Literacy in Spanish Speaking Children.

Date: August 4, 2005.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5b01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, 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: July 18, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14703 Filed 7–25–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes 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 of Mental Health Special Emphasis Panel, ACISR SEP 8.

Date: August 12, 2005.

Time: 1 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: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216, *hhaigler@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, 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: July 19, 2005.

Anthony M. Coelho, Jr.,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14708 Filed 7–25–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Neurological Disorders and Stroke Special Emphasis Panel, June 20, 2005, 1 p.m. to June 20, 2005, 3 p.m., National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 which was published in the **Federal Register** on July 14, 2005, 70 FR 05–12271.

The meeting held on June 20, 2005, has been rescheduled to July 26, 2005, from 1–3 p.m. The meeting is closed to the public.

Dated: July 19, 2005.

Anthony M. Coelho, Jr.

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–14709 Filed 7–25–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD08–05–026]

Implementation of Sector Ohio Valley

AGENCY: Coast Guard, DHS.

ACTION: Notice of organizational change.

SUMMARY: The Coast Guard announces the stand-up of Sector Ohio Valley. Sector Ohio Valley is an internal reorganization to combine Group Ohio Valley, Marine Safety Office Paducah, Marine Safety Office Louisville, Marine Safety Office Huntington, and Marine Safety Office Pittsburgh into one command. 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 notice is effective June 2, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD08–05–026 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 Ohio Valley is located at 600 Martin Luther King Junior Place Blvd., Room 409–D, Louisville, KY 40202–2251 and contains a single Command Center. Sector Ohio Valley is composed of a Response Department, Prevention Department, and Logistics Department. All existing missions and functions performed by Group Ohio Valley, Marine Safety Office Paducah, Marine Safety Office Louisville, Marine Safety Office Huntington, and Marine Safety Office Pittsburgh will be performed by Sector Ohio Valley. Effective June 2, 2005, Group Ohio Valley, Marine Safety Office Paducah, Marine Safety Office Louisville, Marine Safety Office Huntington, and Marine Safety Office Pittsburgh no longer exist as organizational entities. However, Marine Safety Office Paducah, Marine Safety Office Huntington, and Marine Safety Office Pittsburgh are renamed Marine Safety Units and report directly to the Sector Ohio Valley Commander. Sector Ohio Valley consists of four sub-zones and Sector Ohio Valley is responsible for all Coast Guard missions in these zones. The sub-zones are: Ohio Valley Sub-Zone, MSU Paducah Sub-Zone, MSU Huntington Sub-Zone, and MSU Pittsburgh Sub-Zone.

Ohio Valley Sub-Zone is comprised of: that part of Indiana south of 41° N. latitude; that part of Ohio south of 41° N. latitude and west of Ashland, Knox, Licking, Fairfield, Pickaway, Ross, Pike, and Scioto Counties; that part of Illinois north of Pope and Hardin Counties, east of Williamson, Franklin, Jefferson, Marion, Fayette, Effingham, Shelby, Moultrie, Piatt, McLean, and Livingston Counties, and south of 41° N. latitude; and in Kentucky: Todd, Logan, Simpson, Allen, Warren, Barren, Metcalfe, Muhlenberg, Butler, Edmonson, Hart, Green, Taylor, Adair, Casey, Lincoln, Webster, Hopkins, McLean, Ohio, Grayson, Henderson, Daviess, Hancock, Breckinridge, Meade, Hardin, Larue, Nelson, Washington, Marion, Anderson, Mercer, Boyle, Woodford, Jessamine, Garrard, Fayette, Clark, Madison, Estill, Powell, Lee, Bullitt, Spencer, Jefferson, Shelby, Franklin, Scott, Oldham, Henry, Owen, Trimble, Carroll, Montgomery, Bath, Rowan, Bourbon, Nicholas, Fleming, Harrison, Robertson, Mason, Grant, Pendleton, Bracken, Gallatin, Boone, Kenton, Campbell, Monroe,

Cumberland, Russell, Clinton, Wayne, Pulaski, McCreary, Rock Castle, Whitley, Jackson, Laurel, Knox, Clay, Bell, Leslie and Harlan Counties, that part of Lewis County south and west of a line drawn from the point of intersection of Scioto and Adams Counties (in Ohio) and the Ohio River to the point of intersection of Carter, Greenup, and Lewis Counties (in Kentucky), and that part of Union County north of a line drawn from the point of intersection of Gallatin and Hardin Counties (in Illinois) and the Ohio River to the point of intersection of Union, Webster, and Henderson Counties (in Kentucky).

MSU Paducah Sub-Zone is comprised of: In Missouri: Stoddard, Mississippi and Scott Counties, and those parts of Cape Girardeau and Bollinger Counties south of a line drawn eastward from the southeast corner of Madison County to the point of intersection of the upper Mississippi River (Mile 55.3) and Union and Alexander Counties, and those parts of Dunklin and New Madrid Counties north of a line drawn eastward from the southeast corner of Butler County to the westernmost point of intersection of the Missouri, Kentucky and Tennessee border at the lower Mississippi River (Mile 882.7), and all that part of New Madrid County, and all waters of the Mississippi River which border any part of New Madrid County, lying east of 89°30′ W. longitude (including the area known as Winchester Towhead). In Illinois: Johnson, Pope, Hardin, Alexander, Pulaski, and Massac Counties. In Kentucky: Fulton, Hickman, Carlisle, Ballard, McCracken, Graves, Calloway, Marshall, Livingston, Lyon, Trigg, Crittenden, Caldwell, and Christian Counties, and that part of Union County south of a line drawn from the point of intersection of Gallatin and Hardin Counties (in Illinois) and the Ohio River to the point of intersection of Union, Webster and Henderson Counties; all of Tennessee except for Dyer, Crockett, Lauderdale, Tipton, Haywood, Shelby, Fayette, Hardeman and Lake Counties; that part of Alabama north of 34°N. latitude, and in Mississippi: Alcorn, Prentiss, and Tishomingo Counties except for that portion of the Tennessee-Tombigbee Waterway south of the Bay Springs Lock and Dam.

MSU Huntington Sub-Zone is comprised of: All of West Virginia except for Preston, Monongalia, Marion, Marshall, Ohio, Brooke, and Hancock Counties; in Ohio: Wayne, Holmes, Knox, Cushocton, Licking, Muskingum, Guernsey, Noble, Fairfield, Perry, Morgan, Pickaway, Ross, Hocking, Vinton, Athens, Washington, Pike, Jackson, Gallia, Meigs, Scioto, and Lawrence Counties, those parts of Ashland and Medina Counties south of 41°N. latitude, and that part of Monroe County south and west of a line drawn from the point of intersection of Marshall and Wetzel Counties and the Ohio River to the point of intersection of Belmont, Noble, and Monroe Counties; and in Kentucky: Letcher, Perry, Owsley, Breathitt, Knott, Pike, Floyd, Magoffin, Wolfe, Menifee, Morgan, Johnson, Martin, Lawrence, Elliott, Boyd, Carter, and Greenup Counties, and that part of Lewis County north and east of a line drawn from the point of intersection of Scioto and Adams Counties and the Ohio River to the point of intersection of Carter, Greenup, and Lewis Counties.

MSU Pittsburgh Sub-Zone is comprised of: that part of Pennsylvania south of 41°N. latitude and west of 79°W. longitude; in West Virginia: Preston, Monongalia, Marion, Marshall, Ohio, Brooke, and Hancock Counties; and in Ohio: Stark, Columbiana, Tuscarawas, Carroll, Harrison, Jefferson, and Belmont Counties, those parts of Summit, Portage, and Mahoning Counties south of 41°N. latitude, and that part of Monroe County north and east of a line drawn from the point of intersection of Marshall and Wetzel Counties and the Ohio River to the point of intersection of Belmont, Nobile, and Monroe Counties.

Sector Ohio Valley's sub-zones will be modified in the future upon the stand-up of adjoining sectors. Notice will be published in the **Federal Register**.

The Sector Ohio Valley 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, with the exception of specific authorities that shall be retained by MSU Pittsburgh. Sector Ohio Valley Commander is the successor in command to the Commanding Officers of Group Ohio Valley, Marine Safety Office Paducah, Marine Safety Office Louisville, Marine Safety Office Huntington, and Marine Safety Office Pittsburgh. The Sector Ohio Valley Commander is designated for the entire Sector as: (a) Federal On Scene Coordinator (FOSC), consistent with the National Contingency Plan; and (b) Search and Rescue Mission Coordinator (SMC). Also, the Sector Ohio Valley Commander is designated for the entire Sector except for the MSU Pittsburgh Sub-Zone as: (a) Captain of the Port (COTP); (b) Federal Maritime Security Coordinator (FMSC); and (d) Officer in Charge of Marine Inspection (OCMI). The Deputy Sector Commander is designated alternate COTP, FMSC, FOSC, SMC and Acting OCMI.

The Commanding Officer, Marine Safety Unit Pittsburgh is designated for the entire MSU Pittsburgh Sub-Zone as: (a) Captain of the Port (COTP); (b) Federal Maritime Security Coordinator (FMSC); (c) Federal On Scene Coordinator (FOSC) consistent with the National Contingency Plan; and (d) Officer in Charge of Marine Inspection (OCMI). The Executive Officer, Marine Safety Unit Pittsburgh is designated alternate COTP, FMSC, FOSC, and Acting OCMI.

A continuity of operations order has been issued ensuring that all previous Group Ohio Valley, Marine Safety Office Paducah, Marine Safety Office Louisville, Marine Safety Office Huntington, and Marine Safety Office Pittsburgh practices and procedures will remain in effect until superseded by Commander, Sector Ohio Valley or in MSU Pittsburgh Sub-Zone until superseded by Commanding Officer, Marine Safety Unit Pittsburgh. 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 Ohio Valley.

Address: Commander, U.S. Coast Guard Sector Ohio Valley, 600 Martin Luther King Junior Place Blvd., Room 409–D, Louisville, KY 40202–2251.

Contact: General Number, (502) 582–5194, Sector Commander: Commander John Bingaman; Deputy Sector Commander: Lieutenant Commander Gregory Howard.

Chief, Prevention Department: (502) 582–5194, Chief, Response Department: (502) 582–5194, Chief, Logistics Department: (502) 582–5194.

MSU Huntington General Number, (304) 529–5524.

MSU Paducah General Number, (270) 442–1621.

MSU Pittsburgh General Number, (412) 644–5808.

Dated: May 26, 2005.

R. F. Duncan,

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

[FR Doc. 05–14633 Filed 7–25–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD13–05–025]

Implementation of Sector Portland, Oregon

AGENCY: Coast Guard, DHS.

ACTION: Notice of organizational change.

SUMMARY: The Coast Guard announces the stand-up of Sector Portland, Oregon. Sector Portland is an internal reorganization that combines Group Portland and Marine Safety Office Portland into a single command. 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 or document.

DATES: This notice is effective July 1, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD13–05–025 and are available for inspection or copying at Commander (r), Thirteenth Coast Guard District, 915 Second Avenue, Room 3492, Seattle, Washington, 98174–1067 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Geoffrey Trivers, Thirteenth District Resources Division at 206–220–7041.

SUPPLEMENTARY INFORMATION:

Discussion of Notice

Sector Portland is located at 6767 N. Basin Avenue, Portland, OR 97217 and contains a single Command Center. Sector Portland is composed of a Response Department, Prevention Department, and Logistics Department. Effective July 1, 2005, all existing missions and functions performed by Group Portland and Marine Safety Office Portland will be performed by Sector Portland. Group Portland and Marine Safety Office Portland will no longer exist as organizational entities.

Sector Portland is responsible for all Coast Guard missions in the following zone: the boundary of Sector Portland, Oregon starts at 46°55′00″ N. latitude,123°18′00″ W. longitude and proceeds easterly along46°55′00″ N. latitude to the eastern Idaho State line; thence southerly along the Idaho-Wyoming boundary to the intersection of the Idaho-Utah-Wyoming boundaries; thence westerly along42°00′00″ N. latitude to a point42°00′00″ N. latitude,123°18′00″ W. longitude; thence northerly along123°18′00″ W. longitude to the point of origin.

There are no changes to the Portland, Oregon Marine Inspection Zone and Portland, Oregon Captain of the Port Zone, which encompasses the combined areas of responsibility of Sector Portland, Sector/Air Station Astoria, and Sector/Air Station North Bend. The Portland, Oregon Marine Inspection Zone and Portland, Oregon Captain of the Port Zone are delineated in 33 CFR 3.65–15.

The Sector Portland 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 Portland and Marine Safety Office Portland. The Sector Portland Commander is designated: (a) Captain of the Port (COTP) for the Portland, Oregon COTP zone; (b) Federal Maritime Security Coordinator (FMSC) for the Portland, Oregon COTP zone; (c) Federal On Scene Coordinator (FOSC) for the Portland, Oregon COTP zone, consistent with the National Contingency Plan; (d) Officer in Charge of Marine Inspection (OCMI) for the Portland, Oregon Marine Inspection Zone; and (e) Search and Rescue Mission Coordinator (SMC) for the smaller Sector Portland area of responsibility, which is described above. 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 Portland and Marine Safety Office Portland practices and procedures will remain in effect until superseded by Commander, Sector Portland. 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 Portland.

Address: Commander, U.S. Coast Guard Sector Portland, 6767 N. Basin Avenue, Portland, OR 97217

Contact: General Number, (503) 240–9314; Sector Commander: Captain Paul D. Jewell; Deputy Sector Commander: Commander Daniel T. Pippenger

Chief, Prevention Department: (503) 240–9316;

Chief, Response Department: (503) 240–9317;

Chief, Logistics Department: (503) 240–9330;

Contingency Planning & Force Readiness Staff: (503) 247–4014

Sector Command Center: (503) 240–9324.

Dated: June 28, 2005.

J. M. Garrett,

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

[FR Doc. 05–14634 Filed 7–25–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, U.S. Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning Write Your Own Companies requirements to submit financial data to FEMA on a monthly basis.

SUPPLEMENTARY INFORMATION: Under the Write-Your-Own (WYO) Program, FEMA regulation 44 CFR 62.3 authorizes Federal Insurance Administrator to enter into arrangements with individual private sector insurance companies that are licensed to engage in the business of property insurance. These companies may offer flood insurance coverage to eligible property owners utilizing their customary business practices. To facilitate the marketing of flood insurance, the Federal Government will be a guarantor of flood insurance coverage for WYO Company policies issued under the WYO arrangement. To insure that any policyholder money is accounted for and appropriately expended, the Federal Insurance and Mitigation Administration (FIMA) and WYO companies implemented a Financial Control Plan under FEMA regulation 44 CFR part 62, Appendix B. This Plan requires that each WYO Company submit financial data on a

monthly basis. The regulation explains the operational and financial control procedures governing the issuance of flood insurance coverage under the National Flood Insurance Program (NFIP) by private sector property insurance companies under the WYO Program.

Collection of Information

Title: Write-Your-Own (WYO) Program.

Type of Information Collection: Extension of a currently approved collection.

OMB Number: 1660–0020.

Form Numbers: None.

Abstract: Under the Write Your Own (WYO) Program, private sector insurance companies may offer flood insurance to eligible property owners. The Federal Government is guarantor of flood insurance coverage for WYO companies, issued under the WYO arrangements. In order to maintain adequate financial control over Federal funds, the NFIP requires that WYO companies submit a monthly financial report. The NFIP examines the data to ensure that policyholder funds are accounted for and appropriately expended.

Affected Public: Business or Other For-Profit.

Estimated Total Annual Burden Hours: 679 hours.

ANNUAL BURDEN HOURS

Project/activity (survey, form(s), focus group, worksheet, etc.)	No. of respondents (A)	Frequency of responses (B)	Burden hours per respondent (C)	Annual responses (A×B)	Total annual burden hours (A×B×C)
Financial Report	97	12	.59 hrs (35 minutes)	1,164	687

Estimated Cost: Average cost of $171.00 per respondent for all 12 monthly financial reports ($14.00 per report). Combined Cost-All Respondents totals $16,332.00.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Chief, Records Management Section, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Kevin Montgomery, Financial Management Specialist, Federal Insurance and Mitigation Administration, (301) 918–1453 for additional information. You may contact the Records Management Section for copies of the proposed collection of information at telephone number (202) 646–2625.

Dated: July 20, 2005.

George S. Trotter,

Acting Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. 05–14663 Filed 7–25–05; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, U.S. Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) is submitting a request for reinstatement of a previously approved collection of information under the emergency processing procedures in Office of Management and Budget (OMB) regulation 5 CFR 1320.13. FEMA is requesting that this information collection be approved by August 26, 2005. The approval will authorize FEMA to use the collection through February 26, 2006. To help us with the timely processing of the emergency clearance submission to OMB, FEMA invites the general public to comment on the proposed collection of information.

SUPPLEMENTARY INFORMATION: Public Law 106–398, Fire Investment and Response Enhancement (FIRE) Act, Title XVII—Assistance to Firefighters, recognized that America's fire departments provide service and protection with impact far beyond the borders of the communities that support them. In order to provide this service and protection with the effectiveness, speed, and safety that their home communities and the nation as a whole demand, many fire departments, local community and state entities will need to increase their resources, in any of several categories. PL 106–398 created a fund to support worthy proposals to address these needs. But PL 106–398 also recognized that our current understanding of the magnitude and nature of fire department needs is not well defined. Furthermore, the rationale for Federal government assistance to meet these needs is also in need of greater definition, given the normal presumption that routine fire protection is a local function, set to meet locally defined goals and supported by local resources. Accordingly, PL 106–398, Section 1701, Sec. 33 (b) required that the Director of the Federal Emergency Management Agency (FEMA) conduct a study to define the current role and activities associated with the fire services; determine the adequacy of current levels of funding; and provide a needs assessment to identify shortfalls.

Collection of Information:

Title: U.S. Fire Service Needs Assessment Survey.

Type of Information Collection: Reinstatement, with change, of a previously approved collection.

OMB Number: 3067–0294.

Abstract: The Assistance to Firefighters Grant Program Reauthorization Act of 2004 includes a

requirement for new information in a study and report on assistance to firefighters (Sec. 3603). The Administrator of the U.S. Fire Administration (USFA) is directed to conduct a study, in conjunction with the National Fire Protection Association (NFPA), to (a) ''define the current roles and activities associated with the fire services on a national, State, regional, and local level;'' (b) ''identify the equipment, staffing, and training required to fulfill the roles and activities'' defined in (a);(c) ''conduct an assessment to identify gaps between what fire departments currently possess and what they require to meet the equipment, staffing, and training needs'' identified under (b) ''on a national and State-by-State basis''; and (d) measure the impact of the Assistance to Firefighters Grant program. The act authorizes $300,000 for FY 2005 for this work.

Affected Public: State, Local or Tribal Governments; Not-for-Profit Institutions.

Number of Respondents: 5,000.

Estimated Time per Respondent: 20 minutes (.33 hours).

Estimated Total Annual Burden Hours: 1,665 hours.

Estimated Cost: The total cost to the Federal government is estimated at $273,645.00. Cost to all respondents combined totals $30,772.00 with an average cost per respondent of $6.00. Estimated respondents cost is based on a national mean hourly rate of $18.65 for firefighter occupations.

Frequency of Response: One-time only survey.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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 technology, *e.g.*, permitting electronic submission of responses. Submit comments to OMB within 30 days of the date of this notice. To ensure that FEMA is fully aware of any comments or concerns that you share with OMB, please provide us with a copy of your comments. FEMA will continue to accept comments from interested persons through September 26, 2005). Submit comments to the FEMA address listed below:

OMB Address: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Federal Emergency Management Agency, Emergency Preparedness & Response Directorate, U.S. Department of Homeland Security, (Proposed reinstatement of a previously approved information collection (OMB 3067–0294, U.S. Fire Service Needs Assessment Survey), facsimile number (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Chief, Records Management, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, U.S. Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472. Facsimile number (202) 646–3347, or at e-mail address *FEMA-Information-Collections@dhs.gov*.

Dated: July 18, 2005.

George S. Trotter,

Acting Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. 05–14664 Filed 7–25–05; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4975–N–21]

Notice of Proposed Information Collection: Comment Request HUD–FHA Title I/Title II Lender Approval, Annual Recertification, Noncompliance Forms, Reports, Ginnie Mae Issuer Approval, and Credit Watch Termination Reinstatement

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 26, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Wayne_Eddins@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Phillip A. Murray, Director, Office of Lender Activities and Program Compliance, Assistant Secretary for Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–1515 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: HUD–FHA Title I/Title II Lender Approval, Annual Recertification, Noncompliance Forms, Reports, Ginnie Mae Issuer Approval, and Credit Watch Termination Reinstatement.

OMB Control Number, if Applicable: 2502–0005.

Description of the Need for the Information and Proposed Use: The Federal Housing Administration (FHA) and the Government National Mortgage Association (Ginnie Mae), of the Department of Housing and Urban Development, approve entities to participate as Title I lenders, Title II mortgagees, and Ginnie Mae mortgage-backed securities issuers. Specific information must be obtained and

reviewed to determine if an entity meets the criteria to obtain the requested approval. In addition, this submission covers subsequent information required by FHA in order for entities to maintain their approval, update information previously submitted on the entity, report any non-compliances, voluntary terminate their FHA approval, and submit reinstatement requests from mortgagees whose origination approval agreements were terminated per HUD's Credit Watch Termination Initiative.

Agency Form Numbers, if Applicable: HUD–11701, HUD–11701–A, HUD–11701–B, HUD–11701–C, HUD–11701–D, HUD–11701–E, HUD–92001–B, and HUD–56005.

Estimation of the Total Numbers of Hours Needed To Prepare the Information Collection Including Number of Respondents, Frequency of Response, and Hours of Response: The estimated total number of hours needed to prepare the information collection is 28,410; the number of respondents is 13,514 generating approximately 41,164 annual responses; the frequency of response is on occasion and annually; and the number of hours per response varies from 3 minutes to 8 hours.

Status of the Proposed Information Collection: Revision of a currently approved collection to incorporate reinstatement submissions from lenders whose origination approval agreements were terminated per HUD's Credit Watch Termination Initiative.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: July 18, 2005.

Brian D. Montgomery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. E5–3964 Filed 7–25–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4950–C–04A]

Notice of HUD's Fiscal Year (FY) 2005 Notice of Funding Availability Policy Requirements and General Section to SuperNOFA for HUD's Discretionary Grant Programs; Youthbuild NOFA; Competition Reopening Announcement

AGENCY: Office of the Secretary, HUD.

ACTION: Super Notice of Funding Availability (SuperNOFA) for HUD Discretionary Grant Programs; Youthbuild Program NOFA; competition reopening announcement.

SUMMARY: On March 21, 2005, HUD published its Fiscal Year (FY) 2005, Notice of Funding Availability (NOFA) Policy Requirements and General Section to the SuperNOFA for HUD's Discretionary Grant Programs. The Youthbuild Program NOFA competition, which was included in the SuperNOFA, closed on June 21, 2005. This document announces the reopening of the Youthbuild Program NOFA competition.

DATES: The new application submission date for the Youthbuild NOFA competition is August 25, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Mark A. Horwath, Director, Grants Management Division, Office of Economic Development, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7149, Washington, DC 20410–7000; telephone 202–708–2035 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: On March 21, 2005 (70 FR 13575), HUD published its Notice of HUD's Fiscal Year (FY) 2005, Notice of Funding Availability (NOFA), Policy Requirements and General Section to the SuperNOFA for HUD's Discretionary Grant Programs. The Youthbuild Program, which was included in the SuperNOFA, made approximately $56.4 million available in HUD assistance. According to the SuperNOFA, the application submission date for the Youthbuild Program NOFA was June 21, 2005. On May 11, 2005 (70 FR 24835), HUD published additional guidance to the General Section, that included a link to Frequently Asked Questions, located at *http://www.grants.gov/ForApplicants#*. Frequently asked questions can also be found on the HUD Web site at *http://www.hud.gov/offices/adm/grants/egrants/grantsgovfaqs.pdf*.

HUD understands that many eligible applicants may have had difficulty submitting their applications. Therefore, in order to give all NOFA applicants sufficient time to submit completed applications and ensure Grants.gov registration is complete, this notice published intoday's **Federal Register** reopens the Youthbuild Program NOFA competition. The new application submission date for the Youthbuild Program NOFA competition is August 25, 2005.

Applicability of SuperNOFA General Section and Youthbuild Program NOFA Requirements to Reopened Competition

Please note that the Youthbuild Program NOFA competition description, application submission information, and application review information were published in HUD's FY2005 SuperNOFA on March 21, 2005 (70 FR 13575). All requirements listed in the SuperNOFA General Section and in the Youthbuild Program NOFA are applicable to this reopened competition except for those requirements explicitly changed by this notice (such as the due date and requirement for electronic submission).

Submission Instructions

If you have already submitted an application electronically through Grants.gov, you do not need to resubmit another application. If you submitted a paper application, however, without first obtaining a waiver from the electronic submission requirement, you must resubmit your applications electronically or by paper submission.

An applicant that has already submitted an application does not need to resubmit another application. However, if an applicant chooses to make any changes to an application that has already been submitted, it must download a new application from Grants.gov, complete the application, and resubmit by the new deadline date. For the purpose of rating and ranking, HUD will review the most recent application and disregard any previously submitted application. If an applicant decides to resubmit an application, the newly submitted application must be complete. HUD will not accept partial amendments to applications that were previously submitted.

Applicants are encouraged to submit their applications through Grants.gov as described in the SuperNOFA. In addition, for this FY2005 reopened funding opportunity, an applicant may submit a paper application without requesting a waiver from this requirement. HUD does not intend to accept paper applications in the future without a waiver.

An applicant that chooses to submit a paper application must submit an original and two copies by mail or permitted delivery service to: HUD Headquarters; Robert C. Weaver Federal Building; 451 Seventh Street, SW., Room 7251; Washington, DC 20410–7000, Attention: Youthbuild.

As described in section IV.F.5.b of the General Section, an applicant submitting a paper application must use

the United States Postal Service (USPS) to submit its application to HUD. An applicant must take its application to a post office to get a receipt of mailing that provides the date and time the package was submitted to the USPS. USPS rules now require that large packages must be brought to a postal facility for mailing. In many areas, the USPS has made a practice of returning to the sender, large packages that have been dropped in a mail collection box. Paper copy applications submitted to the USPS by the submission date and time and received by HUD no later than 15 days after the established submission date will receive funding consideration. If the USPS does not have a receipt with a digital time stamp, HUD will accept a receipt showing USPS Form 3817, Certificate of Mailing with a dated postmark. The proof of submission receipt provided by the Postal Service must show receipt no later than the application submission deadline. An applicant whose applications is determined to be late, who cannot furnish HUD with a receipt from the USPS that verifies the package was submitted to the USPS prior to the submission due date and time will not receive funding consideration. An applicant may use any type of mail service provided by the USPS to have its application package delivered to HUD in time to meet the submission requirements.

HUD will not accept hand delivery of applications.

Dated: July 21, 2005.

Pamela H. Patenaude,

Assistant Secretary for Community Planning and Development.

[FR Doc. 05–14791 Filed 7–25–05; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4950–C–16A]

Notice of HUD's Fiscal Year (FY) 2005 Notice of Funding Availability Policy Requirements and General Section to SuperNOFA for HUD's Discretionary Grant Programs; Community Development Block Grant Program for Indian Tribes and Alaska Native Villages; Competition Reopening Announcement

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Funding Availability (SuperNOFA) for HUD Discretionary Grant Programs; Community Development Block Grant Program for Indian Tribes and Alaska Native Villages NOFA; competition reopening announcement.

SUMMARY: On March 21, 2005, HUD published its Fiscal Year (FY) 2005, Notice of Funding Availability (NOFA) Policy Requirements and General Section to the SuperNOFA for HUD's Discretionary Grant Programs. The Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (ICDBG) Program NOFA competition, which was included in the SuperNOFA, closed on June 20, 2005. This document announces the reopening of the ICDBG Program NOFA competition.

DATES: The new application submission date for the ICDBG Program is August 25, 2005.

FOR FURTHER INFORMATION CONTACT: Applicants should direct general program questions to the Area ONAP serving its area or to Barbara Gallegos, Grants Management Specialist, Department of Housing and Urban Development, One North Central Avenue, Suite 600, Phoenix, AZ 85004, telephone, (602) 379–7215. Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: On March 21, 2005 (70 FR 13575), HUD published its FY2005 SuperNOFA for HUD's Discretionary Grant Programs. The ICDBG Program, which was included in the SuperNOFA, made approximately $68 million available in HUD assistance. According to the SuperNOFA, the application submission date for the ICDBG NOFA was June 20, 2005.

HUD understands that many eligible applicants may have had difficulty submitting their applications. Therefore, in order to give all NOFA applicants sufficient time to submit completed applications, this notice reopens the ICDBG NOFA competition. The new application submission date for the ICDBG NOFA competition is August 25, 2005.

Applicability of SuperNOFA General Section and ICDBG NOFA Requirements to Reopened Competition

Please note that the ICDBG NOFA competition description, application submission requirements, and application review information were published in HUD's FY2005 SuperNOFA on March 21, 2005 (70 FR 13575). All requirements listed in the General Section and in the ICDBG Program NOFA are applicable to this reopened competition except for those requirements explicitly changed by this notice (such as the due date and requirement for electronic submission).

Applicants that did not previously submit an application must download the application from Grants.gov as described in the SuperNOFA. Applicants that have already submitted an application do not need to resubmit another application. However, if an applicant chooses to make any changes to an application that has already been submitted, it must download a new application from Grants.gov, complete the application, and resubmit by the new deadline date. If HUD receives more than one application from an applicant, HUD will consider only the application received latest in time. If an applicant decides to resubmit an application, the newly submitted application must be complete. HUD will not accept partial amendments to applications that were previously submitted.

Submission Procedures

Applicants may submit their applications through Grants.gov as described in the SuperNOFA. In addition, for this FY2005 reopened funding opportunity, if an applicant is unable to submit its application electronically through Grants.gov, the applicant may submit a paper application without requesting a waiver from this requirement. HUD does not intend to accept paper applications in the future without a waiver.

Applicants that choose to submit a paper application should send an original and two copies to the appropriate Area Office of Native American Programs (ONAP) for its jurisdiction. See Section IV.F. of the ICDBG program NOFA for area ONAP addresses and additional information.

As described in section IV.F.5.b of the General Section, applicants submitting a paper application must use the United States Postal Service (USPS) to submit its application to HUD. Applicants must take their application to a post office to get a receipt of mailing that provides the date and time the package was submitted to the USPS. USPS rules now require that large packages must be brought to a postal facility for mailing. In many areas, the USPS has made a practice of returning to the sender, large packages that have been dropped in a mail collection box. Paper copy applications submitted to the USPS by the submission date and time and received by HUD no later than 15 days after the established submission date will receive funding consideration. If the USPS does not have a receipt with a digital time stamp, HUD will accept a receipt showing USPS Form 3817,

Certificate of Mailing with a dated postmark. The proof of submission receipt provided by the Postal Service must show receipt no later than the application submission deadline. Applicants whose applications are determined to be late, who cannot furnish HUD with a receipt from the USPS that verifies the package was submitted to the USPS prior to the submission due date and time will not receive funding consideration. Applicants may use any type of mail service provided by the USPS to have their application package delivered to HUD in time to meet the submission requirements.

HUD will not accept hand delivery of applications.

Dated: July 21, 2005.

Paula O. Blunt,

General Deputy Assistant, Secretary for Pubic and Indian Housing.

[FR Doc. 05–14792 Filed 7–25–05; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4950–C–02A]

Notice of HUD's Fiscal Year (FY) 2005 Notice of Funding Availability Policy Requirements and General Section to SuperNOFA for HUD's Discretionary Grant Programs; Brownfields Economic Development Initiative NOFA; Competition Reopening Announcement

AGENCY: Office of the Secretary, HUD.

ACTION: Super Notice of Funding Availability (SuperNOFA) for HUD Discretionary Grant Programs; Brownfields Economic Development Initiative NOFA; competition reopening announcement.

SUMMARY: On March 21, 2005, HUD published its Fiscal Year (FY) 2005, Notice of Funding Availability (NOFA) Policy Requirements and General Section to the SuperNOFA for HUD's Discretionary Grant Programs. The Brownfields Economic Development Initiative NOFA competition, which was included in the SuperNOFA, closed on June 17, 2005. This document announces the reopening of the Brownfields Economic Development Initiative NOFA competition.

DATES: The new application submission date for the Brownfields Economic Development Initiative is August 25, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. William Seedyke, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7140, Washington, DC 20410–7000; telephone 202–708–3484, extension 4445 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: On March 21, 2005 (70 FR 13575), HUD published its FY2005 SuperNOFA. The Brownfields Economic Development Initiative, which was included in the SuperNOFA, made available approximately $24.5 million in HUD assistance. According to the SuperNOFA, the application submission date for the Brownfields Economic Development Initiative NOFA was June 17, 2005. On May 11, 2005 (70 FR 24835), HUD published additional guidance to the General Section, which included a link to Frequently Asked Questions, located at *http://www.grants.gov/ForApplicants#*. Frequently asked questions can also be found on the HUD Web site at *http://www.hud.gov/offices/adm/grants/egrants/grantsgovfaqs.pdf*.

HUD understands that many eligible applicants may have had difficulty submitting their applications. Therefore, in order to give all NOFA applicants sufficient time to submit completed applications and ensure Grants.gov registration is complete, this notice published in today's **Federal Register** reopens the Brownfields Economic Development Initiative NOFA competition. The new application submission date for the Brownfields Economic Development Initiative NOFA competition is August 25, 2005.

Applicability of SuperNOFA General Section and Brownfields Economic Development Initiative NOFA Requirements to Reopened Competition

Please note that the Brownfields Economic Development Initiative NOFA competition description, application submission information, and application review information were published in the FY2005 SuperNOFA on March 21, 2005 (70 FR 13575). All requirements listed in the SuperNOFA General Section and in the Brownfields Economic Development Initiative NOFA are applicable to this reopened competition except for those requirements explicitly changed by this notice (such as the due date and requirement for electronic submission).

Submission Instructions

If you have already submitted an application electronically through Grants.gov, you do not need to resubmit another application. If you submitted a paper application, however, without first obtaining a waiver from the electronic submission requirement, you must resubmit your application electronically or by paper submission.

An applicant that has already submitted its application does not need to resubmit another application. However, if an applicant chooses to make any changes to an application that has already been submitted, it must download a new application from Grants.gov, complete the application, and resubmit by the new deadline date. For the purpose of rating and ranking, HUD will review the most recent application and disregard any previously submitted application. If an applicant decides to resubmit an application, the newly submitted application must be complete. HUD will not accept partial amendments to applications that were previously submitted.

Applicants are encouraged to submit their applications through Grants.gov as described in the SuperNOFA. In addition, for this FY2005 reopened funding opportunity, an applicant may submit a paper application without requesting a waiver from this requirement. HUD does not intend to accept paper applications in the future without a waiver.

An applicant that chooses to submit a paper application must submit an original and two copies to: HUD Headquarters; Robert C. Weaver Federal Building; 451 Seventh Street, SW., Room 7251; Washington, DC 20410, Attention: BEDI.

As described in section IV.F.5.b of the General Section, an applicant submitting a paper application must use the United States Postal Service (USPS) to submit its application to HUD. An applicant must take its application to a post office to get a receipt of mailing that provides the date and time the package was submitted to the USPS. USPS rules now require that large packages must be brought to a postal facility for mailing. In many areas, the USPS has made a practice of returning to the sender, large packages that have been dropped in a mail collection box. Paper copy applications submitted to the USPS by the submission date and time and received by HUD no later than 15 days after the established submission date will receive funding consideration. If the USPS does not have a receipt with a digital time stamp, HUD will accept a receipt showing USPS Form 3817, Certificate of Mailing with a dated postmark. The proof of submission receipt provided by the Postal Service must show receipt no later than the

application submission deadline. An applicant whose application is determined to be late, that cannot furnish HUD with a receipt from the USPS that verifies the package was submitted to the USPS prior to the submission due date and time will not receive funding consideration. An applicant may use any type of mail service provided by the USPS to have their application package delivered to HUD in time to meet the submission requirements.

HUD will not accept hand delivery of applications.

Dated: July 21, 2005.

Pamela H. Patenaude,

Assistant Secretary for Community Planning and Development.

[FR Doc. 05–14793 Filed 7–25–05; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4837–D–57]

Redelegation of Authority: Management and Marketing Contractors

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of Redelegation of Authority.

SUMMARY: HUD is changing the manner in which it authorizes officials of its Management and Marketing contractors (M&Ms) to execute routine documents necessary for the management and sale of single family properties acquired by HUD in connection with its mortgage insurance program. Currently, that authority is granted by limited powers of attorney (LPOA). In this notice, certain officers and employees of HUD's M&Ms will be delegated authority to execute those routine documents. This notice will notify buyers, lenders, other real estate professionals, local governments and their recordation officials of the M&M employees' authority to execute and deliver these documents pursuant to this delegation rather than by LPOA.

DATES: Effective Date: July 18, 2005.

FOR FURTHER INFORMATION CONTACT: Wanda L. Sampedro, Director, Asset Management and Disposition Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, DC 20410–8000, telephone (202) 708–1672 (this is not a toll-free number). Persons with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Section 203(a) of the National Housing Act (12 U.S.C. 1709(a)) empowers the Secretary of HUD to insure eligible mortgages. Following the foreclosure of certain of those loans which have been in serious default, the holder of the insured loan may, pursuant to section 204(a) of the National Housing Act (12. U.S.C. 1710 (a)), elect, in consideration of the payment of a mortgage insurance claim, to convey to the Secretary the property which had secured the loan. Upon receipt of these properties, HUD sells them to the general public in order to reduce the loss to the Federal Treasury due to the payment of the insurance claims. Section 204(g) of the National Housing Act (12 U.S.C. 1710(g)) provides, in part, that the power to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Secretary pursuant to the National Housing Act may be exercised by an officer appointed by him, without the execution of any express delegation of power or power of attorney. In addition, this section provides that the Secretary, in his discretion, may delegate those powers by order or by power of attorney to any officer or agent he may appoint. These powers were delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, with authority to redelegate, in a delegation of authority published in the **Federal Register** on August 20, 2003 (68 FR 50157).

HUD has contracted with private entities, M&Ms, to handle the management and sale of its inventory of single family acquired properties. Currently, HUD executes an LPOA authorizing the M&M contractor employees to execute, acknowledge and deliver any agreements of sale, special warranty deeds, form HUD–1 Settlement Statements and other instruments necessary in connection with property management and sale on behalf of HUD. HUD has determined that it would be more efficient to transfer this authority to the M&Ms by delegation of authority, rather than by LPOA.

Accordingly, the Assistant Secretary for Housing—Federal Housing Commissioner hereby redelegates as follows:

Section A. Authority Redelegated

The authority to execute all documents necessary in connection with the management and sale of residential real property acquired by HUD under its insured mortgage and asset management and disposition programs, including the authority to, acknowledge, seal, and deliver any agreements of sale, special warranty deeds, form HUD–1 Settlement Statements, and any other instrument that may be necessary in connection with property management and sales on behalf of the Department, is hereby redelegated to certain principals and/or officers of HUD's M&Ms whose identity will be maintained at its Web site located at: *www.hud.gov/offices/hsg/sfh/reo/reo_home.cfm*.

Section B. Revocation of Delegations

The Assistant Secretary for Housing—Federal Housing Commissioner may, at any time, revoke any of the authority redelegated in this notice. Revocation shall be effective upon removal of the affected principal or officer's name from the above Web site.

Authority: Section 204(g) of the National Housing Act (12 U.S.C. 1710(g)); section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 18, 2005.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 05–14743 Filed 7–25–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 5-Year Review of 13 Southeastern Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 5-year review of the Bachman's warbler (*Vermivora bachmanii*), Conasauga logperch (*Percina jenkinsi*), Cumberland bean (*Villosa trabalis*), speckled pocketbook (*Lampsilis streckeri*), little amphianthus (*Amphianthus pusillus*), hairy rattleweed (*Baptisia arachnifera*), *Geocarpon minimum* (no common name), black-spored quillwort (*Isoetes melanospora*), mat-forming quillwort (*Isoetes tegetiformans*), white-haired goldenrod (*Solidago albopilosa*), Short's goldenrod (*Solidago shortii*), persistent trillium (*Trillium persistens*), and relict trillium (*Trillium reliquum*) under section 4(c)(2) of the Endangered Species Act of 1973, as amended (Act). The purpose of reviews conducted

under this section of the Act is to ensure that the classification of species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants (50 CFR 17.11 and 17.12) is accurate. The 5-year review is an assessment of the best scientific and commercial data available at the time of the review.

DATES: To allow us adequate time to conduct this review, information submitted for our consideration must be received on or before September 26, 2005. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: Information submitted on the Bachman's warbler should be sent to the Field Supervisor, Charleston Field Office, U.S. Fish and Wildlife Service, 176 Croghan Spur Road, Suite 200, Charleston, South Carolina 29407. Information about the speckled pocketbook and *Geocarpon minimum* (a plant) should be sent to the Field Supervisor, Arkansas Field Office, 1500 Museum Road, Suite 105, Conway, Arkansas 72032. Information submitted on the Cumberland bean, white-haired goldenrod, and Short's goldenrod should be sent to the Field Supervisor, Kentucky Field Office, 3761 Georgetown Road, Frankfort, KY 40601. Information about the hairy rattleweed should be sent to the Assistant Field Supervisor, Coastal Georgia Field Office, 4270 Norwich Street, Brunswick, GA 31520. Information on the remaining 6 species should be sent to the Field Supervisor, Athens Field Office, West Park Center, 105 West Park Drive, Suite D, Athens, Georgia 30606. Information received in response to this notice of review will be available for public inspection by appointment, during normal business hours, at the same addresses.

FOR FURTHER INFORMATION CONTACT: Ed Eudaly at the Charleston, South Carolina, address above for the Bachman's warbler, (telephone, 843/727–4707, ext. 220); Chris Davidson at the Conway, Arkansas, address above for the speckled pocketbook and *Geocarpon minimum*, (501/513–4481); Mike Floyd at the Frankfort, Kentucky, address above for the Cumberland bean, white-haired goldenrod, and Short's goldenrod, (502/695–0468); Keren Giovengo at the Brunswick, Georgia, address above for the hairy rattleweed (912/265–9336, ext. 31); and James Rickard at the above Athens, Georgia, address for the remaining 6 species (706/613–9493, ext. 23).

SUPPLEMENTARY INFORMATION: Under the Act (16 U.S.C. 1533 *et seq.*), the Service maintains a list of endangered and threatened wildlife and plant species at 50 CFR 17.11 (for animals) and 17.12 (for plants) (collectively referred to as the List). Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Then, on the basis of such reviews, under section 4(c)(2)(B), we determine whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiate that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process. The regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the following species that are currently federally listed as threatened: Little amphianthus, *Geocarpon minimum*, and white-haired goldenrod; and the following species currently federally listed as endangered: Bachman's warbler, Conasauga logperch, Cumberland bean, speckled pocketbook, hairy rattleweed, black-spored quillwort, mat-forming quillwort, Short's goldenrod, persistent trillium, and relict trillium.

The List is found in 50 CFR 17.11 (wildlife) and 17.12 (plants) and is also available on our Internet site at *http://endangered.fws.gov/wildlife.html#Species*. Amendments to the List through final rules are published in the **Federal Register**.

What Information Is Considered in the Review?

A 5-year review considers the best scientific and commercial data that has become available since the current listing determination or most recent status review of each species, such as:

A. Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;

B. Habitat conditions, including but not limited to amount, distribution, and suitability;

C. Conservation measures that have been implemented to benefit the species;

D. Threat status and trends (see five factors under heading ''How do we determine whether a species is endangered or threatened?''); and

E. Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Definitions Related to This Notice

The following definitions are provided to assist those persons who contemplate submitting information regarding the species being reviewed:

A. *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate which interbreeds when mature.

B. *Endangered* means any species that is in danger of extinction throughout all or a significant portion of its range.

C. *Threatened* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

How Do We Determine Whether a Species Is Endangered or Threatened?

Section 4(a)(1) of the Act establishes that we determine whether a species is endangered or threatened based on one or more of the following five factors:

A. The present or threatened destruction, modification, or curtailment of its habitat or range;

B. Overutilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. The inadequacy of existing regulatory mechanisms; or

E. Other natural or manmade factors affecting its continued existence.

Section 4(a)(1) of the Act requires that our determination be made on the basis of the best scientific and commercial data available.

What Could Happen as a Result of This Review?

If we find that there is new information concerning any of these 13 species indicating that a change in classification may be warranted, we may propose a new rule that could do one of the following: (a) Reclassify the species from endangered to threatened (downlist); (b) reclassify the species from threatened to endangered (uplist); or (c) delist the species. If we determine that a change in classification is not warranted, then these species will remain on the List under their current status.

Public Solicitation of New Information

We request any new information concerning the status of these 13

species. See ''What information is considered in the review?'' heading for specific criteria. Information submitted should be supported by documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources. Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home addresses from the supporting record, which we will honor to the extent allowable by law. There also may be circumstances in which we may withhold from the supporting record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will not consider anonymous comments, however. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Authority: This document is published under the authority of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: July 5, 2005.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. 05–14713 Filed 7–25–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0041).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR part 250, ''Subpart K, Oil and Gas Production Rates,'' and related documents. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by August 25, 2005.

ADDRESSES: You may submit comments on this information collection directly to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, OMB Attention: Desk Officer for the Department of the Interior either via OMB email: (*OIRA_DOCKET@omb.eop.gov*); or by fax (202) 395–6566; identify with (1010–0041).

Submit a copy of your comments to the Department of the Interior, MMS, via:

- MMS's Public Connect on-line commenting system, *https://ocsconnect.mms.gov.* Follow the instructions on the website for submitting comments.
- E-mail MMS at *rules.comments@mms.gov.* Use Information Collection Number 1010–0041 in the subject line.
- Fax: 703–787–1093. Identify with Information Collection Number 1010–0041.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team (RPT); 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ''Information Collection 1010–0041'' in your comments.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Rules Processing Team, (703) 787–1600. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations and forms that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 250, Subpart K, Oil and Gas Production Rates.

OMB Control Number: 1010–0041.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Section 5(a) of the OCS Lands Act requires the Secretary to prescribe rules and regulations ''to provide for the prevention of waste, and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein'' and to include provisions ''for the prompt and efficient exploration and development of a lease area.''

Section 1334(g)(2) states ''* * * the lessee shall produce such oil or gas, or both, at rates * * * to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan.''

In addition, MMS also issues various Notices to Lessees (NTLs) and Operators to clarify and provide additional guidance on some aspects of the regulations, as well as various forms to capture the data and information. The current subpart K regulations specify the use of forms MMS–126 (Well Potential Test Report, 1010–0039, expiration 10/31/07), MMS–127 (Sensitive Reservoir Information Report, 1010–0018, expiration 10/31/07), and MMS–128 (Semiannual Well Test Report, 1010–0017, expiration 8/31/05), that were approved individually by OMB and assigned separate control numbers. This submission also includes the burden for form MMS–140 (Bottomhole Pressure Survey Report). Form MMS–140 is used in the Gulf of Mexico OCS Region (GOMR) for submitting the results of static bottomhole pressure surveys required under § 250.1104(c). With this submission, we are now merging all the collections for the forms associated with subpart K into the primary collection for subpart K, OMB control number 1010–0041.

Regulations implementing these responsibilities are under 30 CFR part 250. Responses are mandatory. No questions of a ''sensitive'' nature are asked.

The MMS protects information considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2), and under regulations at 30 CFR 250.196, ''Data and information to be made available to the public,'' 30 CFR part 252, ''OCS Oil and Gas Information Program.'' Proprietary information concerning geological and geophysical data will be protected according to 43 U.S.C. 1352.

The information collected under subpart K is used in our efforts to conserve natural resources, prevent waste, and protect correlative rights, including the Government's royalty

interest. Specifically, MMS uses the information to:

- Evaluate requests to burn liquid hydrocarbons and vent and flare gas to ensure that these requests are appropriate;
- To determine if a maximum production or efficient rate is required; and,
- To review applications for downhole commingling to ensure that action does not result in harm to ultimate recovery.

The following forms are also submitted to MMS. OMB approved these forms as part of four separate information collections. This submission merges all the forms listed below into the primary collection of subpart K, 1010–0041.

Form 126—Well Potential Test Report—MMS uses this information for reservoir, reserves, and conservation analyses, including the determination of maximum production rates (MPRs) when necessary for certain oil and gas completions. This requirement implements the conservation provisions of the OCS Lands Act and 30 CFR part 250. The information obtained from the well potential test is essential to determine if an MPR is necessary for a well and to establish the appropriate rate. It is not possible to specify an MPR in the absence of information about the production rate capability (potential) of the well.

Form MMS–127, Sensitive Reservoir Information Report—MMS uses this information to determine whether a rate-sensitive reservoir is being prudently developed. This represents an essential control mechanism that MMS may use to regulate production rates from sensitive reservoirs. Occasionally, the information available on a reservoir, early in its producing life, may indicate it to be non-sensitive, while later and more complete information would establish the reservoir as being sensitive. Production from a well completed in the gas cap of a sensitive reservoir requires approval from the Regional Supervisor. The information submitted on this form provides reservoir parameters that are revised at least annually or sooner if reservoir development results in a change in reservoir interpretation. The engineers and geologists use the information for rate control and reservoir studies.

Form MMS–128, Semiannual Well Test Report—MMS uses this information to evaluate the results of well tests to determine if reservoirs are being depleted in a manner that will lead to the greatest ultimate recovery of hydrocarbons. This information is collected to determine the capability of hydrocarbon wells and to evaluate and verify an operator's approved maximum production rate if assigned. The form was designed to present current well data on a semiannual basis to permit the updating of permissible producing rates, and to provide the basis for estimates of currently remaining recoverable gas reserves.

Form MMS–140, Bottomhole Pressure Survey Report—MMS uses the information to effectively manage reservoirs in our efforts to conserve natural resources, prevent waste, and protect correlative rights, including the Government's royalty interest. Specifically, MMS uses the information in reservoir evaluations to determine maximum production and efficient rates; and to review applications for downhole commingling to ensure that action does not result in harm to ultimate recovery or undervalued royalties.

Frequency: On occasion, monthly, semi-annually, annually, and as a result of situations encountered.

Estimated Number and Description of Respondents: Approximately 136 Federal oil and gas lessees.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The estimated annual ''hour'' burden for this information collection is a total of 43,065 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart K and NTL(s)	Reporting & recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
1101(b)	Request approval to produce within 500 feet of a lease line	5	50 requests	250
1101(c)	Request approval to produce gas cap of a sensitive reservoir	12	125 requests	1,500
1102	Submit form MMS–126	3	1,325 forms	3,975
	Submit form MMS–127	2.2	2,189 forms	4,816
	Submit form MMS–128 *	0.5–3	13,000 forms-GOM 600 forms-POCS	1,336 *
1102(a)(5)	Submit alternative plan for overproduction status—MMS is not currently collecting this information			0
1102(b)(6)	Request extension of time to submit results of semiannual requests well test.	.5	37 requests	19
1103(a)	Request approval of test periods of less than 4 hours requests and pretest stabilization periods of less than 6 hours.	.5	37 requests	19
1103(c)	Provide advance notice of time and date of well tests	.5	10 notices	5
1104(c)	Submit results of all static bottomhole pressure surveys obtained by lessee. Information is submitted on form MMS–140 in the Gulf of Mexico Region.	14	1,270 surveys	17,780
1105(a), (b)	Request special approval to flare or vent oil-well gas	.5	1,007 requests	504
1105(c)	Request approval to burn produced liquid hydrocarbons.	.5	60 requests	30
1105(f)	Submit monthly reports of flared or vented gas containing H_2S	2	3 operators × 12 mos. = 36.	72
1105(f)	H_2S Contingency, Exploration, or Development and Production Plans—burden covered under 1010–0141 and 1010–0049			0
1106	Submit application to downhole commingle hydrocarbons	6	119 applications	714
1107(b)	Submit proposed plan for enhanced recovery operations	12	27 plans	324
1107(c)	Submit periodic reports of volumes of oil, gas, or other substances injected, produced, or reproduced.	2	77 reports	154

Citation 30 CFR 250 subpart K and NTL(s)	Reporting & recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
1100–1107	General departure or alternative compliance requests not specifically covered elsewhere in subpart K, including bottomhole pressure survey waivers and reservoir reclassification requests.	1 6	120 survey waivers 20 requests	120 120
	Reporting Subtotal		20,109	31,738
1105(d), (e) 1105(d), (e)	Maintain records for 2 years detailing gas flaring or venting Maintain records for 2 years detailing liquid hydrocarbon burning	13 .5	869 platforms 60 occurrences	11,297 30
	Recordkeeping Subtotal		136 Recordkeepers	11,327
	Total Burden		21,038	43,065

*Reporting burden for this form is estimated to average 0.5 to 3 hours per form depending on the number of well tests reported, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. See breakdown for form MMS–128 above.

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: We have identified no paperwork "non-hour cost" burdens associated with the collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on February 8, 2005, we published a **Federal Register** notice (70 FR 6725) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR part 250 regulations and forms. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by August 25, 2005.

Public Comment Procedures: MMS's practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. If you wish your name and/or address to be withheld, you must state this prominently at the beginning of your comment. MMS will honor the request to the extent allowable by the law; however, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: April 12, 2005.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. 05–14714 Filed 7–25–05; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0141).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR part 250, Subpart D, "Oil and Gas Drilling Operations," and related documents. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by August 24, 2005.

ADDRESSES: You may submit comments on this ICR directly to the Office of Management and Budget (OMB) either by e-mail (*OIRA_DOCKET@omb.eop.gov*) or by fax (202) 395–6566, directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0141).

Submit a copy of your comments to the Department of the Interior, MMS, via:

- MMS's Public Connect on-line commenting system, *https://ocsconnect.mms.gov.* Follow the instructions on the Web site for submitting comments.
- E-mail MMS at *rules.comments@mms.gov.* Use

Information Collection Number 1010–0141 in the subject line.

• Fax: 703–787–1546. Identify with Information Collection Number 1010–0141.

• Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team (RPT); 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ''Information Collection 1010–0141'' in your comments.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Rules Processing Team, (703) 787–1600. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations and the associated forms that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 250, Subpart D, Oil and Gas Drilling Operations.

OMB Control Number: 1010–0141.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner which is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition. Section 1332(6) states that ''operations in the Outer Continental Shelf should be conducted in a safe manner by well trained personnel using technology, precautions, and other techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstructions to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property or endanger life or health.''

This information collection (IC) request concerns the regulations at 30 CFR 250, subpart D, Oil and Gas Drilling Operations. It also covers the related Notices to Lessees and Operators (NTLs) that the Minerals Management Service (MMS) issues to clarify and provide additional guidance on some aspects of the regulations.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 250.196, ''Data and information to be made available to the public,'' and 30 CFR part 252, ''OCS Oil and Gas Information Program.'' No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion, weekly, monthly, semi-annually, annually, and varies by section.

Estimated Number and Description of Respondents: Approximately 117 Federal OCS oil and gas lessees.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The estimated annual ''hour'' burden for this information collection is a total of 163,714 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart D and NTL(s)	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
402(b)	Request approval to use blind or blind-shear ram or pipe rams and inside BOP.	0.25	6 requests	2 (rounded)
403	Notify MMS of drilling rig movement on or off drilling location.	0.1	20 notices	2
	In Gulf of Mexico OCS Region, rig movements reported on form MMS–144—burden covered under 1010–0150.			0
408, 409	Apply for use of alternative procedures and/or departures not requested in MMS forms (including discussions with MMS or oral approvals).	5	20% of 1,200 drilling ops. = 240.	1,200
408, 409, 410–418, plus various other references in subpart D.	Apply for permit to drill and requests for various approvals required in subpart D (including §§ 250.423, 424, 427, 432, 442(c), 447, 448(c), 451(g), 456(a)(3), (f), 460, 490(c)(1), (2)) and obtained via forms MMS–123 (Application for Permit to Drill) and MMS–123S (Supplemental APD Information Sheet), and supporting information and notices to MMS.	MMS–123 2.5+* MMS–123S 1.5+*	1,245 MMS–123S 1,230	MMS–123 3,135* MMS–123S 1,890*
410(b), 417(b)	Reference to Exploration Plan, Development and Production Plan, Development Operations Coordination Document (30 CFR 250, subpart B)—burden covered under 1010–0049.			0
417(a), (b)	Collect and report additional information on case-by-case basis if sufficient information is not available.	4	1 report	4
417(c)	Submit 3rd party review of drilling unit according to 30 CFR 250, subpart I—burden covered under 1010–0058.			0
418(e)	Submit welding and burning plan according to 30 CFR 250, subpart A—burden covered under 1010–0114.			0
421, 423, 428	Submit casing and cementing program and revisions or changes.	2	20% of 1,000 drilling ops. = 200.	400

Citation 30 CFR 250 subpart D and NTL(s)	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
424	Caliper, pressure test, or evaluate casing; submit evaluation results; request approval before resuming operations or beginning repairs (every 30 days during prolonged drilling).	4	20% of 1,000 wells = 200	800
456(c), (f)	Perform various calculations; post information (on occasion, daily, weekly).	0.5	135 drilling rigs × 52 weeks = 7,020.	3,510
459(a)(3)	Request exception to procedure for protecting negative pressure area.	2	5 requests	10
460, 465	Submit revised plans, changes, well/drilling records, etc., on forms MMS–124 (Application for Permit to Modify) or MMS–125 (End of Operations Report) and supporting information.	MMS–124 1.5+* MMS–125 1.6+*	MMS–124 6,300 MMS–125 3,290	MMS–124 9,900* MMS–125 5,348*
460	Submit plans for well testing and notify MMS before test.	2	15 plans	30
461(e)	Provide copy of well directional survey to affected leaseholder.	1	10 occasions	10
462(a)	Prepare and post well control drill plan for crew members.	3	26 plans	78
463(b)	Request field drilling rules be established, amended, or canceled.	2.5	6 requests	15
468(a)	Record and submit well logs, survey results, etc.	1.5	1,000 logs/surveys	1,500
	Record and submit directional and vertical-well surveys.	1	1,000 reports	1,000
	Record and submit velocity profiles and surveys	1	55 reports	55
	Record and submit core analyses	1	150 analyses	150
468(b), 465(b)(3)	In the GOM OCS Region, submit drilling activity reports weekly on forms MMS–133 (Well Activity Report) and MMS–133S (Bore Hole Data) and supporting information.	0.8+*	15,500	12,840*
468(c)	In the Pacific and Alaska OCS Regions during drilling operations, submit daily drilling reports.N/A in GOM.	1	14 wells × 365 days × 20% = 1,022.	1,022
469	As specified by region, submit well records, paleontological interpretations or reports, service company reports, and other reports or records of operations.	1.5	300 submissions	450
490(c)(4), (d)	Submit request for reclassification of H_2S zone; notify MMS if conditions change.	2	27 responses	54
490(f), also referred to in 418(d).	Submit contingency plans for operations in H_2S areas (16 drilling, 5 work-over, 6 production).	25	27 plans	675
490(i)	Display warning signs—no burden as facilities would display warning signs and use other visual and audible systems.			0
490(j)(12)	Propose alternatives to minimize or eliminate SO_2 hazards—submitted with contingency plans—burden covered under 250.490(f).			0
490(j)(13)(vi)	Label breathing air bottles—no burden as supplier normally labels bottles; facilities would routinely label if not.			0
490(l)	Notify (phone) MMS of unplanned H_2S releases (approx. 2/year).	0.2	30 facilities × 2 = 60	12
490(o)(5)	Request approval to use drill pipe for well testing	2	3 requests	6
490(q)(1)	Seal and mark for the presence of H_2S cores to be transported—no burden as facilities would routinely mark transported cores.			0
490(q)(9)	Request approval to use gas containing H_2S for instrument gas.	2	3 requests	6
490(q)(12)	Analyze produced water disposed of for H_2S content and submit results to MMS on occasion (approx. weekly).	2.8	4 production platforms × 52 weeks = 208.	583 (rounded)
400–490	General departure or alternative compliance requests not specifically covered elsewhere in subpart D.	2	22	44
Reporting Subtotal.			39,191 Responses	44,731
404	Perform operational check of crown block safety device; record results (weekly).	0.25	135 drilling rigs × 52 weeks = 7,020.	1,755
426	Perform pressure test on all casing strings and drilling liner lap; record results.	2	135 drilling rigs × approx. 50 per rig = 6,750.	13,500

Citation 30 CFR 250 subpart D and NTL(s)	Reporting and recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
427(a)	Perform pressure-integrity tests and related hole-behavior observations; record results.	4	425 tests	1,700
434, 467	Perform diverter tests when installed and once every 7 days; actuate system at least once every 24-hour period; record results (average 2 per drilling operation).	2	1,000 drilling ops. × 2 tests = 2,000.	4,000
450, 467	Perform BOP pressure tests, actuations and inspections when installed; at a minimum every 14 days; as stated for components; record results.	10	135 drilling rigs × approx. 35 tests per rig = 4,725.	47,250
450, 467	Function test annulars and rams; document results every 7 days between BOP tests (biweekly). Note: this test is part of BOP test when BOP test is conducted.	0.5	135 drilling rigs × approx. 20 tests per rig = 2,700.	1,350
451(c)	Record reason for postponing BOP test (on occasion—approx. 2/year).	0.25	135 drilling rigs × 2 tests = 270.	68 (rounded)
456(b), (i), 458(b)	Record each drilling fluid circulation; test drilling fluid, record results; record daily inventory of drilling fluid/materials; test and recalibrate gas detectors; record results (on occasion, daily, weekly, quarterly).	2	135 drilling rigs × 52 weeks = 7,020.	14,040
462(c)	Perform well-control drills; record results (2 crews weekly).	1	135 drilling rigs × 2 crews × 52 weeks = 14,040.	14,040
466, 467	Retain drilling records for 90 days after drilling is complete; retain casing/liner pressure, diverter, and BOP records for 2 years; retain well completion/well workover until well is permanently plugged/abandoned or lease is assigned.	1.5	Annual records maintenance for 1,000 wells.	1,500
490(g)(2), (g)(5)	Conduct H_2S training; post safety instructions; document training on occasion and annual refresher(approx. 2/year).	4	30 facilities × 2 trainings = 60.	240
490(h)(2)	Conduct weekly drills and safety meetings; document attendance.	2	30 facilities × 52 weeks = 1,560.	3,120
490(j)(8)	Test H_2S detection and monitoring sensors during drilling; record testing and calibrations on occasion, daily during drilling (approx. 12 sensors per rig).	4	10 drilling rigs × 365 days = 3,650.	14,600
490(j)(8)	Test H_2S detection and monitoring sensors every 14 days during production; record testing and calibrations (approx. 30 sensors/5 platforms + approx. 42 sensors/23 platforms).	3.5	20 production platforms × 26 tests = 520.	1,820
Recordkeeping Subtotal.			51,740 Recordkeepers	118,983
Total Hour Burden.			90,931	163,714

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified no paperwork ''non-hour cost'' burdens associated with the collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on February 22, 2005, we published a **Federal Register** notice (70 FR 8621) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR part 250 regulations and forms. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection

but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by August 25, 2005.

Public Comment Procedures: MMS's practice is to make comments, including names and addresses of respondents, available for public review. If you wish your name and/or address to be withheld, you must state this prominently at the beginning of your comment. MMS will honor the request to the extent allowable by the law; however, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: May 25, 2005.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. 05–14715 Filed 7–25–05; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0068).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR part 250, Subpart M, Unitization. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by August 25, 2005.

ADDRESSES: You may submit comments on this information collection directly to the Office of Management and Budget (OMB) either by e-mail (*OIRA_DOCKET@omb.eop.gov*) or by fax (202) 395–6566, directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0068).

Submit a copy of your comments to the Department of the Interior, MMS, via:

- MMS's Public Connect on-line commenting system, *https://ocsconnect.mms.gov*. Follow the instructions on the Web site for submitting comments.
- E-mail MMS at *rules.comments@mms.gov*. Use Information Collection Number 1010–0068 in the subject line.
- Fax: 703–787–1093. Identify with the Information Collection Number 1010–0068.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team (RPT); 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ''Information Collection 1010–0068'' in your comments.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Rules Processing Team, (703) 787–1600. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 250, Subpart M, Unitization.

OMB Control Number: 1010–0068.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect and develop oil and natural gas resources in a manner which is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition. Section 1334(a) of the OCS Lands Act specifies that the Secretary prescribe rules and regulations ''to provide for the prevention of waste and conservation of the natural resources of the [O]uter Continental Shelf, and the protection of correlative rights therein'' and include provisions ''for unitization, pooling, and drilling agreements.'' To carry out these responsibilities, the Secretary has authorized MMS to issue orders and regulations governing offshore oil and gas lease operations.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 250.196, ''Data and information to be made available to the public.'' No items of a sensitive nature are collected. Responses are mandatory. MMS OCS Regions use the information to determine whether to approve a proposal to enter into an agreement to unitize operations under two or more leases or to approve modifications when circumstances change. The information is necessary to ensure that operations will result in preventing waste, conserving natural resources, and protecting correlative rights, including the Government's interests. We also use information submitted to determine competitiveness of a reservoir or to decide that compelling unitization will achieve these results.

Frequency: The frequency of reporting is on occasion.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas or sulphur lessees.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The estimated annual ''hour'' burden for this information collection is a total of 5,884 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

BURDEN BREAKDOWN

Citation 30 CFR 250 subpart M	Reporting requirement	Hour burden	Average number annual responses	Annual burden hours
1301	General description of requirements	Burden included in the following sections.		0

BURDEN BREAKDOWN—Continued

Citation 30 CFR 250 subpart M	Reporting requirement	Hour burden	Average number annual responses	Annual burden hours
1301(d), (f)(3), (g)(1), (g)(2), (ii).	Request suspension of production or operations	Burden covered in 1010–0114.		0
1302(b)	Request preliminary determination on competitive reservoir.	39	1 request	39
1302(b)	Submit concurrence or objection on competitiveness with supporting evidence.	39	1 request	39
1302(c), (d)	Submit joint plan of operations, supplemental plans, or a separate plan if agreement cannot be reached.	39	1 plan	39
1303	Apply for voluntary unitization, including submitting unit agreement, unit operating agreement, initial plan of operation, and supporting data; request for variance from model agreement and other related requirements.	161	14 applications/plans	2,254
		Due to ongoing litigation in the Pacific Region, respondents did not submit burden data.		
1304(b)	Request compulsory unitization, including submitting unit agreement, unit operating agreement, initial plan of operation, and supporting data; serving non-consenting lessees with documents.	161	1 request	161
1303; 1304	* Submit revisions or modifications to unit agreement, unit operating agreement, plan of operation, change of unit operator, etc.	7 in GOM Region 8 in POCS Region	285 revisions/modifications 15 revisions/modifications	1,995 120
1303; 1304	* Submit initial, and revisions to, participating area	50	24 submissions	1,200
1304(d)	Request hearing on required unitization	1	1 request	1
1304(e)	Submit statement at hearing on compulsory unitization.	5	1 statement	5
1304(e)	Pay for and submit three copies of verbatim transcript of hearing.	1	1 submission	1
1304(f)	Appeal final order of compulsory unitization	Burden covered under 1010–0121.		0
1300–1304	General departure and alternative compliance requests not specifically covered elsewhere in subpart M regulations.	1	30 requests	30
Total Hour Burden.			375	5,884

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: Section 250.1304(d) provides an opportunity for parties notified of compulsory unitization to request a hearing. Section 250.1304(e) requires the party seeking the compulsory unitization to pay for the court reporter and three copies of the verbatim transcript of the hearing. It should be noted there have been no such hearings in the recent past, and none are expected in the near future. We estimate that the burden would be less than $250 to reproduce the copies.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *". Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on December 10, 2004, we published a **Federal Register** notice (69 FR 71845) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR part 250 regulations. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection

but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by August 25, 2005.

Public Comment Procedure: Our practice is to make comments, including names and addresses of respondents, available for public review. Individual respondents may request that we withhold their address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Arlene Bajusz, (202) 208–7744.

Dated: February 9, 2005.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

Editor's Note: This document was received by the Office of the Federal Register on July 21, 2005.

[FR Doc. 05–14716 Filed 7–25–05; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before July 9, 2005.

Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 10, 2005.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

ARIZONA

Apache County

Sherwood Ranch Pueblo, Address Restricted, Springerville, 05000887

MISSOURI

Boone County

McCain Furniture Store, (Columbia MRA) 916 E. Walnut, Columbia, 05000890

Jackson County

Argyle Building, 306 E. 12th St., Kansas City, 05000891

Lee's Summit Downtown Historic District, (Lee's Summit, Missouri MPS) Roughly bounded by Second St., Douglas St., Fourth St., and Market St., Lee's Summit, 05000889

TEXAS

Rusk County

Crim, Elias and Mattie, House, 310 E. Main St., Henderson, 05000892

Travis County

Roy—Hardin House, 1903 Evergreen Ave., Austin, 05000893

VIRGINIA

Newport News Independent City

Newport News Public Library, 2907 West Ave., Newport News (Independent City), 05000894

Norfolk Independent City

Norfolk Azalea Garden, 6700 Azalea Garden Rd., Norfolk (Independent City), 05000895

Richmond Independent City

Scott's Addition Historic District, Roughly bounded by Cutshaw Ave, Boulevard, and the Richmond Fredericksburg and Potomac RR, Richmond (Independent City), 05000896

[FR Doc. 05–14639 Filed 7–25–05; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection Activities; Proposed Revisions to a Currently Approved Information Collection Form; Request for Comments

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal of a currently approved information collection form (OMB No. 1006–0003).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Bureau of Reclamation (Reclamation) intends to submit a request for renewal of an existing approved information collection form, Right-of-Use Application (Form 7–2540), to the Office of Management and Budget (OMB). Before submitting this revised Right-of-Use Application form (application) to the Office of Management and Budget for review of the information collection requirements, Reclamation requests public comments on specific aspects of the application form.

DATES: All written comments must be received on or before September 26, 2005.

ADDRESSES: Written comments should be sent to the Bureau of Reclamation, Attention: D–5300, PO Box 25007, Denver, CO 80225–0007. Copies of the proposed application may be requested by writing to the above address or by contacting Marian L. Mather at (303) 445–2895.

FOR FURTHER INFORMATION CONTACT: Marian L. Mather: (303) 445–2895.

SUPPLEMENTARY INFORMATION: In addition to reformatting the form, it has been modified to (1) move the instructions to the last page to facilitate its electronic completion on the Internet, (2) clarify the questions being asked of the applicant, (3) clarify the scope of activities which may be permissible to include those involving Reclamation's facilities and water surfaces in addition to land-based activities, and (4) provide the applicant with a list that identifies common land, facility, or water surface use activities which may be requested by this form.

Title: Right-of-Use Application.

Abstract: Reclamation is responsible for approximately 8 million acres of land which directly support Reclamation's Federal water projects in the 17 western states. Individuals or entities wanting to use Reclamation's lands, facilities, and water surfaces must submit an application to gain permission for such uses. Examples of such uses are transmission line construction across Reclamation project lands, livestock grazing, and special events such as boating regattas. Reclamation will review applications and determine whether the granting of individual right-of-use is compatible with Reclamation's present or future uses of the lands, facilities, or water surfaces. If the application request is found to be compatible, the applicant will be advised of the estimated administrative costs and estimated time that will be required for processing the

application. In addition to the administrative costs, the applicant will also be required to pay the value of the right-of-use based on an appraisal. If the application is for construction of a bridge, building, or other significant construction project, Reclamation may require that all plans and specifications be signed and sealed by a professional engineer licensed by the State in which the work is proposed. Construction for linear facilities, such as roads, pipelines, and transmission lines, require a centerline survey defining the limits of the requested right-of-use.

Frequency: Each time a right-of-use is requested.

Respondents: Individuals, corporations, companies, and State and local entities that want to use Reclamation lands, facilities, or water surfaces.

Estimated Annual Total Number of Respondents: 500.

Estimated Number of Responses per Respondent: 1.0.

Estimated Total Number of Annual Responses: 500.

Estimated Total Annual Burden on Respondents: 1,000 hours.

Estimated Completion Time Per Respondent: 2 hours.

Comments are invited on:

(a) Whether the proposed information collection is necessary for the proper performance of Reclamation's functions to manage and operate Federal water projects and their associated lands, facilities, and water surfaces, including whether the information will have practical use;

(b) The accuracy of the burden estimate for the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the information collection on respondents, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

We will summarize all comments received regarding this notice. We will publish that summary in the **Federal Register** when the information collection request is submitted to OMB for review and approval.

The Department of the Interior's practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that their home address be withheld from public disclosure, which will be honored to the extent allowable by law. There also may be circumstances in which a respondent's identity would be withheld from public disclosure, as allowable by law. If respondents wish their names and/or addresses to be withheld, they must state this prominently at the beginning of their comment(s). Submissions of comments from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Dated: July 6, 2005.

Roseann Gonzales,

Director, Office of Program and Policy Services, Denver Office.

[FR Doc. 05–14676 Filed 7–25–05; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting Pursuant to the Government in the Sunshine Act (Public Law 94–409) (5 U.S.C. 552b)

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

TIME AND DATE: 3:30 p.m., Thursday, July 28, 2005.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTERS TO BE CONSIDERED: The following matter will be considered during the closed Business Meeting:

Procedure to be followed for review of one original jurisdiction case upon request of the Attorney General as provided in 18 U.S.C. 4215(c).

AGENCY CONTACT: Thomas W. Hutchison, Chief of Staff, United States Parole Commission, (301) 492–5990.

Dated: July 21, 2005.

Rockne Ghickinell,

General Counsel.

[FR Doc. 05–14797 Filed 7–22–05; 11:09 am]

BILLING CODE 4410–31–M

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting Pursuant to the Government in the Sunshine Act (Public Law 94–409) (5 U.S.C. 552b)

AGENCY HOLDING MEETING Department of Justice, United States Parole Commission.

TIME AND DATE: 2:30 p.m., Thursday, July 28, 2005.

PLACE: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matter has been placed on the agenda for the open Parole Commission meeting:

Rule amendments for reviewing future requests from the Attorney General for reconsideration of a Commission decision.

AGENCY CONTACT: Thomas W. Hutchinson, Chief of Staff, United States Parole Commission, (301) 492–5900.

Dated: July 21, 2005.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 05–14798 Filed 7–22–05; 11:09 am]

BILLING CODE 4410–31–M

DEPARTMENT OF LABOR

Office of the Secretary

Combating Exploitive Child Labor Through Education in Pakistan

AGENCY: Bureau of International Labor Affairs, Department of Labor.

Announcement Type: New. Notice of Availability of Funds and Solicitation for Cooperative Agreement Applications.

Funding Opportunity Number: SGA 05–07.

Catalog of Federal Domestic Assistance (CFDA) Number: Not applicable.

Key Dates: Deadline for Submission of Application is August 25, 2005.

SUMMARY: The U.S. Department of Labor, Bureau of International Labor Affairs, will award up to U.S. $4 million through one or more cooperative agreements to an organization or organizations to improve access to and quality of education programs as a means to combat exploitive child labor in Pakistan. Projects funded under this solicitation will provide educational and training opportunities to children as a means of removing and/or preventing them from engaging in exploitive work or the worst forms of child labor, as defined by ILO Convention 182. The activities funded will complement and expand upon existing projects and programs to improve basic education in Pakistan. Applications must respond to the entire Statement of Work outlined in this solicitation. In Pakistan, activities under these cooperative agreements will provide the direct delivery of quality basic education to working children and those at risk of entering work, and will

result in their enrollment, persistence, and completion of an education or training program.

I. Funding Opportunity Description

The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), announces the availability of funds to be awarded by cooperative agreement to one or more qualifying organizations for the purpose of expanding access to and quality of basic education and strengthening government and civil society's capacity to address the education needs of working children and those at risk of entering in work in Pakistan. The overall purpose of USDOL's Child Labor Education Initiative, as consistently enunciated in USDOL appropriations FY 2000 through FY 2005, is to work toward the elimination of the worst forms of child labor through the provision of basic education. Accordingly, entities applying under this solicitation must develop and implement strategies for the prevention and withdrawal of children from the worst forms of child labor, consistent with this purpose. ILAB is authorized to award and administer this program by the Consolidated Appropriations Act, 2005, Pub. L. 108–447, 118 Stat. 2809 (2004). The cooperative agreement or cooperative agreements awarded under this initiative will be managed by ILAB's International Child Labor Program (ICLP) to assure achievement of the stated goals. Applicants are encouraged to be creative in proposing cost-effective interventions that will have a demonstrable impact in promoting school attendance and completion in the geographical areas where children are engaged in or are most at risk of working in the worst forms of child labor.

1. Background and Program Scope

A. USDOL Support of Global Elimination of Exploitive Child Labor

The International Labor Organization (ILO) estimated that 211 million children ages 5 to 14 were working around the world in 2000. Full-time child workers are generally unable to attend school, and part-time child laborers balance economic survival with schooling from an early age, often to the detriment of their education. Since 1995, USDOL has provided close to U.S. $400 million in technical assistance funding to combat exploitive child labor in approximately 70 countries around the world.

Programs funded by USDOL range from targeted action programs in specific sectors to more comprehensive efforts that target the worst forms of child labor. From FY 2001 to FY 2005, the U.S. Congress has appropriated over U.S. $180 million to USDOL for a Child Labor Education Initiative to fund programs aimed at increasing access to quality, basic education in areas with a high incidence of abusive and exploitive child labor. The cooperative agreement(s) awarded under this solicitation will be funded through this initiative.

USDOL's Child Labor Education Initiative seeks to nurture the development, health, safety and enhanced future employability of children around the world by increasing access to and quality of basic education for working children and those at risk of entering work. The elimination of exploitive child labor depends, to a large extent, on improving access to, quality of, and relevance of education.

In addition to providing direct education and training opportunities to working children and those at risk of engaging in exploitive work, the Child Labor Education Initiative has four goals:

i. Raise awareness of the importance of education for all children and mobilize a wide array of actors to improve and expand education infrastructures;

ii. Strengthen formal and transitional education systems that encourage working children and those at risk of working to attend school;

iii. Strengthen national institutions and policies on education and child labor; and

iv. Ensure the long-term sustainability of these efforts.

B. Barriers to Education for Working Children, Country Background, and Focus of Solicitation

Throughout the world, there are complex causes of exploitive child labor as well as barriers to education for children engaged in or at risk of entering exploitive child labor. These include: Poverty; education system barriers; infrastructure barriers; legal and policy barriers; resource gaps; institutional barriers; informational gaps; demographic characteristics of children and/or families; cultural and traditional practices; and weak labor markets and enforcement.

Although these elements and characteristics tend to exist throughout the world in areas with a high incidence of exploitive child labor, they manifest themselves in specific ways in Pakistan. Therefore, specific, targeted interventions are required. In Pakistan, this project must provide or facilitate the delivery of educational services to at risk or working children, support the collection of data on this target population, and build the capacity of national institutions to address child labor and education issues. For this project, applicants must be able to identify the specific barriers to education and the education needs of specific children targeted in their project (*e.g.*, children withdrawn from work, children at high risk of dropping out of school and joining the labor force, and/or children still working in a particular sector) and how direct education service delivery, capacity building and policy change can be used to address particular barriers and needs. Brief background information on education and exploitive child labor in Pakistan is provided below.

For additional information on exploitive child labor in Pakistan, applicants are strongly encouraged to refer to The Department of Labor's Findings on the Worst Forms of Child Labor available at *http://www.dol.gov/ILAB/media/reports/iclp/tda2003/overview.htm* or in hard copy from Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 693–4570 (this is not a toll-free-number) or e-mail: *harvey.lisa@dol.gov.*

Child Labor and Barriers to Education in Pakistan

In 2001, the ILO estimated that 14.9 percent of children ages 10 to 14 years in Pakistan were working. Agriculture is the sector with the most working children in Pakistan, followed by the informal urban sector, which includes domestic work, street vending, illegal work, and family businesses. A significant number of children also perform hazardous work in leather tanneries, surgical instruments manufacturing, coal mining, and deep sea fishing. In addition, bonded child labor is used in agriculture, the brick kiln industry, and in the production of carpets.

Children are often trafficked internally and into Pakistan, primarily from Bangladesh, India, and Nepal, for the purposes of sexual exploitation and bonded labor. Young boys continue to be trafficked from Pakistan to the Persian Gulf region to work as camel jockeys, despite recent efforts to end this practice. Adolescent boys are vulnerable to forced recruitments from local madrassas (Islamic schools) by armed groups fighting within Pakistan, in neighboring Afghanistan, and in the disputed region of Jammu and Kashmir. Afghan refugee children residing in urban areas of Pakistan are among the most vulnerable to hazardous and exploitative labor conditions.

Pakistani law does not make basic education free or compulsory. According to the World Bank, the average Pakistani boy receives five years of schooling, while the average girl receives half this amount. The Government of Pakistan estimates that 43 percent of children ages 5 to 14 have never attended school. In 2001–2002, the gross primary enrollment rate was 72 percent (61 percent for girls and 83 percent for boys), and the net primary enrollment rate was 42 percent (38 percent for girls and 46 percent for boys). Because of low quality in many of Pakistan's schools, however, even children who attend school often fail to learn to read and write. Because of inefficiencies in the educational system, Pakistan's adult literacy rate is about 40 percent.

In 1998, the Ministry of Education set a goal for universal basic education as part of the National Education Policy. This policy places particular emphasis on vocational training, technical education, the creation of literacy programs for school dropouts, and the development of programs to assist working children. In 2001, the Pakistani government launched an Education Sector Reform (ESR) program, which aims to provide universal education, increase literacy, reduce gender disparity, improve completion rates, and strengthen educational quality through curriculum reform, teacher training, and better monitoring.

The provincial government of the Punjab is making efforts to improve education and to stem the flow of yearly dropouts, which is estimated to be around four million. Programs include free textbooks through grade five, hiring 16,000 additional teachers, stipends to support literacy projects for girls, and the establishment of a new district-level monitoring team. The Northwest Frontier Province also provides free textbooks through grade five. The Central Zakat Council administers 56 vocational training centers in the Punjab. Students receive a monthly stipend for attending and a tool allowance of Rs. 5,000 (USD 87) upon completion of this vocational training course.

The Government of Pakistan is implementing a National Policy and Action Plan to Combat Child Labor that calls for immediate eradication of the worst forms of child labor and the progressive elimination of child labor from all sectors of employment. The policy further seeks to prevent children from entering the workforce by offering education as an alternative. The National Commission for Child Welfare and Development is coordinating the National Project on the Rehabilitation of Child Labor to withdraw children from hazardous employment and promote education. In addition, Pakistan Bait-ul-Mal, a government welfare agency, operates non-formal education centers for working children and is providing free school uniforms, books, nutritious meals, de-worming tablets, and a stipend to 500,000 girls in 26 of the poorest districts in Pakistan.

The Government of Pakistan is participating in an International Labor Organization—International Program on the Elimination of Child Labor (ILO–IPEC) Timebound Program designed to remove and rehabilitate child workers in glass bangle making, surgical instruments manufacturing, tanneries, coal mining, scavenging, and deep-sea fishing/seafood-processing. In addition, ILO–IPEC is supporting numerous active projects in Pakistan to prevent, withdraw, and rehabilitate child laborers, including a major program focused on carpet weaving. In cooperation with the Government of Pakistan, USDOL is funding a project through Save the Children—UK to withdraw children in Punjab from hazardous labor and to provide them with educational and training services. In 2002, USAID signed a 5-year bilateral agreement with the Government of Pakistan to implement programs to support ESR implementation and increase access to quality education throughout the country, with a particular focus on the Baluchistan and Sindh provinces.

Due to critical needs in its education system, the Government of Pakistan is also receiving intensified support from the World Bank in order to expedite its eligibility for fast track financing for the Education for All program. The Education for All Fast Track Initiative, which is funded by the World Bank and other donors, aims to provide all children with a primary school education by the year 2015. The World Bank has provided assistance to several major projects targeting the improvement of primary education, with special emphasis on increased access and better retention for girls, in the north and in Pakistani-controlled Jammu and Kashmir. In March 2005, the World Bank announced a credit of $100 million to the Province of Punjab to enhance quality and access to education in Pakistan's largest province. The Asian Development Bank has supported multiple education projects in the Southern Punjab and the Sindh Province to provide incentives for girls to attend school and to promote the attendance, access, and quality of educational programs.

Note to Applicants: All applicants must have country presence, or partner with an established and eligible organization within Pakistan.

2. Statement of Work

Taking into account the challenges of educating working children in Pakistan, the applicant must implement creative and innovative approaches to promote policies and services that will enhance the provision of educational opportunities for children involved in or at risk of entering exploitive child labor. Projects funded under this cooperative agreement solicitation must focus on direct education service(s) delivery to targeted children, including the provision of educational services that address the specific gaps/challenges that prevent working or at-risk children from attending or staying in school.

USDOL defines educational services and/or training opportunities as follows: (1) Non-formal or basic literacy education, as demonstrated by enrollment in educational classes provided by the program. These classes may include transitional, leveling, or literacy classes so that a child may either be mainstreamed into formal school and/or can participate in vocational training activities; (2) Vocational, pre-vocational, or skills training, as demonstrated by enrollment in training courses in order to develop a particular skill (*e.g.*, mechanics, sewing, etc); (3) Mainstreaming/Transitioning into the formal education system, non-formal education, vocational, pre-vocational, or skills training after having received assistance from the project to enable them to enroll in such programs. The assistance provided by the project could include one or more of the following services: the provision of school meals, uniforms, books, school supplies and materials, tuition and transportation vouchers, or other types of incentives that enable the child to be enrolled in an education program; and (4) Formal school enrollment, by directly supporting a child's enrollment, retention, and completion in the formal school system. Similar to the assistance provided under mainstreaming, assistance provided by the project could include one or more of the following services: the provision of uniforms, books, school supplies and materials, tuition and transportation vouchers, or other types of incentives that enable the child to be enrolled and maintained in the formal school system.

Activities such as awareness raising and social mobilization campaigns, psychosocial services for children, improvements in curriculum, teacher training or improvements to school

infrastructure are important for improving access to and quality of basic education. While grantees are encouraged to address the needs of working children in a comprehensive manner, these activities will not be considered as direct services for individual children. Rather direct services are those that meet the basic needs of individual children that are direct beneficiaries of the project.

Through improved policies and direct education service delivery, as applicable, the expected outcomes/results of the project are to: (1) Reduce the number of children engaged in or at risk of entering exploitive child labor, (2) increase educational opportunities and access (enrollment) for children who are at risk of, engaging in, and/or removed from exploitive child labor, particularly its worst forms; (3) encourage retention in and completion of educational programs; (4) expand the successful transition of children from non-formal education programs into formal schools or vocational programs.

The applicant must identify a target number of urban and/or rural children engaged in or at risk of exploitive and/or worst forms of child labor in Pakistan who would be the direct beneficiaries of a Child Labor Education Initiative project, and the geographic areas of greatest need. Direct beneficiaries are children who are withdrawn or prevented from entering exploitive child labor, particularly its worst forms, by USDOL-funded projects. Children withdrawn from exploitive work are those children that were found working and no longer work as a result of a project intervention. This category also includes those children that were engaged in exploitive work and as a result of a project's intervention now work shorter hours under safer conditions. Children prevented from entering work are those children that are either siblings of (ex) working children or those children that are considered to be at high risk of engaging in exploitive work. In order to be considered withdrawn or prevented, the child must benefit from educational or training opportunities. This is measured by enrollment into school or training programs. The project's strategy must be to remove these children from child labor and to provide them with educational and other services to prevent them from returning to exploitive and/or worst forms of child labor.

In preparing the application, in order to identify gaps, unmet needs, and opportunities that could be addressed through a USDOL Child Labor Education Initiative project, applicants must conduct a needs assessment to make a preliminary identification of the current working and educational status of the children that the applicant proposes as beneficiaries. It is expected that the information gathered during this assessment will be refined after award. The assessment, with data sources, must include information on the incidence and nature of exploitive child labor, particularly the worst forms, among target children, hours of work, age and sex distribution of the proposed beneficiaries, educational performance relative to other children, if available, and any research or other data that might indicate correlations between educational performance and hours of work. Applicants are also encouraged to propose strategies for collecting further data on exploitive child labor and children's participation in schooling in the early stages of the project's baseline data collection.

When developing their proposed strategy and writing the application, applicants must consult and make reference to relevant literature and documents relating to child labor and the education of target children in Pakistan. Furthermore, the application must demonstrate familiarity with existing child labor, education and social welfare policies, plans and projects in Pakistan, which the applicant is using to inform project design for target children.

Applicants will also be evaluated on their knowledge of other donors' programs as they pertain to the education of target children in Pakistan. In identifying unmet needs, gaps and opportunities not being addressed by existing programs and current efforts, and in proposing their own strategy, applicants must show how their knowledge of the school calendar and the requirements of basic, non-formal, and vocational education systems are used to develop an approach that successfully enrolls children in educational programs in the shortest delay without missing an academic year or program cycle. The applicant must identify the direct cost per child of maintaining the child in the educational program, and of withdrawing the child from exploitive/hazardous or worst forms of child labor. These costs must be realistic, and based on existing costs of similar programs. Applicants must design and implement a project monitoring system that allows for the tracking of direct beneficiaries' work and school status. In addition, as child labor projects tend to be implemented in resource-poor environments where government education and labor inspection systems may be limited, applicants are encouraged to work with local stakeholders to develop sustainable child labor and education monitoring systems, including community based systems, that can complement government efforts to monitor children's working and educational status beyond the life of the project and enforce Pakistan's child labor and education laws. The applicant must also identify organizations in Pakistan, including type of local organizations (*e.g.*, rural, indigenous, etc), which could potentially implement or contribute to a future project. Applicants are encouraged to develop approaches that support youth participation within efforts to eliminate the worst forms of child labor.

The application must also take into account cross-cutting themes that could affect project results in Pakistan and meaningfully incorporate them into the proposed strategy. In Pakistan, these include: (1) Barriers to children's access to schooling, including the high cost of school materials and deficiencies in educational infrastructure; (2) factors that prevent children's withdrawal from work and participation in educational programs, such as low family income, bonded child labor, and cultural attitudes; (3) factors affecting the quality and relevance of education and vocational training, such as poor quality of teaching and curricula that do not meet the needs of students or demands of the labor market; (4) ongoing international cooperation programs and national efforts regarding child labor and Education For All; (5) the role of teachers, parents, and community organizations; (6) low level of awareness of the worst forms of child labor and the importance of education, especially for girls, by key stakeholders; and (7) factors affecting performance of local organizations and government agencies, including limited capacity, weak coordination, and administrative decentralization to local authorities.

In the course of implementation, each project must promote the goals of USDOL's Child Labor Education Initiative listed above in Section I(1)(A). In addition, each project funded under this solicitation must provide educational and training opportunities to children as a means to remove and/or prevent them from engaging in exploitive work. Because of the limited resources available under this award, applicants are expected to implement programs that complement existing efforts and, where appropriate, replicate or enhance successful models to serve a greater number of children and communities. However, applicants must not duplicate the activities of existing

efforts and/or projects and are expected to work within host government child labor and education frameworks. To avoid duplication, enhance collaboration, expand impact, and develop synergies, the cooperative agreement awardee (hereafter referred to as ''Grantee'') must work cooperatively with national stakeholders in developing project interventions. Applicants are expected to consider the economic and social context of Pakistan when formulating project strategies and to recognize that approaches applicable in one country may not be relevant to others.

USDOL will notify host government ministry officials of the proposed project. During the preparation of an application for this cooperative agreement solicitation, applicants may discuss proposed interventions, strategies, and activities with host government officials and civil society organizations.

Partnerships between more than one organization are also eligible for award and are encouraged, in particular with qualified, Pakistan-based organizations in order to build local capacity; in such a case, however, a lead organization must be identified, and relationships with partner organizations receiving funds must be codified in an appropriate joint venture, partnership, or other contractual agreement. Copies of such agreements should be submitted as an attachment to the application, and will not count toward the page limit.

Applicants are strongly encouraged to enroll at least one-quarter of the children targeted by the proposed program in educational activities during the first year of project implementation. Under this cooperative agreement solicitation, vocational training for adolescents and income generating alternatives for parents are allowable activities. Please note: USDOL reserves the right to approve or disapprove alternative income-generating activities after award of the cooperative agreement. Permissible costs related to alternative income-generating activities for target families may include, but are not limited to, skills training, tools, equipment, guides, manuals, and market feasibility studies. However, as stated in Section IV(5)(B)(i), Grantees and sub-contractors may not provide direct cash transfers to communities, parents, or children.

Although USDOL is open to all proposals for innovative solutions to address the challenges of providing increased access to education for the children targeted, the applicant must, at a minimum, follow the outline of a preliminary project design document presented in Appendix A, and, within that format, address all criteria, factors, and required descriptions identified in Sections IV(2), V(1)(A), VI(3)(A) and VI(3)(D). This response will be the foundation for the final project document that must be approved within six months after award of the cooperative agreement.

If the application does not propose interventions aimed toward the target group or geographical area as identified, then the application will be considered unresponsive and will be rejected.

Note to All Applicants: Grantees are expected to consult with and work cooperatively with stakeholders in Pakistan, including the Ministries of Education, Labor, and other relevant ministries, NGOs, national steering/advisory committees on child labor, education, faith and community-based organizations, and working children and their families. Grantees should ensure that their proposed activities and interventions are within Pakistan's national child labor and education frameworks and priorities, as applicable. Grantees are strongly encouraged to collaborate with existing projects, particularly those funded by USDOL, including Timebound Programs and other projects implemented by the ILO/IPEC. As discussed in Section V(1)(D), up to five (5) extra points will be given to applications that include committed non-Federal resources that significantly expand the project's scope. However, applicants are instructed that the project budget submitted with the application must include all necessary and sufficient funds, without reliance on other contracts, grants, or awards, to implement the applicant's proposed project activities and to achieve proposed project goals and objectives under this solicitation. If anticipated funding from another contract, grant, or award fails to materialize, USDOL will not provide additional funding to cover these costs.

II. Award Information

Type of assistance instrument: Cooperative agreement. USDOL's involvement in project implementation and oversight is outlined in Section VI(2). The duration of the project(s) funded by this solicitation is up to four (4) years. The start date of program activities will be negotiated upon awarding of the cooperative agreement, but will be no later than September 30, 2005.

Up to U.S. $4 million will be awarded under this solicitation. USDOL may award one or more cooperative agreements to one, several, or a partnership of more than one organization(s) that may apply to implement the program. A Grantee must obtain prior USDOL approval for any sub-contractor proposed in the application before award of the cooperative agreement. The Grantee may not sub-grant any of the funds obligated under this cooperative agreement. See Section VI(2)(B) for further information on sub-contracts.

III. Eligibility Information

1. Eligible Applicants

Any commercial, international, educational, or non-profit organization, including any faith-based, community-based, or public international organization capable of successfully developing and implementing education programs for working children or children at risk of entering exploitive work in Pakistan is eligible to apply. Partnerships of more than one organization are also eligible, and applicants are strongly encouraged to work with organizations already undertaking projects in Pakistan, particularly local NGOs, including faith-based and community-based organizations. In the case of partnership applications, a lead organization must be identified, and the relationship with any partner organizations receiving funds must be set forth in an appropriate joint venture, partnership, or other contractual agreement. An applicant must demonstrate a country presence, independently or through a relationship with another organization(s) with country presence, which gives it the ability to initiate program activities upon award of the cooperative agreement. See Section V(1)(B)(ii).

Please Note: Applications from foreign government and quasi-government agencies will not be considered.

All applicants are requested to complete the Survey on Ensuring Equal Opportunity for Applicants (Office of Management and Budget (OMB) No. 1225–0083), which is available online at *http://www.dol.gov/ilab/grants/bkgrd.htm*. The capability of an applicant or applicants to perform necessary aspects of this solicitation will be determined under the criteria outlined in the Application Review Information section of this solicitation (Section V(1)).

PLEASE NOTE THAT TO BE ELIGIBLE, COOPERATIVE AGREEMENT APPLICANTS CLASSIFIED UNDER THE INTERNAL REVENUE CODE AS A 501(c)(4) ENTITY (see 26 U.S.C. 501(c)(4)), MAY NOT ENGAGE IN LOBBYING ACTIVITIES. According to the Lobbying Disclosure Act of 1995, as codified at 2 U.S.C. 1611, an organization, as described in Section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities directed toward the U.S. Government will not be eligible for the receipt of Federal funds

constituting an award, grant, cooperative agreement, or loan.

2. Cost Sharing or Matching Funds

This solicitation does not require applicants to share costs or provide matching funds. However, the leveraging of resources and in-kind contributions is strongly encouraged and is a rating factor worth up to five (5) additional points.

3. Other Eligibility Criteria

In accordance with 29 CFR Part 98, entities that are debarred or suspended from receiving federal contracts or grants shall be excluded from Federal financial assistance and are ineligible to receive funding under this solicitation. USDOL will also determine whether an applicant has the organizational capacity to implement the cooperative agreement. In judging organizational capacity, USDOL will take into account not only information provided by an applicant, but also information from USDOL, other Federal agencies, and other organizations regarding past performance of organizations that have implemented or are implementing Child Labor Education Initiative projects, or other projects or activities for USDOL and other Federal agencies (see Section V(1)(B)). Past performance will be rated by such factors as the timeliness of deliverables, and the responsiveness of the organization and its staff to USDOL or grantor communications regarding deliverables and cooperative agreement or contractual requirements. In addition, USDOL will consider the performance of the organization's key personnel on existing projects with USDOL or other entities, the frequency of the organization's replacement of key personnel, and the quality and timeliness of such key personnel replacements. Lack of past experience with USDOL projects, cooperative agreements, grants, or contracts is not a bar to eligibility or selection under this solicitation.

Faith-based organizations may apply for Federal funds under this solicitation. Neutral, non-religious criteria that neither favor nor disfavor religion will be employed in the selection of cooperative agreement recipients. Similarly, neutral, non-religious criteria that neither favor nor disfavor religion must be employed by Grantees in the selection of project beneficiaries and sub-contractors.

In addition, per the provisions outlined in Section 2 of Executive Order 13279 and 29 CFR 2.33(b), the U.S. Government is generally prohibited from providing direct financial assistance for inherently religious activities. Funds awarded under this solicitation may not be used for religious instruction, worship, prayer, proselytizing or other inherently religious activities.

IV. Application and Submission Information

1. Address To Request Application Package

This solicitation contains all of the necessary information and forms needed to apply for cooperative agreement funding. This solicitation is published as part of this **Federal Register** notice. Additional copies of the **Federal Register** may be obtained from your nearest U.S. Government office or public library or online at *http://www.archives.gov/federal_register/index.html*.

2. Content and Form of Application Submission

Applicants must submit one (1) blue ink-signed original, complete application in English, plus two (2) copies of the application. The application must consist of two (2) separate parts, as well as a table of contents and an abstract summarizing the application in not more than two (2) pages. The table of contents and the abstract are *not* included in the 45-page limit for Part II. Applicants should number all pages of the application.

Part I of the application, the cost proposal, must contain the Standard Form (SF) 424, Application for Federal Assistance and Sections A–F of the Budget Information Form SF 424A, available from ILAB's Web site at *http://www.dol.gov/ilab/grants/bkgrd.htm*. Copies of these forms arealso available online from the General Services Administration Web site at *http://contacts.gsa.gov/webforms.nsf//B835648D66D1B8F985256A72004C58C2/$file/sf424.pdf* and *http://contacts.gsa.gov/webforms.nsf/0/5AEB1FA6FB3B832385256A72004C8E77/$file/Sf424a.pdf*. The individual signing the SF 424 on behalf of the applicant must be authorized to bind the applicant. The budget/cost proposal and any other accompanying charts or graphs must be written in 10–12 pitch font size.

Part II, the technical proposal, must provide a technical application that identifies and explains the proposed program and demonstrates the applicant's capabilities to carry out that proposal. The technical application must identify how the applicant will carry out the Statement of Work (Section I(2) of this solicitation) and address each of the Application Evaluation Criteria found in Section V(1).

The Part II technical application must not exceed 45 single-sided (8½″ x 11″), double-spaced, 10 to 12 pitch typed pages, and must include responses to the application evaluation criteria outlined in Section V(1) of this solicitation. Part II must include a preliminary project design document submitted in the format shown in Appendix A and discussed further in Section VI(3)(A). The application must include the name, address, telephone and fax numbers, and e-mail address (if applicable) of a key contact person at the applicant's organization in case questions should arise.

Please note: all applicants are requested to complete the Survey on Ensuring Equal Opportunity for Applicants (OMB No. 1225–0083), which is available online at *http://www.dol.gov/ilab/grants/bkgrd.htm*.

Applications will only be accepted in English. To be considered responsive to this solicitation, the application must consist of the above-mentioned separate parts. *ANY APPLICATIONS THAT DO NOT CONFORM TO THESE STANDARDS MAY BE DEEMED UNRESPONSIVE TO THIS SOLICITATION AND WILL BE REJECTED.* Standard forms and attachments are *not* included in the 45-page limit for Part II. However, any additional information not required under this solicitation will not be considered.

3. Submission Dates, Times, and Address

Applications must be delivered (by hand or mail) by 4:45 p.m., Eastern Time, August 25, 2005 to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW, Room N–5416, Washington, D.C. 20210, Attention: Lisa Harvey, Reference: Solicitation 05–07. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by non-Postal Service delivery services, such as Federal Express or UPS, will be accepted; however, the applicant bears the responsibility for timely submission. The application package must be received at the designated place by the date and time specified or it will be considered unresponsive and will be rejected. Any application received at the Procurement Services Center after the deadline will not be considered unless it is received before the award is made and:

A. It is determined by the Government that the late receipt was due solely to

mishandling by the Government after receipt at USDOL at the address indicated; and/or

B. It was sent by registered or certified mail not later than the fifth calendar day before the deadline; or

C. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 pm at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to the deadline.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (not a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at USDOL is the date/time stamp of the Procurement Service Center on the application wrapper or other documentary evidence of receipt maintained by that office.

Confirmation of receipt can be obtained from Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 693–4570 (this is not a toll-free-number) or e-mail: *harvey.lisa@dol.gov*. All applicants are advised that U.S. mail delivery in the Washington D.C. area can be slow and erratic due to concerns involving contamination. All applicants must take this into consideration when preparing to meet the application deadline.

4. Intergovernmental Review

This funding opportunity is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

5. Funding Restrictions

A. In addition to those specified under OMB Circular A–122, the following costs are also unallowable:

i. Construction with funds under this cooperative agreement is subject to USDOL approval and ordinarily should not exceed 10 percent of the project budget's direct costs and is expected to be limited to improving existing school infrastructure and facilities in the project's targeted communities. USDOL encourages applicants to cost-share and/or leverage funds or in-kind contributions from local partners when proposing construction activities in order to ensure sustainability.

ii. Under these cooperative agreements, vocational training for adolescents and income-generating alternatives for parents are allowable activities. However, Federal funds under these cooperative agreements cannot be used to provide micro-credits, revolving funds, or loan guarantees. Please note: USDOL reserves the right to negotiate the exact nature, form, or scope of alternative income-generating activities after award of the cooperative agreement. Permissible costs relating to alternative income-generating activities may include, but are not limited to, skills training, tools, equipment, guides, manuals, and market feasibility studies.

iii. Awards will not allow reimbursement of pre-award costs.

B. The following activities are also unallowable under this solicitation:

i. The Grantee may not sub-grant any of the funds obligated under this cooperative agreement. Sub-granting may not appear or be included in the budget as a line item. In addition, Grantees may not provide direct cash transfers to communities, parents, or children. The funding for this program does not include authority for sub-grants and, as a matter of policy, USDOL does not allow for direct cash transfers to target beneficiaries. USDOL, however, would support the purchase of incidental items in the nature of ''participant support costs'' under OMB Circular A–122, Attachment B, No. 34, which are necessary to ensure that target children have access to schooling. These participant support costs may include such items as uniforms and school supplies, and the provision of tuition and transportation costs in the form of vouchers to the provider of services. If an applicant proposes the provision of participant support costs, the applicant must specify: (1) Why these activities and interventions are necessary, and how they will contribute to the overall project goals; and (2) how will the disbursement of funds will be administered in order to maximize efficiency and minimize the risk of misuse. The applicant must also address how participant support costs being funded by the project will be made sustainable once the project is completed.

If proposed participant support costs are approved by USDOL, these items must be purchased or paid for directly by the Grantee or its sub-contractor(s), as opposed to handing cash directly to children or other individuals.

ii. Under these cooperative agreements, awareness raising and advocacy activities cannot include fund-raising or lobbying of the U.S. Federal, State or Local Governments (see OMB Circular A–122).

iii. In accordance with OMB Circular A–122, funds awarded under this cooperative agreement may be used to cover the costs of meetings and conferences, as long as the primary purpose of such an event is the dissemination of technical information. These costs include meals, transportation, rental of facilities, speakers' fees, and other items incidental to such meetings or conference.

iv. USDOL funds awarded under this solicitation are not intended to duplicate or substitute for Pakistani government efforts or resources intended for child labor or education programs. Thus, Grantees may not provide any of the funds awarded under this cooperative agreement to foreign government entities, ministries, officials, or political parties. However, sub-contracts with foreign government agencies may be awarded to provide direct services or undertake project activities subject to applicable laws and only after a competitive procurement process has been conducted and no other entity in Pakistan is able to provide these services. The Grantee must receive prior USDOL approval before sub-contracting the provision of direct services to foreign government agencies.

v. Applicants are reminded that U.S. Executive Orders and U.S. law prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Grantee to ensure compliance with these Executive Orders and laws. This provision must be included in all sub-

contracts issued under the cooperative agreement.

vi. The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. U.S. non-governmental organizations, and their sub-contractors, cannot use U.S. Government funds to lobby for, promote or advocate the legalization or regulation of prostitution as a legitimate form of work. Foreign non-governmental organizations, and their sub-contractors, that receive U.S. Government funds to fight trafficking in persons cannot lobby for, promote or advocate the legalization or regulation of prostitution as a legitimate form of work. It is the responsibility of the Grantee to ensure its sub-contractors meet these criteria. (The U.S. Government is currently developing language to specifically address Public International Organizations' implementation of the above anti-prostitution prohibition. If a project under this solicitation is awarded to such an organization, appropriate substitute language for the above prohibition will be included in the project's cooperative agreement.)

FOR FURTHER INFORMATION CONTACT: Lisa Harvey. E-mail address: *harvey.lisa@dol.gov*. For a list of frequently asked questions on USDOL's Child Labor Education Initiative Solicitation for Cooperative Agreement, please visit *http://www.dol.gov/ILAB/faq/faq36.htm*.

V. Application Review Information

1. Application Evaluation Criteria

Technical panels will review applications written in the specified format (see Section I, Section IV(2) and Appendix A) against the various criteria on the basis of 100 points. Up to five additional points will be given for the inclusion of non-Federal leveraged resources as described below in Section V(1)(D). Applicants are requested to prepare their technical proposal (45 page maximum) organized in accordance with Appendix A, and address all of the following rating factors, which are presented in the order of emphasis that they will receive, and the maximum rating points for each factor.

Program Design/Budget-Cost Effectiveness: 45 points.

Organizational Capacity: 30 points.

Management Plan/Key Personnel/Staffing: 25 points.

Leveraging Resources: 5 extra points.

A. Project/Program Design/Budget-Cost Effectiveness (45 Points)

This part of the application constitutes the preliminary project design document described in Section VI(3)(A), and outlined in Appendix A. The applicant's proposal must describe in detail the proposed approach to comply with each requirement. Applicants will be rated based on their understanding of the child labor and education context in Pakistan, as well as on the clarity and quality of information provided in the project design document.

This component of the application must demonstrate the applicant's thorough knowledge and understanding of the issues, barriers, and challenges involved in providing education to children engaged in or at risk of engaging in exploitive child labor, particularly its worst forms; best-practice solutions to address their needs; and the policy and implementing environment in Pakistan. When preparing the technical proposal, the applicant must follow the outline provided in Appendix A, and at minimum include a description of:

i. *Children Targeted*—The applicant must identify which and how many children are expected to receive direct and indirect services from the project, including the sectors in which they work, geographical location, and other relevant characteristics. Please refer to Section I(2) for USDOL's definition of educational services and training opportunities for children targeted under this solicitation.

Children are defined as persons under the age of 18 who have been engaged or at risk of engaging in the worst forms of child labor, or those under the legal working age of Pakistan and who are engaged or at risk of engaging in other hazardous and/or exploitive activities. Under this solicitation, at-risk children are defined as siblings of working children, or children living in areas with a high incidence of exploitive child labor.

ii. *Needs/Gaps/Barriers*—The applicant must describe the specific gaps/educational needs of the children targeted that the project will address.

Note: The number of children targeted by the project must be commensurate with the need in the geographical area or sector where the project will be implemented. In addition, the budget proposed should take into account the type of work in which the target children are currently engaged.

i. *Proposed Strategy*—The applicant must discuss the proposed strategy to address gaps/needs/barriers of the children targeted and its rationale. Applicants will be rated based on the quality and pertinence of proposed strategies. Please refer to Section I(2) for USDOL's definition of educational services and training opportunities for children targeted under this solicitation.

iv. *Sustainability Plan*—The applicant must discuss a proposed plan for sustainability of project efforts. To USDOL, sustainability is linked to project impact and the ability of individuals, communities, and a nation to ensure that the activities or changes implemented by a project endure. A project's impact is manifested at the level of individuals, organizations, and systems. For individual children and their families this would mean a positive and enduring change in their life conditions as a result of project interventions. At the level of organizations and systems, sustained impact would involve continued commitment and ability (including financial commitment and policy change) by project partners to continue the actions generated by the project, including enforcement of existing policies that target child labor and school attendance. Applicants will be rated based on the pertinence and appropriateness of the proposed sustainability plan.

v. *Description of Activities*—The applicant must provide a detailed description of proposed activities that relate to the gaps/needs/barriers to be addressed, including training and technical assistance to be provided to project staff, Pakistani nationals and community groups involved in the project. The proposed approach is expected to build upon existing activities, government policies, and plans, and avoid needless duplication. Please refer to Section I(2) for USDOL's definition of educational services and training opportunities for children targeted under this solicitation.

iv. *Work Plan*—The applicant must provide a detailed work plan and timeline for the proposed project, preferably with a visual such as a Gantt chart. Applicants will be rated based on the clarity and quality of the information provided in the work plan.

Note: Applicants are also encouraged to enroll one-quarter of the targeted children in educational activities during the first year of project implementation.

vii. *Program Management and Performance Assessment*—The applicant must describe: (1) How management will ensure that the goals and objectives will be met; (2) how information and data will be collected and used to demonstrate the impacts of the project; and (3) what systems will be

put in place for self-assessment, evaluation, and continuous improvement.

Note to All Applicants: USDOL has already developed common indicators (enrollment, retention, and completion) and a database system for monitoring children's educational progress that can be used and adapted by Grantees after award. However, Grantees will be responsible for entering information on each project beneficiary into this database system. Further guidance on common indicators will be provided after award, thus applicants should focus their program management and performance assessment responses toward the development of their project's monitoring strategy in support of the delivery of direct education and training opportunities to working children and those at risk of engaging in exploitive work, and the four goals of the Child Labor Education Initiative set out in Section I(1)(A). Because of the potentially significant links between hours worked, working conditions, and school performance, Grantees are encouraged to collect information to track this correlation among project beneficiaries. Applicants proposing innovative methodologies in this area will be rated more highly.

Please note: In addition to reporting on the common indicators, applicants will be expected to track the working status, conditions, and hours of targeted children, including the withdrawal of children from exploitive/hazardous working conditions. Applicants are also expected to explore cost-effective ways of assessing the impact of proposed services/interventions to indirect beneficiaries.

Applicants are expected to budget for costs associated with collecting and reporting on the common indicators (enrollment, retention, and completion), data management, tracking the working status children, and assessing the impact of services/interventions to indirect beneficiaries.

viii. *Budget/Cost Effectiveness*—The applicant must show how the budget reflects program goals and design in a cost-effective way to reflect budget/performance integration. The budget must be linked to the activities and outputs of the implementation plan listed above. The budget proposed should also take into account the type of work in which the target children are currently engaged.

This section of the application must explain the costs for performing all of the requirements presented in this solicitation, and for producing all required reports and other deliverables. Costs must include labor; equipment; travel; annual single audits or attestation engagements (as applicable); midterm and final evaluations; and other related costs. Applications are expected to allocate sufficient resources to proposed studies, assessments, surveys, and monitoring and evaluation activities, including costs associated with collecting information for and reporting on the common indicators. In addition, the budget should include a contingency provision, calculated at 5% of the project's total direct costs, for unexpected expenses essential to meeting project goals, such as currency devaluations, security costs, etc. USDOL will not provide additional funding to cover unanticipated costs. Grantees must obtain prior approval from USDOL before using contingency funds. If these funds have not been exhausted toward the end of the project period, USDOL and the Grantee will determine whether it is appropriate to reallocate the funds to direct educational or training services or return the funds to USDOL.

Grantees should also budget for a facilitator-led project launch meeting in Pakistan, which will allow key stakeholders to discuss issues of project design and monitoring.

When developing their applications, applicants are also expected to allocate the largest proportion of resources to educational activities aimed at targeted children, rather than direct and/or indirect administrative costs. Higher ratings may be given to applicants with low administrative costs and with a budget breakdown that provides a larger amount of resources to project activities. All projected costs should be reported, as they will become part of the cooperative agreement upon award. In their cost proposal (Part I of the application), applicants must reflect a breakdown of the total administrative costs into direct administrative costs and indirect administrative costs. This section will be evaluated in accordance with applicable Federal laws and regulations. The budget must comply with Federal cost principles (which can be found in the applicable OMB Circulars). An example of an Outputs Based Budget has been provided as Annex B.

Applicants are encouraged to discuss the possibility of exemption from customs and Value Added Tax (VAT) with host government officials during the preparation of an application for this cooperative agreement. While USDOL encourages host governments to not apply custom or VAT taxes to USDOL-funded programs, some host governments may nevertheless choose to assess such taxes. USDOL may not be able to provide assistance in this regard. Applicants should take into account such costs in budget preparation. If major costs are omitted, a Grantee may not be allowed to include them later.

B. Organizational Capacity (30 Points)

Under this criterion, the applicant must present the qualifications of the organization(s) implementing the program/project. The evaluation criteria in this category are as follows:

i. *International Experience*—The organization applying for the award has international experience implementing basic, transitional, non-formal, or vocational education programs that address issues of access, quality, and policy reform for vulnerable children including children at risk of or engaging in exploitive child labor, preferably in Pakistan.

ii. *Country Presence*—Given the need to provide children engaged in the worst forms of child labor with immediate assistance in accessing educational and training opportunities, applicants will be evaluated on their ability to start up project activities soon after signing a cooperative agreement. Having country presence, or partnering with in-country organizations, presents the best chance of expediting the delivery of services to children engaged or at risk of engaging in the worst forms of child labor. In their application, applicants must address country presence; outreach to government and non-governmental organizations, including local and community-based organizations; and the ability of the organization to start up project activities in a timely fashion. Applicants may submit supporting documentation with their application demonstrating country presence and/or outreach to host government ministries and non-governmental organizations in Pakistan. These attachments will not count toward the page limit.

Within 60 days of award, an applicant, or its partners, must be formally recognized by the host government(s) using the appropriate mechanism e.g., Memorandum of Understanding or local registration of the organization. An applicant must demonstrate, independently or through a relationship with another organization(s), the ability to initiate program activities upon award of the cooperative agreement, as well as the capability to work directly with government ministries, educators, civil society leaders, and other local faith-based or community organizations.

iii. *Fiscal Oversight*—The organization shows evidence of a sound financial system.

If the applicant is a U.S.-based, non-profit organization already subject to the single audit requirements, the applicant's most recent single audit, as submitted to the Federal Audit Clearinghouse, must accompany the

application as an attachment. In addition, applications must show that they have complied with report submission timeframes established in OMB Circular A–133. If an applicant is not in compliance with the requirements for completing their single audit, the application will be considered unresponsive and will be rejected.

If the applicant is a for-profit or foreign-based organization, a copy of its most current independent financial audit must accompany the application as an attachment.

Applicants should also submit a copy of the most recent single audit report for all proposed U.S.-based, non-profit partners, and sub-contractors that are subject to the Single Audit Act. If the proposed partner(s) is a for-profit or foreign based organization, a copy of its most current independent financial audit should accompany the application as an attachment. Applicants may wish to review the audits of prospective organizations before deciding whether they want to partner with or sub-contract to them under an Education Initiative cooperative agreement.

Note to all applicants: In order to expedite the Procurement screening of applications, and to ensure that the appropriate audits are attached to the proposals, the applicant must provide a cover sheet to the audit attachments listing all proposed partners and sub-contractors. These attachments will not count toward the application page limit.

USDOL reserves the right to ask further questions on any audit report submitted as part of an application. USDOL also reserves the right to place special conditions on Grantees if concerns are raised in their audit reports.

Note to all applicants: If a copy of the most recent audit report is not submitted as part of the application, the application will be considered unresponsive and will be rejected. In addition, if the audit submitted by the applicant reflects any adverse opinions, the application will not be further considered by the technical review panel and will be rejected.

iv. *Coordination*—If two or more organizations are applying for the award in the form of a partnership or joint venture, they must demonstrate an approach to ensure the successful collaboration including clear delineation of respective roles and responsibilities. Although each partner will bear independent legal liability for the entire project, the applicants must identify a lead organization and must submit the joint venture, partnership, or other contractual agreement as an attachment (which will not count toward the page limit). If a partnership between two or more organizations is proposed, applicants are encouraged to outline the deliverables, activities, and corresponding timeline for which each organization will be responsible for completing.

v. *Experience*—The application must include information on previous and current grants, cooperative agreements, or contracts of the applicant with USDOL and other Federal agencies that are relevant to this solicitation, including:

(a) The organizations for which the work was done;

(b) A contact person in that organization with his/her current phone number;

(c) The dollar value of the grant, contract, or cooperative agreement for the project;

(d) The time frame and professional effort involved in the project;

(e) A brief summary of the work performed; and

(f) A brief summary of accomplishments.

This information on previous grants, cooperative agreements, and contracts held by the applicant must be provided in appendices and will not count against the maximum page requirement. USDOL reserves the right to contact the organizations listed and use the information provided in evaluating applications.

Note to all applicants: In judging organizational capacity, USDOL will take into account not only information provided by an applicant, but also information from the Department and others regarding past performance of organizations already implementing Child Labor Education Initiative projects or activities for USDOL and others. Past performance will be rated by such factors as the timeliness of deliverables, and the responsiveness of the organization and its staff to USDOL or grantor communications regarding deliverables and cooperative agreement or contractual requirements. In addition, the performance of the organization's key personnel on existing projects with USDOL or other entities, whether the organization has a history of replacing key personnel with similarly qualified staff, and the timeliness of replacing key personnel, will also be taken into consideration when rating past performance. Lack of past experience with USDOL projects, cooperative agreements, grants, or contracts is not a bar to eligibility or selection under this solicitation.

C. Management Plan/Key Personnel/Staffing (25 Points)

Successful performance of the proposed work depends heavily on the management skills and qualifications of the individuals committed to the project. Accordingly, in its evaluation of each application, USDOL will place emphasis on the applicant's management approach and commitment of personnel qualified for the work involved in accomplishing the assigned tasks. This section of the application must include sufficient information to judge management and staffing plans, and the experience and competence of program staff proposed for the project to assure that they meet the required qualifications.

Note that management and professional technical staff members comprising the applicant's proposed team should be individuals who have prior experience with organizations working in similar efforts, and who are fully qualified to perform work specified in the Statement of Work. Where sub-contractors or outside assistance are proposed, organizational lines of authority and responsibility should be clearly delineated to ensure responsiveness to the needs of USDOL.

Note to All Applicants: All key personnel must allocate 100 percent of their time to the project and be present within Pakistan. Key personnel positions must not be combined. Proposed key personnel candidates must sign letters of agreement to serve on the project, and indicate availability to commence work within 30 days of cooperative agreement award. Applicants must submit these letters as an attachment to the application. (These will not count toward the page limit). If key personnel letters of agreement to serve on the project are not submitted as part of the application, the application will be considered unresponsive and will be rejected.

i. Key personnel—The applicant must identify all key personnel candidates proposed to carry out the requirements of this solicitation. ''Key personnel'' are staff (Project Director, Education Specialist, and Monitoring and Evaluation Officer) who are essential to the successful operation of the project and completion of the proposed work and, therefore, as detailed in Section VI(2)(C), may not be replaced or have hours reduced without the approval of the Grant Officer. If key personnel candidates are not designated, the application will be considered unresponsive and will be rejected. Note: preference may be given to applicants who propose qualified key personnel that have extensive experience in Pakistan.

(a) A *Project Director* who will be responsible for overall project management, supervision, administration, and implementation of the requirements of the cooperative agreement. He/she will establish and maintain systems for project operations; ensure that all cooperative agreement deadlines are met and targets are achieved; maintain working

relationships with project stakeholders and partners; and oversee the preparation and submission of progress and financial reports. The Project Director must have a minimum of three years of professional experience in a leadership role in implementation of complex basic education programs in developing countries in areas such as: education policy; improving educational quality and access; educational assessment of disadvantaged students; development of community participation in the improvement of basic education for disadvantaged children; and monitoring and evaluation of basic education projects. Consideration will be given to candidates with additional years of experience including experience working with officials of ministries of education and/or labor. Preferred candidates must also have knowledge of exploitive child labor issues, and experience in the development of transitional, formal, and vocational education of children removed from exploitive child labor and/or victims of the worst forms of child labor. Fluency in English is required and working knowledge of the official language of Pakistan, or at least one of the official languages if there is more than one, is preferred.

(b) An *Education Specialist* who will provide leadership in developing the technical aspects of this project in collaboration with the Project Director. This person must have at least three years experience in basic education projects in developing countries in areas including student assessment, teacher training, educational materials development, educational management, and educational monitoring and information systems. This person must have experience in working successfully with ministries of education, networks of educators, employers' organizations and trade union representatives or comparable entities. Additional experience with exploitive child labor/education policy and monitoring and evaluation is an asset. A working knowledge of English is preferred, as is a similar knowledge of the official language(s) spoken in Pakistan.

(c) A *Monitoring and Evaluation Officer* who will oversee the implementation of the project's monitoring and evaluation strategies and requirements. This person should have at least three years of progressively responsible experience in the monitoring and evaluation of international development projects, preferably in education and training or a related field. Related experience can include strategic planning and performance measurement, indicator selection, quantitative and qualitative data collection and analysis methodologies, database management, and knowledge of the Government Performance and Results Act. Individuals with a demonstrated ability to build capacity of the project team and partners in these domains will be given special consideration.

Information provided on key personnel candidates must include the following:

- The educational background and experience of all key personnel to be assigned to the project.
- The special capabilities of key personnel that demonstrate prior experience in organizing, managing and performing similar efforts.
- The current employment status of key personnel and availability for this project. The applicant must also indicate whether the proposed work will be performed by persons currently employed by the applying organization or is dependent upon planned recruitment or sub-contracting.

ii. *Other Professional Personnel*—The applicant must identify other program personnel proposed to carry out the requirements of this solicitation. The applicant must also indicate whether the proposed work by other professional personnel will be performed by persons currently employed by the organization or is dependent upon planned recruitment or sub-contracting.

iii. *Management Plan*—The management plan must include the following:

(a) A description of the functional relationship between elements of the project's management structure; and

(b) The responsibilities of project staff and management and the lines of authority between project staff and other elements of the project.

Note: Applicants will be rated based on the clarity and quality of the information provided in the management plan.

iv. *Staff Loading Plan*—The staff loading plan must identify all key tasks and the person-days required to complete each task. Labor estimated for each task must be broken down by individuals assigned to the task, including sub-contractors and consultants. All key tasks should be charted to show time required to perform them by months or weeks.

v. *Roles and Responsibilities*—The applicant must include a resume, as well as a description of the roles and responsibilities of all key and professional personnel proposed. Resumes must be submitted as an attachment to the application and will not count toward the page limit. If resumes of key personnel candidates are not submitted as part of the application, the application will be considered unresponsive and will be rejected.

At a minimum, each resume must include: the individual's current employment status and previous work experience, including position title, duties, dates in position, employing organizations, and educational background. Duties must be clearly defined in terms of role performed, *e.g.*, manager, team leader, and/or consultant. The application must indicate whether the individual is currently employed by the applicant, and (if so) for how long.

D. Leveraging Resources (5 Points)

USDOL will give up to five (5) additional rating points to applications that include committed non-Federal resources that significantly expand the dollar amount, size and scope of the application. These programs or activities will not be financed by the project, but can complement and enhance project objectives. Applicants are also encouraged to leverage activities, such as micro-credits, revolving funds, or loan guarantees, which are not directly allowable under the cooperative agreement. To be eligible for the additional points, the applicant must list the source(s) of funds, the nature, and possible activities anticipated with these resources under this cooperative agreement and any partnerships, linkages or coordination of activities, cooperative funding, etc. Staff time of proposed key personnel may not be submitted as a leveraged resource.

2. Review and Selection Process

The Office of Procurement Services at USDOL will screen all applications to determine whether all required elements, as identified in section IV(2) above, are present and clearly identifiable. If an application does not include all of the required elements, including required attachments, it will be considered unresponsive and will be rejected. Once an application is deemed unresponsive, the Office of Procurement Services will send a letter to the applicant, which will state that the application was incomplete, indicate which document was missing from the application, and explain that the technical review panel will be unable to rate the application.

The following documents must be included in the application package in order for the application to be deemed complete and responsive:

i. A cost proposal.

ii. A technical proposal.

iii. The applicant's most recent audit report.

iv. Resumes of all key personnel candidates.

v. Signed letters of agreement to serve on the project from all key personnel candidates.

Each complete application will be objectively rated by a technical review panel against the criteria described in this announcement. Applicants are advised that panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to select a Grantee on the basis of the initial application submission; or, the Grant Officer may establish a competitive or technically acceptable range from which qualified applicants will be selected. If deemed appropriate, the Grant Officer may call for the preparation and receipt of final revisions of applications, following which the evaluation process described above may be repeated, in whole or in part, to consider such revisions. The Grant Officer will make final selection determinations based on panel findings and consideration of factors that represent the greatest advantage to the government, such as cost, the availability of funds, and other factors. If USDOL does not receive technically acceptable applications in response to this solicitation, USDOL reserves the right to terminate the competition and not make any award. The Grant Officer's determinations for awards under this solicitation are final.

Note to All Applicants: Selection of an organization as a cooperative agreement recipient does not constitute approval of the cooperative agreement application as submitted. Before the actual cooperative agreement is awarded, USDOL may enter into best and final negotiations about such items as program components, funding levels, and administrative systems in place to support cooperative agreement implementation. If the negotiations do not result in an acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application. In addition, USDOL reserves the right to further negotiate program components after award, during the project design document submission and review process. See Section VI(3)(A).

Award of a cooperative agreement under this solicitation may also be contingent upon an exchange of project support letters between USDOL and the relevant ministries in Pakistan.

3. Anticipated Announcement and Award Dates

Designation decisions will be made, where possible, within 45 days after the deadline for submission of proposals. USDOL is not obligated to make any awards as result of this solicitation, and only the Grant Officer can bind USDOL to the provision of funds under this solicitation. Unless specifically provided in the cooperative agreement, USDOL's acceptance of a proposal and/or award of Federal funds does not waive any cooperative agreement requirements and/or procedures.

VI. Award Administration Information

1. Award Notices

The Grant Officer will notify applicants of designation results as follows:

Designation Letter: The designation letter signed by the Grant Officer will serve as official notice of an organization's designation. The designation letter will be accompanied by a cooperative agreement and ICLP's Management Procedures and Guidelines (MPG).

Non-Designation Letter: Any organization not designated will be notified formally of the non-designation and given the basic reasons for the determination.

Notification by a person or entity other than the Grant Officer that an organization has or has not been designated is not valid.

2. Administrative and National Policy Requirements

A. General

Grantee organizations are subject to applicable U.S. Federal laws (including provisions of appropriations law) and regulations, Executive Orders, applicable Office of Management and Budget (OMB) Circulars, and USDOL policies. If during project implementation a Grantee is found in violation of U.S. government laws and regulations, the terms of the cooperative agreement awarded under this solicitation may be modified by USDOL, costs may be disallowed and recovered, the cooperative agreement may be terminated, and USDOL may take other action permitted by law. Determinations of allowable costs will be made in accordance with the applicable U.S. Federal cost principles.

Grantees must also submit to an annual independent audit. Single audits conducted under the provisions of OMB Circular A–133 are to be submitted by U.S. based non-profit organizations to meet the annual independent audit requirement. For foreign-based and private for-profit Grantees, an attestation engagement, conducted in accordance with U.S. ''Government Auditing Standards,'' that includes an auditor's opinions on (1) compliance with the Department's regulations and the provisions of the cooperative agreement and (2) the reliability of the Grantee's financial and performance reports must be submitted to meet the annual audit requirement. Costs for these audits or attestation engagements should be included in direct or indirect costs, whichever is appropriate.

The cooperative agreements awarded under this solicitation are subject to the following administrative standards and provisions, and any other applicable standards that come into effect during the term of the cooperative agreement, if applicable to a particular Grantee:

i. 29 CFR Part 2 Subpart D—Equal Treatment in Department of Labor Programs for Religious Organizations; Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries.

ii. 29 CFR Part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.

iii. 29 CFR Part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

iv. 29 CFR Part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor.

v. 29 CFR Part 35—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor.

vi. 29 CFR Part 36—Federal Standards for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

vii. 29 CFR Part 93—New Restrictions on Lobbying.

viii. 29 CFR Part 95—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations.

ix. 29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.

x. 29 CFR Part 98—Federal Standards for Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

xi. 29 CFR Part 99—Federal Standards for Audits of States, Local Governments, and Non-Profit Organizations.

Applicants are reminded to budget for compliance with the administrative requirements set forth. This includes the cost of performing administrative activities such as annual single audits or

attestation engagements (as applicable); closeout; mid-term and final evaluations; project-related document preparation, including deliverables; as well as compliance with procurement and property standards. Copies of all regulations referenced in this solicitation are available at no cost, on-line, at *http://www.dol.gov*.

Grantees should be aware that terms outlined in this solicitation, the cooperative agreement, and the MPGs are all applicable to the implementation of projects awarded under this solicitation.

B. Sub-Contracts

The Grantee may not sub-grant any of the funds obligated under this cooperative agreement. Sub-granting may not appear or be included in the budget as a line item. However, sub-contracts may be included as a budget line item.

All relationships between the Grantee and partner organizations receiving funds under this solicitation must be set forth in an appropriate joint venture, partnership, or other contractual agreement. Copies of such agreements should be provided to USDOL as an attachment to the application; copies of such agreements will not count toward the page limit.

Sub-contracts must be awarded in accordance with 29 CFR 95.40–48. Sub-contracts awarded after the cooperative agreement is signed, and not proposed in the application, must be awarded through a formal competitive bidding process, unless prior written approval is obtained from USDOL.

In compliance with Executive Orders 12876, as amended, 13230, 12928 and 13021, as amended, Grantees are strongly encouraged to provide sub-contracting opportunities to Historically Black Colleges and Universities, Hispanic-Serving Institutions and Tribal Colleges and Universities.

C. Key Personnel

As noted in Section V(1)(C), the applicant must list the individuals who have been designated as having primary responsibility for the conduct and completion of all project work. The applicant must submit written proof that key personnel (Project Director, Education Specialist, and Monitoring and Evaluation Officer) will be available to begin work on the project no later than 30 days after award.

After the cooperative agreement has been awarded and throughout the life of the project, Grantees agree to inform the Grant Officer's Technical Representative (GOTR) whenever it appears impossible for any key personnel to continue work on the project as planned. A Grantee may nominate substitute key personnel and submit the nominations to the GOTR. A Grantee may also propose reducing the hours of key personnel; however, a Grantee must obtain prior approval from the Grant Officer for all such changes to key personnel. If the Grant Officer is unable to approve the key personnel change, he/she reserves the right to terminate the cooperative agreement or disallow costs.

Please note: As stated in Section V(1)(B)(v), the performance of the organization's key personnel on existing projects with USDOL or other entities, and whether the organization has a history of replacing key personnel with equally qualified staff, will be taken into consideration when rating past performance.

D. Encumbrance of Cooperative Agreement Funds

Cooperative agreement funds may not be encumbered/obligated by a Grantee before or after the period of performance. Encumbrances/obligations outstanding as of the end of the cooperative agreement period may be liquidated (paid out) after the end of the cooperative agreement period. Such encumbrances/obligations may involve only specified commitments for which a need existed during the cooperative agreement period and that are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with a Grantee's purchasing procedures and incurred within the cooperative agreement period. All encumbrances/obligations incurred during the cooperative agreement period must be liquidated within 90 days after the end of the cooperative agreement period, unless a longer period of time is granted by USDOL.

All equipment purchased with project funds must be inventoried and secured throughout the life of the project. At the end of the project, USDOL and the Grantee are expected to determine how to best allocate equipment purchased with project funds in order to ensure sustainability of efforts in the projects' implementing areas.

E. Site Visits

USDOL, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If USDOL makes any site visit on the premises of a Grantee or a sub-contractor(s) under this cooperative agreement, a Grantee shall provide and shall require its sub-contractors to provide all reasonable facilities and assistance for the safety and convenience of government representatives in the performance of their duties. All site visits and evaluations are expected to be performed in a manner that will not unduly delay the implementation of the project.

3. Reporting and Deliverables

In addition to meeting the above requirements, a Grantee is expected to monitor the implementation of the program; report to USDOL on a semi-annual basis or more frequently if deemed necessary by USDOL; and undergo evaluations of program results. Guidance on USDOL procedures and management requirements will be provided to Grantees in the MPGs with the cooperative agreement. The project budget must include funds to: plan, implement, monitor, report on, and evaluate programs and activities (including mid-term and final evaluations and annual single audits or attestation engagements, as applicable); conduct studies pertinent to project implementation; establish education baselines to measure program results; and finance travel by field staff and key personnel to meet annually with USDOL officials in Washington, DC or within the project's region (*e.g.* Africa, Asia, Latin America, Middle East and North Africa, and Europe). Applicants based both within and outside the United States should also budget for travel by field staff and other key personnel to Washington, DC at the beginning of the project for a post-award meeting with USDOL. Indicators of project performance must also be proposed by a Grantee and approved by USDOL in the Performance Monitoring Plan, as discussed in Section VI(3)(D) below. Unless otherwise indicated, a Grantee must submit copies of all required reports to USDOL by the specified due dates. Exact timeframes for completion of deliverables will be addressed in the cooperative agreement and the MPGs.

Specific deliverables are the following:

A. Project Design Document

As stated in Sections I(2) and IV(2), applications must include a preliminary project design document in the format described in Appendix A, with design elements linked to a logical framework matrix. (Note: The supporting logical framework matrix will not count in the 45-page limit but should be included as an annex to the project document. To guide applicants, a sample logical framework matrix for a hypothetical

Child Labor Education Initiative project is available at *http://www.dol.gov/ilab/grants/bkgrd.htm*.). The preliminary project document must include all sections identified in Appendix A, including a background/justification section, project strategy (goal, purpose, outputs, activities, indicators, means of verification, assumptions), project implementation timetable, and project budget. The narrative must address the criteria/themes described in the Program Design/Budget-Cost Effectiveness section (Section V(1)(A) above).

Within six months after the time of the award, the Grantee must deliver the final project design document, based on the application written in response to this solicitation, including the results of additional consultation with stakeholders, partners, and USDOL. The final project design document must also include sections that address coordination strategies, project management and sustainability.

B. Progress and Financial Reports

The format for the progress reports will be provided in the MPG distributed after the award. Grantees must furnish a typed technical progress report and a financial report (SF 269) to USDOL on a semi-annual basis by 31 March and 30 September of each year during the cooperative agreement period. However, USDOL reserves the right to require up to four reports a year, as necessary. Also, a copy of the Federal Cash Transactions Report (PSC 272) must be submitted to USDOL upon submission to the Health and Human Services—Payment Management System (HHS–PMS).

C. Annual Work Plan

Grantees must develop an annual work plan within six months of project award for approval by USDOL so as to ensure coordination with other relevant social actors throughout Pakistan. Subsequent annual work plans must be delivered no later than one year after the previous one.

D. Performance Monitoring and Evaluation Plan

Grantees must develop a performance monitoring and evaluation plan in collaboration with USDOL, including beginning and ending dates for the project, indicators and methods and cost of data collection, planned and actual dates for mid-term review, and final end of project evaluations. The performance monitoring plan must be developed in conjunction with the logical framework project design and common indicators for reporting selected by USDOL. The plan must include a limited number of key indicators that can be realistically measured within the cost parameters allocated to project monitoring. Baseline data collection is expected to be tied to the indicators of the project design document and the performance monitoring plan. A draft monitoring and evaluation plan must be submitted to USDOL within six months of project award.

E. Project Evaluations

Grantees and the GOTR will determine on a case-by-case basis whether mid-term evaluations will be conducted by an internal or external evaluation team. All final evaluations must be external and independent in nature. A Grantee must respond in writing to any comments and recommendations provided in the mid-term evaluation report. The budget must include the projected cost of mid-term and final evaluations.

VII. Agency Contacts

All inquiries regarding this solicitation should be directed to: Ms. Lisa Harvey, U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210; telephone (202) 693–4570 (this is not a toll-free-number) or e-mail: *harvey.lisa@dol.gov.* For a list of frequently asked questions on USDOL's Child Labor Education Initiative Solicitation for Cooperative Agreement, please visit *http://www.dol.gov/ILAB/faq/faq36.htm.*

VIII. Other Information

1. Materials Prepared Under the Cooperative Agreement

Grantees must submit to USDOL, for approval, all media-related, awareness-raising, and educational materials developed by the Grantee or its sub-contractors before they are reproduced, published, or used. USDOL considers such materials to include brochures, pamphlets, videotapes, slide-tape shows, curricula, and any other training materials used in the program. USDOL will review materials for technical accuracy and other issues.

In addition, USDOL reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use for Federal purposes, and authorize others to do so, all materials that are developed or for which ownership is purchased by the Grantee under an award.

2. Acknowledgment of USDOL Funding

USDOL has established procedures and guidelines regarding acknowledgement of funding. USDOL requires, in most circumstances, that the following be displayed on printed materials:

''Funding provided by the United States Department of Labor under Cooperative Agreement No. E–9–X–X–XXXX.''

With regard to press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part under this cooperative agreement, all Grantees are required to consult with USDOL on: acknowledgment of USDOL funding; general policy issues regarding international child labor; and informing USDOL, to the extent possible, of major press events and/or interviews. More detailed guidance on acknowledgement of USDOL funding will be provided upon award to the Grantee(s) in the cooperative agreement and the MPG. In consultation with USDOL, USDOL will be acknowledged in one of the following ways:

A. The USDOL logo may be applied to USDOL-funded material prepared for worldwide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. A Grantee must consult with USDOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event will the USDOL logo be placed on any item until USDOL has given a Grantee written permission to use the logo on the item.

B. The following notice must appear on all documents: ''This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

3. Privacy and Freedom of Information

Any information submitted in response to this solicitation will be subject to the provisions of the Privacy Act and the Freedom of Information Act, as appropriate.

Signed at Washington, DC this 21st day of July, 2005.

Lisa Harvey,

Grant Officer.

Appendix A: Project Document Format

Executive Summary

1. Background and Justification
2. Target Groups
3. Program Approach and Strategy
   3.1 Narrative of Approach and Strategy (linked to Logical Framework matrix in Annex A)

3.2 Project Implementation Timeline (Gantt Chart of Activities linked to Logical Framework matrix in Annex A)
3.3 Budget (with cost of Activities linked to Outputs for Budget Performance Integration in Annex B)
4. Project Monitoring and Evaluation
4.1 Indicators and Means of Verification
4.2 Baseline Data Collection Plan
5. Institutional and Management Framework
5.1 Institutional Arrangements for Implementation
5.2 Collaborating and Implementing Institutions (Partners) and Responsibilities
5.3 Other Donor or International Organization Activity and Coordination
5.4 Project Management Organizational Chart
6. Inputs
6.1 Inputs provided by USDOL
6.2 Inputs provided by the Grantee
6.3 National and/or Other Contributions
7. Sustainability
Annex A: Full presentation of the Logical Framework matrix
Annex B: Outputs Based Budget example

A worked example of a Logical Framework matrix, an Outputs Based Budget, and other background documentation for this solicitation are available from ILAB's Web site at *http://www.dol.gov/ilab/grants/bkgrd.htm*.)

[FR Doc. 05–14711 Filed 7–25–05; 8:45 am]
BILLING CODE 4510–28–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings of the Board of Directors and four of the Board's Committees

Times and Dates: The Legal Services Corporation Board of Directors and four of its Committees will meet July 28 and 30, 2005 in the order set forth in the following schedule.

Meeting Schedule

Thursday, July 28, 2005

1. Performance Reviews Committee 9 a.m.
2. Finance Committee
3. Operations and Regulations Committee
4. Provision for the Delivery of Legal Services Committee

Saturday, July 30, 2005

1. Board of Directors—9 a.m.

Location: The Hyatt Regency Monterey, 1 Old Golf Course Road, Monterey, California.

Status of Meetings: Open, except as noted below.

• *Status:* July 28, 2005 Annual Performance Reviews Committee Meeting—Closed. The Performance Reviews Committee meeting may be closed to the public pursuant to a vote of the Board of Directors authorizing the Committee in its executive session to consider and act on the process to be used for evaluation of the Corporation's President and on the issue of an annual performance review of the Inspector General. The closing will be authorized by the relevant provisions of the Government in the Sunshine Act (5 U.S.C. 552b(c)(2) and the Legal Services Corporation's corresponding regulation 45 CFR 1622.5(a). A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

• *Status:* July 30, 2005 Board of Directors Meeting—Open, except that a portion of the meeting of the Board of Directors may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Board will consider and may act on the General Counsel's report on litigation to which the Corporation is or may become a party; discuss internal procedures with the Inspector General (''IG''); receive a briefing from the IG on investigations being conducted by the Office of Inspector General (''OIG''); review the Workplan of the OIG; consider and may act on an internal personnel matter; and will consider and may act on delegation of authority to the Board Chairman to negotiate revisions to the President's contract of employment with LSC. The closing is authorized by 5 U.S.C. 552b(c)(2) and LSC's corresponding regulation 45 CFR 1622.5(a); 5 U.S.C. 552b(c)(5) and LSC's corresponding regulation 45 CFR 1622.5(d); 5 U.S.C. 552b(c)(6) and LSC's corresponding regulation 45 CFR 1622.5(e); 5 U.S.C. 552b(c)(10) and LSC's implementing regulation 45 CFR 1622.5(h). A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

Matters to be Considered:

Thursday, July 28, 2005

Performance Reviews Committee

Closed Session

1. Approval of agenda
2. Consider and act on internal procedures for annual performance review of LSC President
3. Consider and act on issue of annual performance review of LSC Inspector General
4. Consider and act on other business
5. Consider and act on adjournment of meeting

Finance Committee

Open Session

1. Approval of agenda
2. Approval of the minutes of the Committee's meeting of April 30, 2005
3. Presentation on LSC's Financial Reports for the Eight-Month Period Ending May 31, 2005
4. Report on FY 2005 Internal Budgetary Adjustments
5. Consider and act on Consolidated Operating Budget Reallocation, Resolution 2005–006
6. Report on the status of the FY 2006 Appropriations process
7. Consider and act on adoption of FY 2006 Temporary Operating Authority effective October 1, 2005, Resolution 2005–007
8. Discussion regarding planning for FY 2007 Budget
9. Consider and act on other business
10. Public comment
11. Consider and act on adjournment of meeting

Operations & Regulations Committee

Open Session

1. Approval of agenda
2. Approval of the Committee's meeting minutes of April 1, 2005
3. Approval of the Committee's meeting minutes of April 29, 2005
4. Consider and act on Final Rule on Financial Eligibility, 45 CFR part 1611
   a. Staff report
   b. Public comment
5. Consider and act on adoption of a rulemaking agenda for 2005–2000
   a. Staff report
   b. Public comment
6. Consider and act on 2006 Grant Assurances
   a. Staff report
   b. Public comment
7. Consider and act on staff report concerning LSC's implementation of the Government in the Sunshine Act
   a. Staff report
   b. Public comment
8. Other public comment
9. Consider and act on other business
10. Consider and act on adjournment of meeting

Provision for the Delivery of Legal Services Committee

Open Session

1. Approval of agenda
2. Approval of the Committee's meeting minutes of April 29, 2005
3. Presentations on the delivery of legal services to migrants, including: who are migrants, the legal services provided including mediation, and the do's and don'ts of migrant representation:
   a. Michelle Besso—Sr. Attorney,

Farmworker Unit, Northwest Justice Project, Washington
b. Janice Morgan—Farmworker Program Director, Legal Aid Services of Oregon
c. Jack Londen—California Access to Justice Commission, Morrison & Foerester
d. Marina Ocampo—Migrant Ministry Coordinator, Catholic Diocese
e. Migrant Farm Worker
f. Jose Padilla—Executive Director, CRLA
4. Public comment
5. Consider and act on other business
6. Consider and act on adjournment of meeting

Saturday, July 30, 2005

Board of Directors Meeting

Open Session

1. Approval of agenda
2. Approval of minutes of the Board's meeting of April 30, 2005
3. Approval of minutes of the Executive Session of the Board's meeting of April 30, 2005
4. Consider and act on the review and development of Strategic Directions
5. Chairman's Report
6. Members' Reports
7. President's Report
8. Inspector General's Report
9. Consider and act on the report of the Committee on the Provision for the Delivery of Legal Services
10. Consider and act on the report of the Finance Committee
11. Consider and act on the report of the Operations & Regulations Committee
12. Consider and act on the report of the Performance Reviews Committee
13. Consider and act on Board's meeting schedule for calendar year 2006
14. Consider and act on other business
15. Public comment
16. Consider and act on whether to authorize an executive session of the Board to address items listed below under Closed Session

Closed Session

17. Consider and act on General Counsel's report on potential and pending litigation involving LSC
18. Discussion of internal procedures with OIG
19. Briefing [1] on OIG investigations
20. Review of OIG Workplan
21. Consider and act on internal personnel matter
22. Consider and act on delegation of authority to the Board Chairman to negotiate revisions to the President's contract of employment with LSC
23. Consider and act on motion to adjourn meeting

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Manager of Board Operations, at (202) 295–1500.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295–1500.

Dated: July 21, 2005.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 05–14782 Filed 7–21–05; 5:12 pm]

BILLING CODE 7050–01–P

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(a)(2) and (b). See also 45 CFR 1622.2 and 1622.3.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (05–121)]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Kathy Shaeffer, Acting NASA Reports Officer, NASA Headquarters, 300 E Street SW., Mail Suite 6M70, Washington, DC 20546, (202) 358–1230, *kathleen.shaeffer-1@nasa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

NASA Johnson Space Center is licensed to collect and maintain records of radioactive material used for space-related research and space vehicles at temporary job sites in the U.S. Information collected includes descriptions, transfer, location, and disposition of materials and records of accountability and responsibility. Respondents are NASA field centers and NASA contractors, subcontractors, and vendors.

II. Method of Collection

NASA collects this information electronically where feasible, but information may also be collected by mail or fax.

III. Data

Title: Radioactive Material Transfer Receipt.

OMB Number: 2700–0007.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit; Federal Government; State, local or tribal government.

Estimated Number of Respondents: 25.

Estimated Time Per Response: Approximately 30 minutes.

Estimated Total Annual Burden Hours: 10.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: July 19, 2005.

Patricia L. Dunnington,

Chief Information Officer.

[FR Doc. 05–14688 Filed 7–25–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (05–122)]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Kathy Shaeffer, Mail Suite 6M70, Office of the Chief Information Officer, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Kathy Shaeffer, Acting NASA Reports Officer, Office of the Chief Information Officer, NASA Headquarters, 300 E Street SW., Mail Suite 6M70, Washington, DC 20546, (202) 358–1230, *kathleen.shaeffer-1@nasa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) is requesting renewal of an existing collection that is used to ensure NASA collects racial and ethic data information from on-line job applicants to determine if NASA's recruitment efforts are reaching all segments of the country, as required by Federal law.

II. Method of Collection

NASA uses electronic methods to collect information from collection respondents.

III. Data

Title: NASA Voluntary On-Line Job Applicant Racial and Ethnic Data Collection.

OMB Number: 2700–0103.

Type of review: Extension of a currently approved collection.

Affected Public: Individuals or households, Federal Government.

Estimated Number of Respondents: 40,000.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 3,334.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Dated: July 19, 2005.

Patricia L. Dunnington,

Chief Information Officer.

[FR Doc. 05–14689 Filed 7–25–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

AGENCY HOLDING MEETING: National Science Board, Committee on Strategy and Budget (CSB).

DATE AND TIME: August 1, 2005, 11 a.m.–12 noon (ET).

PLACE: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Monday, August 1, 2005—Closed Session

Closed Session (11 a.m. to 12 Noon)

Status of FY 2007 Budget Submission to OMB.

FOR FURTHER INFORMATION CONTACT: Dr. Michael P. Crosby, Executive Officer and NSB Office Director, (703) 292–7000, *http://www.nsf.gov/nsb.*

Michael P. Crosby,

Executive Officer and NSB Office Director.

[FR Doc. 05–14822 Filed 7–22–05; 12:19 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[EA–04–225]

In the Matter of AVI Food Systems, Inc.; Confirmatory Order (Effective Immediately)

I

AVI Food Systems, Inc. (AVI) is an independently owned and operated food service company serving various industries in the Midwest and Eastern United States including the Davis-Besse plant which is regulated by the U.S. Nuclear Regulatory Commission (NRC or Commission). AVI headquarters is located in Warren, OH.

II

On February 9, 2004, and July 8, 2004, the NRC's Office of Investigations (OI) began investigations to determine if former AVI employees at the Davis-Besse facility were the subject of employment discrimination in violation of 10 CFR 50.7. In OI Report Nos. 3–2004–006 and 3–2004–018, OI concluded that AVI employees were the subject of discrimination. By letter dated February 25, 2005, the NRC identified to FirstEnergy Nuclear Operating Company (FENOC) the NRC's concern and offered FENOC and AVI the opportunity to attend a predecisional enforcement conference or to request alternative dispute resolution (ADR) in which a neutral mediator with no decision-making authority would facilitate discussions between the NRC, FENOC and AVI, and if possible, assist the NRC and the parties in reaching an agreement on resolving the concerns. FENOC and AVI chose to participate in ADR. On May 11, 2005, the NRC and AVI met at the Davis-Besse facility in Oak Harbor, Ohio in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. As part of the ADR session, based upon the facts discussed during the mediation session and the commitments noted in Section IV below, the NRC will not issue a Notice of Violation to AVI for this issue.

III

By letter dated June 9, 2005, AVI committed to include in its policy/programs, information necessary to ensure that its future activities with NRC licensees will incorporate training for its employees involved with the NRC licensees regarding safety conscious work environment (SCWE) and safety culture. The training program will have the objective of reinforcing the

importance of maintaining a SCWE and of assisting managers and supervisors in responding to employees who raise safety concerns in the workplace. AVI also agreed to include in such training the requirements of 10 CFR 50.7, ''Employee protection.''

On July 6, 2005, AVI consented to the NRC issuing this Confirmatory Order with the commitments, as described in Section IV below. AVI further agreed in its July 6, 2005, letter that this Order is to be effective upon issuance and that it has waived its right to a hearing.

The NRC has concluded that its concerns can be resolved through effective implementation of AVI's commitments. I find that AVI's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that AVI's commitments be confirmed by this Order. Accordingly, the staff is exercising its enforcement discretion and will not issue a Notice of Violation in this case. Based on the above and AVI's consent, this Order is immediately effective upon issuance. AVI is required to provide the NRC with a letter summarizing its actions when all of the Section IV requirements have been completed.

IV

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, *It is hereby ordered, effective immediately, that:*

By no later than six months from the issuance of this Order, AVI will include in its policy/programs, information necessary to ensure that its future activities with NRC licensees will incorporate training, initial and recurring, for its employees involved with the NRC licensees regarding SCWE and safety culture. AVI also agreed to include in such training the requirements of 10 CFR 50.7, ''Employee protection.''

The Director, Office of Enforcement, may relax or rescind, in writing, any of the above conditions upon a showing by AVI of good cause.

V

Any person adversely affected by this Confirmatory Order, other than AVI, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4352, and to the Licensee. Because of continuing disruptions in delivery of mail to United States Government Offices, it is requested that requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to (301) 415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. If a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

A request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated this 15th day of July, 2005.

Michael R. Johnson,

Director, Office of Enforcement.

[FR Doc. E5–3967 Filed 7–25–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346, License No. NPF–3, EA–04–224]

In the Matter of FirstEnergy Nuclear Operating Company, Davis-Besse Nuclear Power Station, 5501 North State Route 2, Oak Harbor, OH 43449–9760; Confirmatory Order Modifying License (Effective Immediately)

I

FirstEnergy Nuclear Operating Company (FENOC or Licensee) is the holder of Facility Operating License No. NPF–3 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 50 on April 22, 1977. The license authorizes the operation of Davis-Besse Nuclear Power Station, Unit 1 (Davis-Besse), in accordance with conditions specified therein. The facility is located on the Licensee's site in Ottawa County, Ohio.

II

On February 9, 2004, and July 8, 2004, the NRC's Office of Investigations (OI) began investigations to determine if former AVI Food Systems, Inc. (AVI) employees at Davis-Besse were the subject of employment discrimination in violation of 10 CFR 50.7. In OI Report Nos. 3–2004–006 and 3–2004–018, OI concluded that AVI employees were the subject of discrimination. By letter dated February 25, 2005, the NRC identified to the Licensee the NRC's concern and offered FENOC the opportunity to attend a predecisional enforcement conference or to request alternative dispute resolution (ADR) in which a neutral mediator with no decision-making authority would facilitate discussions between the NRC and FENOC and, if possible, assist the NRC and FENOC in reaching an agreement on resolving the concern. FENOC chose to participate in ADR. On May 11, 2005, the NRC and FENOC met at the Davis-Besse facility in Oak Harbor, Ohio in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. As part of the ADR session, based upon the facts discussed during the mediation session and the commitments noted in Section IV below, the NRC will not issue a notice of violation for this issue and will not count this matter as previous enforcement for the purposes of assessing potential future enforcement action civil penalty assessments in accordance with Section VI.C of the Enforcement Policy.

III

By letter dated June 15, 2005, the Licensee stated that in addition to the actions already taken by FENOC to promote a safety conscious work environment (SCWE) at the FENOC nuclear facilities, the Licensee agreed to take certain additional corrective measures to emphasize the importance of a SCWE. The agreed-upon additional actions noted in Section IV of this Confirmatory Order focus on SCWE training for contractor personnel who are granted unescorted access to Davis-Besse and the other FENOC nuclear facilities.

On July 6, 2005, FENOC consented to the NRC issuing this Confirmatory Order with the commitments, as described in Section IV below. The Licensee further agreed in its July 6, 2005, letter that this Order is to be effective upon issuance and that it has waived its right to a hearing. The NRC has concluded that its concerns can be resolved through NRC's confirmation of the Licensee's commitments as outlined in this Order.

I find that the Licensee's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order is immediately effective upon issuance. FENOC is required to provide the NRC with a letter summarizing its actions when all of the Section IV requirements have been completed.

IV

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, *It is hereby ordered, effective immediately, that License No. NPF–3 is modified as follows:*

1. By no later than August 31, 2005, FENOC will provide contractors who are granted unescorted access to FENOC nuclear facilities with SCWE training that is equivalent to the SCWE training provided to FENOC employees as part of Plant Access Training.

2. By no later than August 31, 2005, FENOC will review the SCWE training module included in Plant Access Training and make any changes necessary to ensure that the module clearly reinforces that FENOC SCWE policies and NRC employee protection requirements (10 CFR 50.7) apply to all personnel working on behalf of FENOC, specifically including contractor employees, supervision, and management.

3. By no later than August 31, 2005, FENOC will provide specific training to the Davis-Besse food services contractor management and supervision involved in the provision of services to FENOC on SCWE principles, FENOC SCWE policies, and NRC employee protection requirements (10 CFR 50.7). This training will be comparable to the SCWE training that has been provided to FENOC management and supervision.

4. By no later than August 31, 2005, FENOC will include surveys of contractor personnel as part of the quarterly FENOC performance monitoring of SCWE at its nuclear facilities. These surveys are performed annually. Other data relied upon in the quarterly performance monitoring already includes the activities of contractor personnel in the calculation of the applicable performance measures.

The Director, Office of Enforcement, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4352, and to the Licensee. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to (301) 415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* If a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

A request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated this 15th day of July, 2005.

Michael R. Johnson,

Director, Office of Enforcement.

[FR Doc. E5–3968 Filed 7–25–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–22–ISFSI]

In the Matter of Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation); Notice of Appointment of Adjudicatory Employees

Commissioners: Nils J. Diaz, Chairman; Jeffrey S. Merrifield; Gregory B. Jaczko; Peter B. Lyons.

Pursuant to 10 CFR 2.4, notice is hereby given that Mr. Arthur Buslik of the Office of Nuclear Regulatory Research, Division of Risk Analysis and Applications, Probabilistic Risk Analysis Branch; and Abdul Sheikh, of the Office of Nuclear Regulatory Research, Division of Engineering Technology, Engineering Research Applications Branch, have been appointed as Commission adjudicatory employees within the meaning of section 2.4, to advise the Commission regarding issues relating to the pending petition for review in the Matter of Private Fuel Storage, L.L.C. (Contention Utah K (Aircraft Crashes)). These employees have not previously performed any investigative or litigating function in connection with this or any related proceeding. Mr. Buslik has previously served as an adjudicatory employee in this proceeding.

Until such time as a final decision is issued in this matter, interested persons outside the agency and agency employees performing investigative or

litigating functions in this proceeding are required to observe the restrictions of 10 CFR 2.780 and 2.781 in their communications with Mr. Buslik and Mr. Sheikh.

It is so ordered.

For the Commission.

Dated at Rockville, Maryland, this 20th day of July, 2005.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E5–3966 Filed 7–25–05; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

United States Postal Service Board of Governors; Sunshine Act Meeting

TIMES AND DATES: 1 p.m., Monday, August 1, 2005; and 8 a.m., Tuesday, August 2, 2005.

PLACE: Newport Beach, California, at the Balboa Bay Hotel, 1221 West Coast Highway, in the Grand Ballroom.

STATUS: August—1 p.m. (Closed); August 2—8 a.m. (Open);

MATTERS TO BE CONSIDERED:

Monday, August 1—1 p.m. (Closed)

1. Strategic Planning.
2. Rate Case Planning.
3. Personnel Matters and Compensation Issues.
4. Pricing of International Services.
5. Preliminary Report on Goals and Performance Assessment for Fiscal Year 2006.
6. Financial Update.
7. Preliminary Fiscal Year 2006 Integrated Financial Plan and Financial Outlook.
8. Capital Investment—Postal Automated Redirection System, Phase 2.

Tuesday, August 2—8 a.m. (Open)

1. Minutes of the Previous Meeting, June 14, 2005.
2. Remarks of the Postmaster General and Chief Executive Officer.
3. Committee Reports.
4. Capital Investment—Distribution Quality Improvement.
5. Quarterly Report on Service Performance.
6. Quarterly Report on Financial Performance.
7. Report on the Pacific Area and Santa Ana District.
8. Tentative Agenda for the September 27, 2005, meeting in Washington, DC.

FOR FURTHER INFORMATION CONTACT: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

William T. Johnstone,

Secretary.

[FR Doc. 05–14773 Filed 7–21–05; 4:09 pm]

BILLING CODE 7710–12–M

POSTAL SERVICE

United States Postal Service Board of Governors; Sunshine Act Meeting

Board Votes to Close July 15, 2005, Meeting

In person and by telephone vote on July 15, 2005, a majority of the members contacted and voting, the Board of Governors voted to close to public observation a meeting held in Washington, DC, via teleconference. The Board determined that prior public notice was not possible.

Item Considered

1. Strategic Planning.

General Counsel Certification

The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

FOR FURTHER INFORMATION CONTACT: Requests for information about the meeting should be addressed to the Secretary of the Board, William T. Johnstone, at (202) 268–48000.

William T. Johnstone,

Secretary.

[FR Doc. 05–14774 Filed 7–21–05; 4:09 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–13867]

Issuer Delisting; Notice of Application of Allied Holdings, Inc. To Withdraw Its Common Stock, No Par Value, From Listing and Registration on the American Stock Exchange LLC

July 20, 2005.

On June 21, 2005, Allied Holdings, Inc., a Georgia corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, no par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

On March 29, 2005, the Board of Directors (''Board'') of the Issuer unanimously approved resolutions to withdraw the Security from listing on Amex. The Board stated that the following reasons factored into its decision to withdraw the Security from Amex: (i) The Issuer's ability to continued to comply with its plan, submitted to and accepted by Amex, to regain compliance with Amex's continued listing standards with respect to stockholders' equity; (ii) the Board's understanding that its current principal market maker will act to continue to make a market in the Security on the over-the-counter bulletin board; and (iii) the Board's determination that such withdrawal is in the best interest of the Issuer and its shareholders.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the state of Georgia, in which it is incorporated, and by providing written notice of withdrawal to Amex.

The Issuer's application relates solely to withdrawal of the Security from listing on Amex and from registration under Section 12(b) of the Act,[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before August 12, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–13867 or;

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number 1–13867. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently,

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–3971 Filed 7–25–05; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–16263]

Issuer Delisting; Notice of Application of Marine Products Corporation To Withdraw its Common Stock, $.10 Par Value, From Listing and Registration on the American Stock Exchange LLC

July 20, 2005.

On June 21, 2005, Marine Products Corporation, a Delaware corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.10 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

On April 26, 2005, the Board of Directors (''Board'') of the Issuer unanimously approved a resolution to withdraw the Security from listing on Amex. The Board stated that the reason for its decision to withdraw the Security from Amex is that the Security will be listed on the New York Stock Exchange (''NYSE'') and it would not be beneficial to maintain continued listing on Amex.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Delaware, in which it is incorporated, and provided written notice of withdrawal to Amex.

The Issuer's application relates solely to the withdrawal of the Security from listing on the Amex, and shall not affect its continued listing on the NYSE or its obligation to be registered under Section 12(b) of the Act.[3]

Any interested person may, on or before August 12, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–16263 or;

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number 1–16263. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–3972 Filed 7–25–05; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of Puradyn Filter Technologies Incorporated to Withdraw Its Common Stock, $.001 Par Value, From Listing and Registration on the American Stock Exchange LLC File No. 1–11991

July 20, 2005.

On June 27, 2005, Puradyn Filter Technologies Incorporated, a Delaware corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.001 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

The Board of Directors (''Board'') of the Issuer approved a resolution on June 24, 2005 to withdraw the Security from listing on Amex. The Issuer stated that the following reasons factored into the Board's decision to withdraw the Security: (i) The Issuer will not be able to obtain timely compliance with Amex's ongoing financial compliance standards; (ii) the ongoing costs of compliance with Amex's requirements, including provisions of the Sarbanes-Oxley Act of 2002 as they apply to exchange listed companies; and (iii) in order to secure additional capital and maintain compliance with the Amex's listing criteria, the Issuer would be required to either limit the amount of financing it is undertaking and the participation by management in such financing or to incur additional costs and defer receipt of such financing pending stockholder approval.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the state of Delaware, in which it is incorporated, and by providing written notice of withdrawal to Amex.

The Issuer's application relates solely to the withdrawal of the Securities from listing on Amex and from registration under Section 12(b) of the Act[3] shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before August 12, 2005, comment on the facts bearing upon whether the application has been made in

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

accordance with the rules of Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–11991 or;

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number 1–11991. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–3970 Filed 7–25–05; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Host America Corporation; Order of Suspension of Trading

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Host America Corporation (''Host America''), because of questions regarding the accuracy of Host America's assertions about dealings with Wal-Mart Stores, Inc., in its press release of July 12, 2005 (also incorporated as an exhibit to a Form 8–K filing with the Commission on the same date).

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, *it is ordered,* pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT, July 22, 2005 through 11:59 p.m. EDT, on August 4, 2005.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–14802 Filed 7–22–05; 11:36 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52069; File No. SR–ISE–2005–23]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing of Proposed Rule Change Establishing a de minimus Exception to the 80/20 Test

July 20, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 13, 2005, the International Securities Exchange, Inc. (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the ISE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend ISE Rule 1904 to establish a ''*de minimis*'' exception to the ''80/20 Test'' limiting market makers' use of Principal Orders[3] under the rules imposed by the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (''Linkage Plan'')[4] and related rules.

The text of the proposed rule change is available on the ISE's Web site at *http://www.iseoptions.com/legal/proposed_rule_changes.asp*, the ISE's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to implement proposed Joint Amendment No. 17 to the Linkage Plan. Joint Amendment No. 17, together with this proposed rule change, will establish a ''*de minimis*'' exception to the ''80/20 Test'' set forth in Section 8(b)(iii) of the Linkage Plan and ISE Rule 1904.

Section 8(b)(iii) of the Linkage Plan permits market makers to access away markets on a limited basis for their own principal trading. The Linkage Plan enforces this limitation via the ''80/20 Test,'' which generally requires at least 80 percent of a market maker's trading volume in an option class to be on its own exchange for the market maker to be able to use Linkage to send Principal Orders for its own account in that class. If a market maker ''fails'' the 80/20 Test in an option class during a calendar quarter, it cannot send Principal Orders through Linkage in that class during the next calendar quarter.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange defines a Principal Order as an order for the principal account of a market maker (or equivalent entity on another Participant Exchange) and which is not a Principal Acting as Agent Order. *See* Chapter 19, Rule 1900(10)(ii) of the ISE Rules.

[4] On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage (''Linkage'') proposed by the American Stock Exchange, LLC, Chicago Board Options Exchange, Inc. and the ISE. *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, the Philadelphia Stock Exchange, Inc., the Pacific Exchange, Inc. and the Boston Stock Exchange, Inc. joined the Linkage Plan. *See* Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

The options exchanges have agreed to adopt a *de minimus* exception to the 80/20 Test. As proposed by the Exchange, the 80/20 Test would not apply to any market maker that has total volume of less than 1000 contracts in an option during a calendar quarter. At this low volume, even a small number of Principal Orders could result in the market maker being disqualified from Linkage in that class for a calendar quarter. The Exchange believes that this proposed exception would address such concerns.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [5] in general and furthers the objectives of Section 6(b)(5) [6] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange further believes that the proposed rule change will conform the ISE's rules to the Linkage Plan and provide market makers with greater access to the Linkage.

B. Self-Regulatory Organization's Statement on Burden on Competition

The ISE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form at *http://www.sec.gov/rules/sro.shtml* or send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–ISE–2005–23 on the subject line.

Paper Comments

• Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File No. SR–ISE–2005–23. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–ISE–2005–23 and should be submitted on or before August 16, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3969 Filed 7–25–05; 8:45 am]

BILLING CODE 8010–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52059; File No. SR–NASD–2005–58]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Relating to the Reporting of Data to Clearing Firms by Correspondent Firms

July 19, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 2, 2005, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. On July 14, 2005, NASD filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend NASD Rule 3150 and Rule 3230 governing the reporting of data to clearing firms by correspondent firms. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

3150. Reporting Requirements for Clearing Firms

(a) No change.

(b) Each member that is a clearing firm is required to report prescribed data to NASD under this Rule in such a manner as to enable NASD to distinguish between data pertaining to all proprietary and customer accounts of an introducing member and data pertaining to all proprietary and customer accounts of any member for which the introducing member is acting as an intermediary in obtaining clearing services from a clearing firm. The reporting requirements of this paragraph (b) shall apply to the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] Amendment No. 1, which replaced and superseded the original filing in its entirety, clarifies which piggybacking arrangements will be subject to the rule and modifies certain rule language to conform with other terms used in NASD rules.

proprietary and customer accounts of members that have established an intermediary clearing arrangement with an introducing member on or after [insert effective date of this paragraph (b)].

[(b)]*(c)* Pursuant to the Rule 9600 Series, NASD may in exceptional and unusual circumstances, taking into consideration all relevant factors, exempt a member or class of members unconditionally or on specified terms from any or all of the provisions of this Rule that it deems appropriate.

* * * * *

3230. Clearing Agreements

(a) through (g) No change.

(h) All clearing agreements shall require each introducing member to maintain its proprietary and customer accounts and the proprietary and customer accounts of any member for which it is acting as an intermediary in obtaining clearing services from the clearing firm in such a manner as to enable the clearing firm and NASD to identify data belonging to the proprietary and customer accounts of each member. The requirements of this paragraph (h) shall apply to intermediary clearing arrangements between a member and an introducing member that are established on or after [insert effective date of this paragraph (h)].

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

By way of background, some NASD members choose not to contract for clearing services directly with a clearing firm. The reasons vary. For example, the member may not do a sufficient business to satisfy clearing firm financial and other requirements to support a separate clearing agreement. In such cases, a member may contract for clearing services with an introducing, or intermediary, firm that, in turn, contracts directly with a clearing firm for clearing services. Members that contract for clearing services with an introducing firm are often referred to as ''piggybacking'' firms, or ''piggybackers.'' Under this arrangement, only the introducing firm has a contractual arrangement with the clearing firm, which clears for both the introducing firm and the introducing firm's piggybacking firms. Under current practice, the intermediary firm may assign account numbers to the piggybacker's accounts (both proprietary and customer accounts) that do not identify them to the clearing firm as belonging to a piggybacking firm. For example, the introducing firm may assign account numbers that identify these accounts as branch offices of the introducing firm.

Although these piggybacking arrangements may satisfy the business needs of the parties—the clearing firm, the introducing firm, and the piggybacking firm—they impede NASD regulatory programs and may cause problems for the clearing firm. For example, under Rule 3150, clearing firms are required to report certain data to NASD for purposes of the surveillance component of its National Examination Program (''NEP''). In fulfilling its reporting obligation under Rule 3150, a clearing firm whose clients include introducing firms that have contracted with piggybackers may be reporting the combined data of the introducing firm and its piggybackers as only belonging to the introducing firm. In such cases, NASD staff is not able to distinguish between data belonging to the introducing firm and data belonging to the piggybacking firm(s) for purposes of conducting surveillance.

This inability to separate out the data can, and already has, become a serious issue where the intermediary firm goes into SIPC (''Securities Investor Protection Corporation'') liquidation. If the data from the intermediary and piggybacking firms are not distinguishable, the clearing firm will be unable to facilitate the orderly transfer of accounts without doing time-intensive research and creating a special program to separate accounts belonging to the introducing firm and its piggybacker(s).

To resolve these issues, NASD is proposing to adopt amendments to Rule 3150 (governing reporting requirements for clearing firms) and Rule 3230 (governing clearing agreements) that would permit regulators and clearing firms to distinguish between data belonging to an introducing firm and data belonging to its piggybacker(s). The proposed amendments to Rule 3150 would require clearing firms to report data to NASD about each piggybacking firm separately from the introducing firm's data. The proposed requirements would apply to the data pertaining to the proprietary and customer accounts of piggybacking firms only if the piggybacking relationship with the introducing firm was established on or after the effective date of this proposed rule change.

The proposed amendments to Rule 3230 would require introducing firms to maintain data in such a way as to enable NASD and the clearing firm to be able to identify the data pertaining to the proprietary and customer accounts of the introducing firm and the data pertaining to the proprietary and customer accounts of any piggybacking firm. These proposed rule changes will enable NASD staff to surveil data reported by piggybacking firms as part of its NEP Surveillance program and facilitate any future SIPC liquidations. The requirements of the proposed rule change would apply only to the data belonging to the proprietary and customer accounts of any piggybacking firm only if the piggybacking relationship was established on or after the effective date of the proposed rule change.[4]

NASD will announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval. NASD is proposing an effective date of 180 days following Commission approval. This will give members time to make necessary changes to their systems.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which

[4] NASD understands that requiring firms to convert existing accounts would potentially burden customers as the clearing firm may need to issue new account numbers and, as applicable, new debit cards, checking accounts, and passwords issued in connection with the accounts. Accordingly, the piggybacking firms would have to advise these customers in writing that they would be getting new account numbers, and why, and would need to change their records to reflect new customer account numbers. Further, NASD understands that some clearing firms would have to convert such existing accounts to accounts under the customers' names manually, entry by entry. Other data, such as cost basis information, also might have to be manually transferred to the new accounts. Accordingly, while NASD recognizes that there is some risk in not being able to surveil data belonging to accounts held by firms who are currently in piggybacking clearing relationships, it does not believe that the regulatory benefit in requiring such conversion would outweigh the expense and inconvenience to customers and firms.

requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general, to protect investors and the public interest. NASD believes that the proposed rule change is designed to accomplish these ends by giving regulators and clearing firms the ability to determine whether data being reported to clearing firms belongs to an introducing firm or a piggybacking firm. The proposed rule change will enable NASD staff to more clearly identify data being reported to NASD for purposes of NASD's NEP Surveillance and, in those instances where an introducing firm enters a SIPC liquidation, will help to facilitate an orderly liquidation.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, as amended, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2005–58 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASD–2005–58. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASD–2005–58 and should be submitted on or before August 16, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–3928 Filed 7–22–05; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(12).

SELECTIVE SERVICE SYSTEM

Forms Submitted to the Office of Management and Budget for Extension of Clearance

AGENCY: Selective Service System.

ACTION: Notice.

I. The following forms have been submitted to the Office of Management and Budget (OMB) for extension of clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35):

SSS–2, 3A&B, 3C

Title: The Selective Service System Change of Information, Correction/Change Form and Registration Status Forms.

Purpose: To insure the accuracy and completeness of the Selective Service System registration data.

Respondents: Registrants are required to report changes to corrections in data submitted in SSS Form 1.

Frequency: When changes in a registrant's name or address occur.

Burden: The reporting burden is two minutes or less per report.

SSS–402

Title: Uncompensated Registrar Appointment.

Purpose: Is used to verify the official status of applicants for the position of Uncompensated Registrars and to establish authority for those appointed to perform as Selective Service System Registrars.

Respondents: United States citizens over the age of 18.

Frequency: One-time.

Burden: The reporting burden is three minutes or less.

II. The following forms, to be used only in the event that inductions into the armed services are resumed, have been submitted to the Office of Management and Budget (OMB) for the extension of clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35):

SSS–9

Title: Registrant Claim Form.

Purpose: Form is used to submit a claim for postponement or induction or reclassification.

Respondents: Registrants filing claims for either postponement or reclassification.

Frequency: One-time.

Burden: The reporting burden is five minutes or less per individual.

SSS–21

Title: Claim Documentation Form—Administrative.

Purpose: Is used to document those claims for reclassification which can be approved by an Area Office upon the presentation of documentary proof.

Respondents: Registrants whose past or present status is reason for reclassification.

Frequency: One-time.

Burden: The reporting burden is ten minutes or less per individual.

SSS–23

Title: Claim Documentation Form—Divinity Student.

Purpose: Used to document a claim for classification as a divinity student.

Respondents: Registrants who are divinity students.

Frequency: One-time.

Burden: The reporting burden is 20 minutes or less per individual.

SSS–24

Title: Claim Documentation Form—Hardship to Dependents.

Purpose: Is used to document a claim for classification on the basis of the hardship induction will cause a registrant's dependent(s).

Respondents: Registrants whose induction will cause hardship on their dependent(s).

Frequency: This form is normally used one-time.

Burden: The reporting burden is 30 minutes or less per individual.

SSS–25

Title: Claim Documentation Form—Minister of Religion.

Purpose: Is used to document claims for classification as a regular or duly ordained minister.

Respondents: Registrants who are regular or duly ordained ministers.

Frequency: One-time.

Burden: The reporting burden is 20 minutes or less per individual.

SSS–26

Title: Claim Documentation Form—Alien or Dual National.

Purpose: Is used to document a registrant's claim for classification as an Alien, Dual National or Treaty Alien.

Respondents: Registrants who wish to be classified as an Alien, Dual National or Treaty Alien.

Frequency: One-time.

Burden: The reporting burden is 20 minutes or less per individual.

SSS–27

Title: Claim Documentation Form—Postponement of Induction.

Purpose: Is used to document a claim for the postponement of induction.

Respondents: Registrants whose present status warrants postponement of induction.

Frequency: This form is normally used one-time.

Burden: The reporting burden is ten minutes or less per individual.

SSS–109

Title: Student Certificate.

Purpose: Is used to substantiate a claim for postponement of induction because the subject registrant is a student.

Respondents: Registrants who are attending school but have not graduated.

Frequency: The certificate is normally used one-time.

Burden: The reporting burden is six minutes or less per individual.

SSS–130

Title: Application by Alien for Relief from Training and Service in the Armed Forces of the United States.

Purpose: Is used to request relief from training and service based on being a national of a country with which an applicable treaty is in effect, *i.e.*, ''Treaty Alien.''

Respondents: Those registrants who are ''Treaty Aliens'' and desire not to serve in the Armed Forces of the United States.

Frequency: One-time.

Burden: The reporting burden is five minutes or less per individual.

Copies of the above identified forms can be obtained upon written request to Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

Written comments and recommendations for the proposed extension of clearance of the form(s) should be sent within 60 days of publication of this notice to Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

A copy of the comments should be sent to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20503.

Dated: June 27, 2005.

William A. Chatfield,

Director.

[FR Doc. 05–14658 Filed 7–25–05; 8:45 am]

BILLING CODE 8015–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before September 26, 2005.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Bruce Purdy, Financial Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street SW., Suite 8300, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Bruce Purdy, Financial Analyst, 202–205–7532 *bruce.purdy@sba.gov.* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.sba.*

SUPPLEMENTARY INFORMATION:

Title: ''PRIME (Program for Investment in Microentrepreneurs''.

Description of Respondents: Disadvantaged Microentrepreneurs.

Form No: N/A.

Annual Responses: 112.

Annual Burden: 224.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 05–14642 Filed 7–25–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before August 25, 2005. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *David_Rostker@omb.eop.gov*, fax

number 202–395–7285 Office of Information and Regulatory Affairs, Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer,*jacqueline.white@sba.gov* (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: ''NMVC Program Application Interview Questions: SBIC Application Tech, Proposal: Request for Approval of Management Services fees.''

Form No: 2215, 2216, 2217.

Frequency: On Occasion.

Description of Respondents: Program Applicants and participants SSBIC'S receiving grants under the NMVC programs.

Annual Responses: 38.

Annual Burden: 91.

Jacqueline K. White,

Chief, Administrative Information Branch.

[FR Doc. 05–14643 Filed 7–25–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before August 25, 2005. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *David_Rostker@omb.eop.gov*, fax number 202–395–7285 Office of Information and Regulatory Affairs, Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, *jacqueline.white@sba.gov* (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: ''U.S. Small Business Advisory Committee Membership—Nominee Information.''

Form No: 898.

Frequency: On Occasion.

Description of Respondents: To collect information for Candidates for Advisory Council.

Annual Responses: 100.

Annual Burden: 100.

Jacqueline K. White,

Chief, Administrative Information Branch.

[FR Doc. 05–14644 Filed 7–25–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before August 25, 2005. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *David_Rostker@omb.eop.gov*, fax number 202–395–7285 Office of Information and Regulatory Affairs, Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, *jacqueline.white@sba.gov* (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: ''Servicing Agent Agreement.''

Form No.: 1506.

Frequency: On Occasion.

Description of Respondents: Certified Development Companies and SBA Borrowers.

Annual Responses: 15,516.

Annual Burden: 15,516.

Jacqueline K. White,

Chief, Administrative Information Branch.

[FR Doc. 05–14645 Filed 7–25–05; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Emergency Consideration Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub.L. 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Building, Room 10235, 725 17th St., NW., Washington, DC 20503, Fax: 202–395–6974.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, *OPLM.RCO@ssa.gov*.

The information collection listed below has been submitted to OMB for expedited Emergency Clearance. SSA is requesting Emergency Consideration from OMB by 08/08/2005. Your comments on the information collection are requested by that date. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. Medicare Modernization Act Subsidy Application Mailing Follow-Up Survey—0960–NEW. The Medicare Prescription Drug, Improvement, and

Modernization Act of 2003 (MMA), Pub.L. 108–173, created a new voluntary prescription drug benefit program. The MMA stipulates that Medicare beneficiaries who meet income and resource limits are eligible to receive a subsidy for this program. Medicare beneficiaries who are not automatically enrolled in the subsidy program may apply for subsidy consideration using form OMB No. 0960–0696 (SSA–1020), the Application for Help with Medicare Prescription Drug Plan Costs.

Approximately 19 million Medicare recipients will receive form SSA–1020, which includes a cover letter encouraging them to complete and return the application form to the Social Security Administration (SSA) immediately. However, there are many applicants who may not immediately return their completed applications. The earlier SSA receives subsidy applications, the more time it has to confirm information on the applications, process them, and make a subsidy determination in anticipation of the January 2006 subsidy program's beginning. For this reason, SSA plans to conduct a phone survey of individuals who received the subsidy application but did not return it to SSA. The purpose of the survey is to encourage these individuals to return the completed application to SSA. Respondents are Medicare recipients who have been mailed form SSA–1020 but have not yet returned the form.

Type of Collection: Emergency information collection (new).

Number of Respondents: 15,000,000 (maximum).

Frequency of Response: 1.

Average Burden Per Response: 2.5 minutes.

Estimated Annual Burden: 625,000 hours.

Dated: July 19, 2005.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 05–14628 Filed 7–25–05; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5104]

Announcement of meetings of the International Telecommunication Advisory Committee

SUMMARY: The International Telecommunication Advisory Committee announces an email meeting of ITAC Study Group D to consider a normal contribution to International Telecommunication Union, Telecommunication Standardization Sector (ITU–T) Study Group 9, Integrated broadband cable networks and television and sound transmission. Members of the public may participate, and may join in the discussions.

The International Telecommunication Advisory Committee (ITAC) will meet by email to prepare for ITU–T Study Group 9, Integrated broadband cable networks and television and sound transmission, from August 10 to 16. The agenda constitutes consideration of a single document for submission as a normal contribution; this is not the meeting for general preparation for the SG9 meeting, which is scheduled for September 28, 2005. Discussions will be conducted by email on the SGD list. Directions for access to the document being considered and the discussion list may be obtained from Julian Minard minardje@state.gov.

Dated: July 19, 2005.

Cecily Holiday,

Director, Radiocommunication Standardization, International Communications & Information Policy, Department of State.

[FR Doc. 05–14740 Filed 7–25–05; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice 5103]

Overseas Buildings Operations; Industry Advisory Panel: Meeting Notice

The Industry Advisory Panel of the Overseas Buildings Operations will meet on Thursday, September 22, 2005 from 09:45 a.m. until 3:30 p.m. Eastern Standard Time. The meeting will be held at the Department of State, 2201 C Street, NW. (entrance on 23rd Street), Loy Henderson Room, Washington, DC.The majority of the meeting is devoted to an exchange of ideas between the Department's Bureau of Overseas Buildings Operations' senior management and the panel members, on design, operations and building maintenance. Members of the public are asked to kindly refrain from joining the discussion until Director Williams opens the discussion to the public.

Due to limited seating space for members of the public, we ask that you kindly e-mail your information. To participate in this meeting, simply register by e-mail at *IAPR@STATE.GOV* before September 15, 2005. Your e-mail should include the following information; Date of birth, social security number, company name and title. This information is required to issue a temporary pass to enter the building.

For questions, please contact *PinzinoLE3@state.gov* or call tel: 703/875–6872 Ms. Gina Pinzino; or *SpragueMA@state.gov* tel: 703/875–7173 for Michael Sprague.

Dated: July 13, 2005.

Charles E. Williams,

Director & Chief Operating Officer, Overseas Buildings Operations, Department of State.

[FR Doc. 05–14739 Filed 7–25–05; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34723]

Blacklands Railroad, Inc.—Lease and Operation Exemption—Union Pacific Railroad Company

Blacklands Railroad, Inc. (BLR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from Union Pacific Railroad Company (UP) and operate a segment of rail line known as the Commerce Branch. The segment extends approximately 7.9 miles from milepost 481.5 near Mt. Pleasant, TX, to milepost 489.40 near Winfield, TX. The transaction will enable BLR to interchange traffic with UP in Mt. Pleasant.

BLR states that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier, and certifies that its projected annual revenues will not exceed $5 million. The transaction was scheduled to be consummated on or shortly after July 6, 2005.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34723, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Wayne Defebaugh, 641 Church St., Sulphur Springs, TX 75482.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: July 19, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–14615 Filed 7–25–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on an information collection that is due for renewed approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning recordkeeping requirements associated with Reporting of International Capital and Foreign Currency Transactions and Positions—31 CFR part 128.

DATES: Written comments should be received on or before September 26, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments on international capital transactions and positions to: Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 4410–1440NYA, 1500 Pennsylvania Avenue NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*dwight.wolkow@do.treas.gov*), FAX (202–622–1207) or telephone (202–622–1276). Direct all written comments on foreign currency transactions and positions to: Timothy Dulaney, Department of the Treasury, Room 4109–1440NYA, 1500 Pennsylvania Avenue NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Dulaney by e-mail (*Tim.Dulaney@do.treas.gov*), FAX (202–622–2021) or telephone (202–622–2052).

FOR FURTHER INFORMATION CONTACT: Requests for additional information on international capital transactions and positions should be directed to Mr. Wolkow. Requests for additional information on foreign currency transactions and positions should be directed to Mr. Dulaney.

SUPPLEMENTARY INFORMATION:

Title: 31 CFR part 128, Reporting of International Capital and Foreign Currency Transactions and Positions.

OMB Number: 1505–0149.

Abstract: 31 CFR part 128 establishes general guidelines for reporting on United States claims on and liabilities to foreigners; on transactions in securities with foreigners; and on the monetary reserves of the United States as provided for by the International Investment and Trade in Services Survey Act and the Bretton Woods Agreements Act. In addition, 31 CFR part 128 establishes general guidelines for reporting on the nature and source of foreign currency transactions of large U.S. business enterprises and their foreign affiliates. This regulation includes a recordkeeping requirement, § 128.5, which is necessary to enable the Office of International Affairs to verify reported information and to secure additional information concerning reported information as may be necessary. The recordkeepers are U.S. persons required to file reports covered by these regulations.

Current Actions: No changes to recordkeeping requirements are proposed at this time.

Type of Review: Extension.

Affected Public: Business or other for-profit organizations.

Estimated Number of Recordkeepers: 2,000.

Estimated Average Time per Respondent: 3 hours per respondent per filing.

Estimated Total Annual Burden Hours: 6,000 hours, based on one response per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether the recordkeeping requirements in 31 CFR 128.5 are necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Timothy D. Dulaney,

Director, IMO.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 05–14635 Filed 7–25–05; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 15, 2005.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 25, 2005 to be assured of consideration.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0030.

Form Number: TTB F 5620.8.

Type of Review: Extension.

Title: Claim—Alcohol, Tobacco and Firearms Taxes.

Description: This form is used by taxpayers to show the basis for a credit remission and allowance of tax on loss of taxable articles, to request a refund or abatement on taxes excessively or erroneously collected and to request a drawback of tax paid on distilled spirits used in the production of non-beverage products.

Respondents: Business of other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 10,000.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Other (when needed).

Estimated Total Recordkeeping Burden: 10,000 hours.

OMB Number: 1513–0053.

Form Number: TTB 5120.17.

Type of Review: Extension.

Title: Report of Wine Premises Operations.

Description: This report is used to monitor wine operations, ensure collection of wine tax revenue, and ensure wine is produced in accordance with law and regulations. This report also provides raw data for TTBs monthly statistical release on wine.

Respondents: Business of other for-profit.

Estimated Number of Respondents: 1,755.

Estimated Burden Hours Per Respondent: 1 hour, 6 minutes.

Frequency of Response: Other (monthly OR annually).

Estimated Total Recordkeeping Burden: 10,642 hours.

OMB Number: 1513–0103.

Form Number: TTB F 5200.24 (formerly TTB F 5220.5) and TTB F 5200.25 (formerly TTB F 5210.13).

Type of Review: Extension.

Title: Tobacco Bond—Surety (formerly Corporate Surety Bond-Tobacco Products and Cigarette Papers and Tubes), and Tobacco Bond-Collateral (formerly Collateral Bond-Tobacco Products and Cigarette Papers and Tubes).

Description: TTB requires a corporate surety bond or a collateral bond to ensure payment of the excise tax on tobacco products (TP) and cigarette paper and tubes (CP&T) removed from the factory or warehouse. These TTB forms identify the agreement to pay and the person from which TTB will attempt to collect any unpaid excise tax. Manufactures of TP or CP&T, export warehouse proprietors and corporate sureties, if applicable, are the respondents for these forms and they are filed with collateral sufficient to cover the excise tax on TP and CP&T.

Respondents: Business of other for-profit.

Estimated Number of Respondents: 15.

Estimated Burden Hours Per Respondent: 1hour, 40 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 25 hours.

Clearance Officer: Barbara M. Pearson, (202) 927–8527, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G. Street, NW., Washington, DC 20005.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 05–14648 Filed 7–25–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 18, 2005.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW. Washington, DC 20220.

Dates: Written comments should be received on or before August 25, 2005 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0049.

Form Number: IRS Form 990–BL, Schedule A (Form 990–BL), and Form 6069.

Type of Review: Extension.

Title: Form 990–BL: Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons; and Form 6069: Return of Excise Tax on Excess Contributions to Black Lung Benefit Trust under Section 4953 and Computation of Section 192 Deduction

Description: IRS uses Form 990–BL to monitor activities of black lung benefit trusts, and to collect excise taxes on these trusts and certain related persons if they engage in proscribed activities. The tax is figured on Schedule A and attached to Form 990–BL. Form 6069 is used by coal mine operators to figure the maximum deduction to a black lung benefit trust. If excess contributions are made, IRS uses the form to figure and collect the tax on excess contributions.

Respondents: Business and other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 22.

Estimated Burden Hours Respondent/Recordkeeper:

Form/Schedule	Recordkeeping	Learning about the law or the form	Preparing and sending the form to the IRS
990–BL	16 hr., 30 min	3 hr., 22 min	3 hr., 48 min.
Schedule A (Form 990–BL)	7 hr., 10 min	18 min	25 min.
6069	6 hr. 10 min	1 hr., 17 min	1 hr., 27 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 563 hours.

OMB Number: 1545–0177.

Form Number: IRS Form 4684.

Type of Review: Extension.

Title: Casualties and Thefts.

Description: Form 4684 is used by taxpayers to compute their gain or loss from casualties or thefts, and to summarize such gains and losses. The data is used to verify that the correct gain or loss has been computed.

Respondents: Individuals or households, Business and other for-profit.

Estimated Number of Respondents/Recordkeepers: 170,000.

Estimated Burden Hours Respondent/Recordkeeper:

Recordkeeping—1 hr., 58 min.

Learning about the law or the form—26 min.

Preparing the form—1 hr., 4 min.

Copying, assembling, and sending the form to the IRS—34 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 688,500 hours.

OMB Number: 1545–0235.

Form Number: IRS Form 730.

Type of Review: Extension.

Title: Monthly ax Return for Wagers.

Description: Form 730 is used to identify taxable wagers and collect the tax monthly. The information is used to determine if persons accepting wagers are correctly reporting the amount of wagers and paying the required tax.

Respondents: Business and other for-profit, Individuals or households

Estimated Number of Respondents/Recordkeepers: 102,164.

Estimated Burden Hours Respondent/Recordkeeper:

Recordkeeping—6 hr., 4 min.

Learning about the law or the form—47 min.

Preparing, copying, assembling, and sending the form to the IRS—56 min.

Frequency of Response: Monthly.

Estimated Total Reporting/ Recordkeeping Burden: 384,291 hours.

OMB Number: 1545–0415.

Form Number: IRS Form W–4P.

Type of Review: Extension.

Title: Withholding Certificate for Pension or Annuity Payments.

Description: Form W–4P is used by the recipients of pension or annuity payments to designate the number of withholding allowances he or she is claiming, and additional amount to be withheld, or to elect that no tax be withheld, so that the payer can withhold the proper amount.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 12,000,000.

Estimated Burden Hours Respondent/ Recordkeeper:

Recordkeeping—26 min.
Learning about the law or the form—22 min.
Preparing and sending the form—59 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 21,720,000 hours.

OMB Number: 1545–1385.

Regulatory Project Number: GL–238–88 Final.

Type of Review: Extension.

Title: Preparer Penalties—Manual Signature Requirement.

Description: The reporting requirements affect returns preparers of fiduciary returns. They will be required to submit a list of the names and identifying number of all fiduciary returns which are being filed with a facsimile signature of the returns preparer.

Respondents: Business and other for-profit.

Estimated Number of Respondents/ Recordkeepers: 20,000.

Estimated Burden Hours Respondent/ Recordkeeper: 1 hour, 17 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 25,825 hours.

OMB Number: 1545–1490.

Regulation Project Number: FI–28–96 Final.

Type of Review: Extension.

Title: Arbitrage Restrictions on Tax-Exempt Bonds.

Description: The recordkeeping requirements are necessary for the Service to determine that an issuer of tax-exempt bonds has not paid more than fair market value for non-purpose investments under section 148 of the Internal Revenue Code.

Respondents: Not-for-profit institutions, State, local or tribal government.

Estimated Number of Respondents/ Recordkeepers: 1,400.

Estimated Burden Hours Respondent/ Recordkeeper: 1 hour.

Estimated Total Reporting/ Recordkeeping Burden: 1,425 hours.

OMB Number: 1545–1938.

Revenue Procedure Number: Revenue Procedure 2005–23.

Type of Review: Extension.

Title: Limit of Retroactive Application.

Description: This revenue procedure provides a method for limiting the retroactive application of the decision in *Central Laborer's Pension Fund* v. *Heinz* if an affected participant is given the opportunity to elect retroactively the commencement of the payment of benefits as of June 7, 2004 (or the date the participant first became eligible to commence payment of benefits, if later). The election period for affected participants is at least a sixth month that commences within a reasonable time period after affected participants receive proper notification of the option.

Respondents: Business and other for-profit, Not-for-profit institutions.

Estimated Number of Recordkeepers: 285.

Estimated Burden Hours Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 142,500 hours.

OMB Number: 1545–1939.

Notice Number: Notice 2005–32.

Type of Review: Extension.

Title: Notification Requirement for Transfer of Partnership Interest in Electing Investment Partnership (EIP).

Description: If a partnership interest in an EIP is transferred in a sale or exchange or upon the death or partnership, the transferor must notify the transferee and the EIP in writing.

Respondents: Business and other for-profit, Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 266,400.

Estimated Burden Hours Respondent/ Recordkeeper: 2 hours, 4 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 552,100 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428. Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 05–14649 Filed 7–25–05; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Tuesday,
July 26, 2005

Part II

Department of Homeland Security

Federal Emergency Management Agency

44 CFR Part 153

Heroes Stamp Act of 2001—Regulations, Privacy Act System of Records and Privacy Impact Assessment, and Information Collections; Interim Rule and Notices

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 153

[DHS–2005–0006]

RIN 1660–AA34

Assistance Program Under the 9/11 Heroes Stamp Act of 2001

AGENCY: United States Fire Administration, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Interim rule with request for comments.

SUMMARY: The 9/11 Heroes Stamp Act of 2001 directed the United States Postal Service to issue a semipostal stamp and distribute the proceeds through the Federal Emergency Management Agency to the families of emergency relief personnel killed or permanently disabled while serving in the line of duty in connection with the terrorist attacks against the United States on September 11, 2001. This interim rule establishes the mechanism by which FEMA will distribute these funds.

DATES: This rule is effective August 25, 2005. Submit comments on or before August 25, 2005.

ADDRESSES: You may submit comments, identified by EPA DOCKET NUMBER DHS–2005–0006 and/or Regulatory Information Number (RIN) 1600–AA34, by *one* of the following methods:

- *EPA Federal Partner EDOCKET Web Site: http://www.epa.gov/feddocket.* Follow the instructions for submitting comments on the Web site.

DHS has joined the Environmental Protection Agency (EPA) online public docket and comment system on its Partner Electronic Docket System (Partner EDOCKET). DHS and its agencies (excluding the United States Coast Guard and Transportation Security Administration) will use the EPA Federal Partner EDOCKET system. The USCG and TSA [legacy Department of Transportation (DOT) agencies] will continue to use the DOT Docket Management System until full migration to the electronic rulemaking Federal docket management system in 2005.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: FEMA-Rules@dhs.gov.* Include RIN 1600–AA34 in the subject line of the message.
- *Fax:* (202) 646–4536.
- *Mail:* Please send any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to *http://www.epa.gov/feddocket*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.epa.gov/feddocket.* You may also access the Federal eRulemaking Portal at *http://www.regulations.gov.* Submitted comments may also be inspected at Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Michael Herman, Heroes Stamp, 500 C Street, SW., Room 840, Washington, DC 20472, or call 1–866–887–9107, or send e-mail to *FEMA-HeroesStamp@dhs.gov.*

SUPPLEMENTARY INFORMATION: The 9/11 Heroes Stamp Act of 2001, Public Law 107–67, sec. 652, 115 Stat. 514 (Nov. 12, 2001) (Heroes Stamp Act), directed the United States Postal Service (USPS) to issue a semipostal stamp and distribute the proceeds through the Federal Emergency Management Agency (FEMA) to the families of emergency relief personnel killed or permanently disabled while serving in the line of duty in connection with the terrorist attacks against the United States on September 11, 2001.

A semipostal stamp is a type of postage that is sold for a value greater than that of a regular first class stamp. The proceeds from the price differential between the sale price of the stamp and the cost of the postage fund the distribution provided for in the Heroes Stamp Act, after appropriate deduction for reasonable costs of producing and distributing the Heroes semipostal stamps by the USPS. The Heroes Stamp Act does not grant any administrative costs to FEMA. The USPS issued the Heroes semipostal stamp in June 2002, and discontinued selling the Heroes semipostal stamp on December 31, 2004.

FEMA has established a program to distribute the funds raised from the sale of the Heroes semipostal stamp. Eligible claimants are those emergency relief personnel who have been permanently physically disabled in the line of duty and, in the case of emergency relief personnel killed in the line of duty, their personal representatives.

The September 11th Victim Compensation Fund of 2001 compensated any individual (or the personal representative of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes on September 11, 2001. Public Law 107–42, secs. 401 *et seq.*, 115 Stat. 237 (Sept. 22, 2001) (49 U.S.C. 40101 note). The Attorney General adopted regulations for the management of this victim compensation fund. 66 FR 66282 (Dec. 21, 2001). The Heroes Stamp Act is narrower in scope and authorizes assistance only to the emergency relief personnel killed or permanently disabled in the line of duty in connection with the terrorist attacks against the United States on September 11, 2001, and their families. Although the Heroes Stamp Act fund is a separate fund from the September 11th Victim Compensation Fund of 2001, this interim rule incorporates some language from the rules for the September 11th Victim Compensation Fund of 2001 to provide consistency. For example, FEMA used language from the definition of ''immediate aftermath'' from the September 11th Victim Compensation Fund of 2001 rule when crafting the definition of ''in the line of duty.''

This interim rule excludes emotional injuries in the definition of ''eligible claimants'' because of the manner in which the legislation established the program and the limited amount of money that is available for eligible claimants. Unlike the September 11th Victim Compensation Fund of 2001, funds were donations by each purchaser of the Heroes semipostal stamps and unlike the September 11th Victim Compensation Fund of 2001, this fund does not depend on evaluation of a degree of loss.

To make the permanent disability determination, FEMA will rely on the expertise of and the determinations made by an appropriate private entity (*e.g.* private insurance company), Federal, State, or local agency such as: the Social Security Administration, New York Workers' Compensation Board, New York State Retirement System, New Jersey Division of Workers' Compensation, New York City Police Department and its pension system, or New York City Fire Department and its pension system.

Similarly, FEMA will rely on previously established determinations of the representative of the claimant if at all possible. Accordingly, a personal representative will be selected in the

following order: (1) An individual appointed by a court of competent jurisdiction, or the executor or administrator of the decedent's will or estate; (2) the personal representative recognized by the Special Master of the September 11th Victim Compensation Fund of 2001; or (3) a personal representative selected by FEMA. *See,* K. Feinberg, I *Final Report of the Special Master for the September 11th Victim Compensation Fund*, 24–29 (2004).

Only one application for assistance may be submitted for each emergency relief personnel killed or permanently physically disabled in the line of duty. To be eligible for assistance under the Heroes Stamp Act, each applicant is required to file an application which will be provided by FEMA upon request and consistent with the regulations. The deadline for filing an application will be announced in a separate notice in the **Federal Register**. Applications may *not* be submitted after the application deadline. In the unusual event that the applicant's documentation is not available, the applicant nonetheless must apply within the application period and must explain why he/she cannot obtain the necessary documentation. The history of claims applications to the September 11th Victim Compensation Fund of 2001 and State and local pension and Workers' Compensation agencies strongly suggests that applicants generally possess this information and that it is readily available.

The Heroes Stamp Act granted FEMA the discretion to determine eligibility criteria and the amount of any grant. FEMA will notify applicants of its determination. FEMA will attempt to distribute funds equally among all eligible claimants until the fund has been liquidated. FEMA will make an initial disbursement to all eligible claimants, after which FEMA will address and resolve any appeals. After any appeals have been administratively resolved, FEMA will make a final distribution of the funds.

After the fund has been liquidated, FEMA has no authority or funds with which to make an additional award to an otherwise eligible claimant. There are no funds available for the program other than the proceeds that were distributed to FEMA by the USPS, nor are there any other Federal funds authorized for use in making such payments. Payments can be made only from the Heroes Stamp Act fund.

$10,565,073.61 has been collected from the sales of the Heroes semipostal stamp, plus the administrative costs of the USPS. Based on FEMA's estimate of approximately 1000 eligible claimants, FEMA anticipates grants in the amount of approximately $10,000 for each eligible claimant. These are only estimates and can not be relied upon for any purpose—final amounts to be paid out to claimants will only be determined after the total number of eligible claims filed have been determined.

FEMA will distribute funds to eligible claimants via Electronic Funds Transfer (EFT). FEMA will be using the DIRECT DEPOSIT SIGN–UP FORM, Standard Form 1199A (Rev. June 1987), prescribed by the Department of the Treasury, to obtain the necessary information to perform the EFT. Eligible claimants must provide the name and address of their financial institution, the routing number, the type of depositor account, the depositor account number, and the depositor account title. Finally, the financial institution must complete a certification as to the identity of the payee and the account number and title.

Because the Heroes Stamp Act does not provide for payment of legal or other fees by the Heroes Stamp Act fund, these regulations do not impose any limits on the types or amount of fees that eligible claimants may use to pay their attorneys or other costs incurred in applying for this award. Although these regulations do not set specific limits on attorneys fees separate from those existing in State law or attorney ethical standards, FEMA believes that any fee arrangement (including contingency, hourly, etc.) exceeding 5% of an eligible claimant's payment from the Heroes Stamp Act fund would not be in the best interest of the eligible claimant. However, all expenses incurred by the applicant are the sole responsibility of the applicant.

FEMA requested guidance from the Internal Revenue Service, Department of the Treasury (IRS), regarding whether certain payments made pursuant to the Heroes Stamp Act are reportable as income. On December 22, 2004, the IRS informed FEMA that FEMA is not required to issue Forms 1099 and W–2 for payments it makes to eligible claimants (or their survivors, in the case of certain death benefits) pursuant to the Heroes Stamp Act. The IRS noted, for example, that section 104(a)(5) of the Internal Revenue Code of 1986 (''the Code'') (26 U.S.C. 104(a)(5)) excludes from the gross income of an individual amounts received as disability income attributable to injuries incurred as a direct result of a terrorist attack or military action and section 102(a) of the Code (26 U.S.C. 102(a)) excludes from gross income amounts received by an individual as gifts. As a result, the IRS advised that payments made under this section are not reportable to the IRS as income. This letter is not binding on the Internal Revenue Service in determining individual tax liabilities, but only relieves FEMA of the obligation to report the distributions as taxable income to the IRS and the individual claimant.

Administrative Procedure Act

In general, FEMA publishes a rule for public comment before issuing a final rule under the Administrative Procedure Act, 5 U.S.C. 533 and 44 CFR 1.12. The Administrative Procedure Act, however, provides an exception from that procedure where the agency, for good cause, finds the procedures for comment and response contrary to the public interest. In accordance with 5 U.S.C. 553(d)(3), FEMA finds that there is good cause for the interim rule to take effect upon the closure of the comment period because delay would be impracticable in light of the presumed need of eligible individuals for relief. Additionally, prompt disbursement of the benefits from the Heroes semipostal stamp sales proceeds is in the public interest.

Normally, FEMA affords the public 60 days to comment upon FEMA's rules. FEMA is required in its notices of proposed rulemakings, by 44 CFR 1.4(e), to allow 60 days for submission of comments. However, as FEMA is publishing an interim rule and not a notice of proposed rulemaking, FEMA is not bound by the 60 day requirement. Additionally, FEMA believes that it is in the public's interest to allow a shorter comment period in order to allow comments prior to the effective date of the rule.

National Environmental Policy Act

This interim rule falls within the exclusion category of 44 CFR 10.8(d)(2)(ii), which addresses the preparation, revision, adoption of regulations, directives, manuals, and other guidance documents related to actions that qualify for categorical exclusions. Because no other extraordinary circumstances have been identified, this interim rule will not require the preparation of either an environmental assessment or an environmental impact statement as defined by the National Environmental Policy Act.

Paperwork Reduction Act of 1995

This interim rule contains information collection requirements subject to the Paperwork Reduction Act of 1995. Under the Paperwork Reduction Act, a person may not be

penalized for failing to comply with an information collection that does not display a currently valid OMB control number. This information collection request has been submitted to OMB for review and will be available for public comment and use in a notice published in the **Federal Register**.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, nor by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866, 58 FR 51735, October 4, 1993, a ''significant regulatory action'' is subject to OMB review and the requirements of Executive Order 12866. Section 3(f) of the Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or may 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 the Executive Order.

In determining whether to proceed with the formulation and publication of this rule, FEMA considered three alternatives: manage the program through administrative directives; manage the program through a Notice of Funds Availability (NOFA); and manage the program through an interim rule. FEMA rejected both the management directive and NOFA approaches because neither provides an opportunity for public comment, which we believe is important for the assurance of public confidence in the integrity of the fund distribution. Moreover, management directives pose substantial problems in communicating the requirements of the program to the general public. NOFAs may not reach the individuals who may be eligible under this program because NOFAs are generally designed to address organizational applications for grants and cooperative agreements. On the other hand, FEMA traditionally has used the rulemaking process when it has been directed by Congress to create new programs. FEMA has established rulemaking as the mechanism that it relies on when developing new programs so it was natural that FEMA would select rulemaking as the mechanism to establish this program.

This rule is a significant regulatory action, but not an economically significant regulatory action within the definition of section 3(f) of Executive Order 12866, and it adheres to the principles of regulation of the Executive Order. OMB has reviewed this rule under the provisions of the Executive Order.

Executive Order 13132—Federalism

This rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, we have determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 44 CFR Part 153

Disaster assistance, Emergency relief personnel, Terrorism.

■ Accordingly, for the reasons set forth in the preamble, part 153 of chapter I of title 44 of the Code of Federal Regulations is added to read as follows:

PART 153—ASSISTANCE PROGRAM UNDER THE 9/11 HEROES STAMP ACT OF 2001

Sec.

153.1 Purpose.
153.2 Eligibility definitions and requirements.
153.3 Other definitions.
153.4 Personal representative.
153.5 Application process.
153.6 Deadline for filing an application.
153.7 Distribution of funds.
153.8 Appeal.
153.9 Subrogation.

Authority: Section 652 of Pub. L. 107–67, 115 Stat. 514; 42 U.S.C. 2218(b)(5), 5 U.S.C. 301, 6 U.S.C. 112(a)(3) &(b)(1).

§ 153.1 Purpose.

This part implements the 9/11 Heroes Stamp Act of 2001 (''Heroes Stamp Act''), Public Law 107–67, 115 Stat. 514 (2001), which authorizes the Federal Emergency Management Agency (FEMA) to establish a program to provide assistance to emergency relief personnel killed or permanently disabled while serving in the line of duty in connection with the terrorist attacks against the United States on September 11, 2001, and their families.

§ 153.2 Eligibility definitions and requirements.

(a) *Eligible claimants.* The term *eligible claimants* shall mean emergency relief personnel acting in their official capacity who were killed or permanently physically disabled in the line of duty while serving at the World Trade Center, Pentagon, or Shanksville, Pennsylvania site in connection with the terrorist attacks against the United States on September 11, 2001.

(b) *Emergency relief personnel.* The term *emergency relief personnel* shall mean those individuals serving at the World Trade Center, Pentagon, or Shanksville, Pennsylvania site in connection with the terrorist attacks against the United States on September 11, 2001, who were firefighters, law enforcement officers, paramedics, emergency medical technicians, members of the clergy, or other individuals (including employees of legally organized and recognized volunteer organizations, whether compensated or not) who, in the course of professional duties, respond to fire, medical, hazardous material, or other similar emergencies.

(c) *In the line of duty.* The term *in the line of duty* shall mean emergency relief personnel were serving in their official capacity at the World Trade Center, Pentagon, or Shanksville, Pennsylvania site in connection with the terrorist attacks against the United States on September 11, 2001, during the period of time of and extending for 96 hours after the crashes resulting from the terrorist attacks.

(d) *Permanently physically disabled.* The term *permanently physically disabled* shall mean an individual with a significant and nontemporary physical impairment. In order to make these determinations, FEMA will rely on a determination by an appropriate private entity, Federal, State, or local agency.

§ 153.3 Other definitions.

Appeal means a written explanation of the applicant's basis to contest FEMA's eligibility determination. The appeal shall not exceed 15 pages, exclusive of supporting documentation.

Heroes Stamp Act or the Act means the 9/11 Heroes Stamp Act of 2001, section 652 of Public Law 107–67, 115 Stat. 514 (2001).

Personal representative means the individual determined to be the personal representative under § 153.4.

Special Master means the individual appointed on November 26, 2001, by the Attorney General of the United States to administer The September 11th Victim Compensation Fund of 2001. *See* 28 CFR part 101.

§ 153.4 Personal representative.

(a) *In general. A personal representative will be recognized by FEMA as follows:*

(1) An individual appointed by a court of competent jurisdiction as the personal representative of the decedent or as the executor or administrator of the decedent's will or estate.

(2) In the event that no personal representative or executor or administrator has been appointed by any court of competent jurisdiction, and such issue is not the subject of pending litigation or other dispute, then the personal representative selected by the Special Master will be recognized as the personal representative for the purposes of compensation under the Heroes Stamp Act.

(3) In the event that no personal representative or executor or administrator has been appointed by any court of competent jurisdiction, such issues are not the subject of pending litigation or other dispute and the Special Master did not select a personal representative, FEMA, may, in its discretion, determine whether to recognize any individual or entity as a personal representative and the identity of the personal representative.

(b) *Disputes regarding personal representative.* FEMA shall not be required to arbitrate, litigate, or otherwise resolve any dispute as to the identity of the personal representative. In the event of a dispute over the appropriate personal representative, FEMA may suspend adjudication of the claim or if sufficient information is provided, authorize payment, but place any payment in escrow until the dispute is resolved either by agreement of the disputing parties or by a court of competent jurisdiction.

§ 153.5 Application process.

(a) Only an eligible claimant may file an application for assistance under this part. An application must be submitted on the 9/11 Heroes Stamp Act of 2001 Eligibility and Application for Benefits form (FEMA Form 75–14, OMB No. 1660–0091). Only one application may be submitted for each eligible claimant. FEMA will review the applications to determine whether applicants are eligible claimants. After FEMA has evaluated the application and supporting materials, FEMA will issue and provide each applicant with a copy of FEMA's eligibility determination of that applicant.

(b) Application forms are available from FEMA upon request. They may be obtained through the mail, or by telephone request. The application form may also be downloaded from the Internet at *http://www.usfa.fema.gov.*

(c) Applications must be sent to Heroes Stamp, USFA, NETC, 16825 South Seton Avenue, Emmitsburg, MD 21727. Applications submitted by facsimile or e-mail will not be accepted.

(d) An application is deemed filed on the date it is received by FEMA.

§ 153.6 Deadline for filing an application.

The deadline for filing an application will be announced through publication of a notice in the **Federal Register**.

§ 153.7 Distribution of funds.

(a) FEMA will not distribute funds until FEMA has made eligibility determinations on all applications under § 153.5.

(b) The amount of assistance granted under the Act is within FEMA's discretion. FEMA will distribute funds equally, to the extent feasible, among eligible claimants until the fund has been liquidated. FEMA will not differentiate in making the amount of the award, between those eligible claimants who were killed or those eligible claimants who were permanently physically disabled while serving in the line of duty in connection with the terrorist attacks against the United States on September 11, 2001.

(c) FEMA will notify each individual it determines to be eligible for assistance under the Heroes Stamp Act of its intent to make a distribution, and of an estimated amount of the initial distribution. This notification will be made through the United States mail.

(d) FEMA may make multiple distributions. Once all appeals have been settled, FEMA will further distribute to eligible claimants any monies that were set-aside for applicants who are determined not to be eligible claimants.

§ 153.8 Appeal.

(a) An applicant may appeal a determination made by FEMA that the applicant is not eligible to participate in the distribution of funds. An applicant may not appeal the amount of the award.

(b) The applicant must submit a notice of his/her intent to appeal to FEMA's Appeals Specialist within 15 calendar days of the date of the issuance of FEMA's determination of eligibility. The notice of intention to appeal must be sent to: Appeals Specialist, Office of Dispute Resolution, Heroes Stamp, USFA, NETC, 16825 South Seton Avenue, Emmitsburg, MD 21727. A notice of intention to appeal submitted by facsimile or e-mail will not be accepted. The applicant must submit, along with the notice of appeal, a brief statement explaining why the applicant believes the determination regarding the application was incorrect. The notice of intention to appeal is deemed filed on the date it is received by FEMA.

(c) The applicant must file an appeal within 60 calendar days of the date of the issuance of FEMA's determination. An appeal shall mean a written explanation of the applicant's basis to contest FEMA's eligibility determination. The appeal shall not exceed 15 pages, exclusive of supporting documentation. The appeal must be sent to: Appeals Specialist, Office of Dispute Resolution, Heroes Stamp, USFA, NETC, 16825 South Seton Avenue, Emmitsburg, MD 21727. Appeals submitted by facsimile or e-mail will not be accepted. All supporting documentation must be submitted with the appeal. The appeal is deemed filed on the date it is received by FEMA.

(d) FEMA's decision on the appeal will constitute the final agency decision on the matter.

§ 153.9 Subrogation.

No person or entity having paid other benefits or compensation to or on behalf of an eligible claimant shall have any right of recovery, whether through subrogation or otherwise, against the compensation paid by the Fund.

Dated: July 15, 2005.

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–14517 Filed 7–25–05; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary; Privacy Office

[DHS–2005–0012]

RIN 1660–ZA08

Privacy Act of 1974; System of Records

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Department of Homeland Security gives notice that the United States Fire Administration, located in its Directorate for Emergency Preparedness and Response/Federal Emergency Management Agency, is establishing a new system of records that will be maintained in its Access database, which is used to track agency activities. The new system of records is entitled ''9/11 Heroes Stamp Act of 2001 File System; DHS/FEMA/USFA–1.''

The 9/11 Heroes Stamp Act of 2001 Files System is being established to support the administration of a program which provides assistance to individual emergency relief personnel killed or permanently disabled while serving in connection with the terrorist attacks of September 11, 2001. The system will enable prompt distribution of proceeds from the sale by the United States Postal Service of a Heroes ''semipostal'' stamp.

DATES: The new system of records will be effective August 25, 2005, unless comments are received that result in a contrary determination.

ADDRESSES: You may submit comments, identified by EPA DOCKET NUMBER: DHS–2005–0012 and/or 1660–ZA08 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. DHS has joined the Environmental Protection Electronic Docket System (Partner EDOCKET). DHS and its agencies (excluding the United States Coast Guard (USCG) and Transportation Security Administration (TSA) will use the EPA Federal Partner EDOCKET system. The USCG and TSA [legacy Department of Transportation (DOT) agencies] will continue to use the DOT Docket Management System until full migration to the electronic rulemaking Federal docket management system occurs in 2005.
- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 646–4536.
- *Mail:* Rules Docket Clerk, Federal Emergency Management Agency, Office of General Counsel, Room 840, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Rena Y. Kim, Privacy Act Officer, Room 840, 500 C Street, SW., Washington, DC 20472; (telephone) (202) 646–3949.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974, the Department of Homeland Security (DHS) is establishing a new system of records to be maintained by the United States Fire Administration (USFA), Federal Emergency Management Agency (FEMA), which is part of the Department's Directorate for Emergency Preparedness and Response (EP&R). The new system of records is entitled ''9/11 Heroes Stamp Act of 2001 File System; DHS/FEMA/USFA–1.''

The 9/11 Heroes Stamp Act of 2001 File System is a system of records established to support the administration of a program, authorized by the 9/11 Heroes Stamp Act of 2001, Pub. L. 107–67, 115 Stat. 514, which provides assistance to emergency relief personnel permanently disabled while serving in connection with the terrorist attacks of September 11, 2001, or, in the event the personnel were killed, to their personal representative. The system is being established to enable prompt distribution of proceeds from the sale by the United States Postal Service (USPS) of the Heroes ''semipostal'' stamp. A semipostal stamp is a type of postage that is sold for a value greater than a regular first class stamp. The proceeds of the price differential for the Heroes stamp fund the awards provided for in the Heroes Stamp Act after an appropriate deduction is made for the reasonable costs of producing and distributing the semipostal stamps. The USPS issued the Heroes semipostal stamp in June 2002, and discontinued selling it on December 31, 2004. FEMA, USFA, will use the 9/11 Heroes Stamp Act of 2001 File System; DHS/FEMA/USFA–1 to collect and maintain the requisite personally identifying information needed to determine eligibility for the proceeds from the sale of the stamps. Emergency relief personnel or their personal representatives will submit applications for benefits.

Applicants will be asked to submit personally identifying information, including name, date of birth, social security number, address and telephone number and, if applicable, Department of Justice September 11th Victim Compensation Fund claim number. In many cases, the emergency relief personnel submitting applications for benefits will have also submitted applications to the Department of Justice under the September 11th Victim Compensation Fund of 2001. FEMA is requesting a claim number in such cases to verify consistency between the applications for both programs. FEMA will use all the requested information to populate a database for the administration of this program.

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 9/11 Heroes Stamp Act of 2001 File System is such a system of records.

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 in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals to more easily find such files within the agency. Below is the description of the 9/11 Heroes Stamp Act of 2001 File System; DHS/FEMA/USFA–1.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this new system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME:

9/11 Heroes Stamp Act of 2001 File System; DHS/FEMA/USFA–1.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The Access database will be operated at FEMA's facility located at the U.S. Fire Administration, National Emergency Training Center (NETC), 16825 South Seton Avenue, Emmitsburg, MD 21727. It will also be operational from FEMA Headquarters at 500 C Street, SW., Room 832, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system covers those individuals who claim benefits under the 9/11 Heroes Stamp Act of 2001 (*i.e.*, emergency relief personnel claiming to be permanently disabled or the personal representative of emergency relief personnel who were killed as a result of the terrorist related aircraft crashes of September 11, 2001.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include application forms and other information submitted in hard copy by the individual seeking benefits under the 9/11 Heroes Stamp Act of 2001, or by the individual's personal representative if the individual is deceased, and documents submitted in support of the claims. This information may include an individual's medical, personal, employment, financial and other records obtained or generated to adjudicate the Heroes applications as well as September 11th Victim Compensation Fund claim numbers where applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

9/11 Heroes Stamp Act of 2001, Public Law 107–67, section 652, 115 Stat. 514 (Nov. 12, 2001).

PURPOSE(S):

These records are collected or generated for the purpose of determining an individual applicant's qualification for and/or compensation to benefits under the 9/11 Heroes Stamp Act of 2001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information the applicant submits on his or her claim is for official use only by FEMA for purposes of determining their eligibility for benefits under the 9/11 Heroes Stamp Act. The Privacy Act itself permits certain disclosures under 5 U.S.C. 552a(b), such as to individuals within an agency who have a need for the information in order to perform their duties. 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 an agency, organization, or individual for the purposes of performing authorized audit or oversight operations.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains or to a Congressional Committee providing oversight or conducting an investigation of this program.

C. To contractors, experts, consultants, 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.

D. To the Department of Justice (DOJ), the United States Attorney's Office, or a consumer-reporting agency for further collection action on any debt in relation to the 9/11 Heroes Stamp Act of 2001 when circumstances warrant.

E. Where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil or regulatory—the relevant records may be referred to an appropriate Federal, State, territorial, tribal, local, international, or foreign agency law enforcement authority or other appropriate agency charged with investigating or prosecuting such a violation or enforcing or implementing such law.

F. To the Department of Justice or other Federal agency for purposes of conducting litigation or proceedings before any court, adjudicative or administrative body, when: (a) FEMA, or (b) any employee of FEMA in his/her official capacity, or (c) any employee of FEMA in his/her individual capacity where DOJ or FEMA has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation and when the records are determined by FEMA to be arguably relevant to the proceeding.

G. To the National Archives and Records Administration (NARA) or other Federal Government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. sections 2904 and 2906.

H. To the Department of Justice for purposes of verifying the consistency of information on Heroes Fund applications with information submitted to the Department of Justice under the September 11th Victim Compensation Fund of 2001.

I. To other Federal, State, local or private agencies or entities as necessary to determine eligibility of applicants for benefits under the Heroes Fund.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Privacy Act information may be reported to consumer reporting agencies pursuant to 5 U.S.C. 552a(b)(12).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The database will be operated at FEMA's facility located at the U.S. Fire Administration, NETC, 16825 South Seton Avenue, Emmitsburg, MD 21727, and it will be operational from FEMA Headquarters at 500 C Street, SW., Room 832, Washington, DC 20472. FEMA Headquarters manages data use at all locations. Data consistency is maintained by regular replication of data among the sites and the consolidated master database via automated procedures. FEMA has a configuration management process that is used to deploy the application in a consistent manner throughout the enterprise.

Copies of paper applications as well as information maintained electronically are stored in a work area that is locked when it is not staffed. The doors to the work area are kept closed. There is limited access given to persons who have a need to have access to the information to perform their official duties. Computerized records are stored in a database server in a secured file server room. Electronic records are stored on a file server in another building and backed up nightly.

RETRIEVABILITY:

Files and automated data are retrieved by name and/or Social Security Number of an individual applicant/claimant or personal representative of a claimant, and the name of the deceased, case file number, and/or Social Security Number.

SAFEGUARDS:

Use of the Access database will be carefully monitored and reviewed on a periodic basis by the system administrator.

FEMA employs software programs that monitor host and network traffic to identify unauthorized attempts to upload or change information or otherwise cause damage by individuals or group of individuals. Unauthorized attempts to upload information or change information are prohibited and may be punishable under the Computer Fraud and Abuse Act of 1986 and the National Information Infrastructure Protection Act.

The system has an audit trail of the changes made to the application and the user information associated with that

change. Hence, the ability to monitor unauthorized access is provided.

Information in this system is safeguarded in accordance with applicable laws, rules 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. DHS file areas are locked after normal duty hours and the facilities are protected from the outside by security personnel.

RETENTION AND DISPOSAL:

The paper copy of the application and supporting documentation, which are completed by the individual, constitute the official copy of the records. The database is kept in support of the paper copy. FEMA will treat the disposition of these records—hard copies of the application and supporting documentation and any data that is input and stored in any electronic databases—the same way. The data in the system are considered permanent Federal Government records, as, 9/11 records are permanent records. This means that NARA will not destroy them once FEMA retires the records to NARA. FEMA's disposition schedule, which is pending NARA approval under job number N1–311–04–05, would retire records to NARA 1 year and 6 months after the closure of the file.

SYSTEM MANAGER AND ADDRESS:

Office of the Administrator, USFA, NETC, 16825 South Seton Avenue, Emmitsburg, MD 21727.

NOTIFICATION PROCEDURE:

A request for access to records in this system may be made by writing to the System Manager, identified above, in conformance with 6 CFR part 5, subpart B and 44 CFR part 6, which provides the rules for requesting access to Privacy Act records.

RECORD ACCESS PROCEDURES:

Same as Notification Procedure above.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedure above. State clearly and concisely the information being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The information will come from the individual applicants and/or their personal representative, if applicable, and their employer or volunteer organization, and financial institution. Information may also be obtained from Federal, State or local administrative bodies or private insurers that have made relevant determinations regarding the disability of individual applicants or their death.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

Dated: July 18, 2005.

Nuala O'Connor Kelly,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 05–14518 Filed 7–25–05; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) is submitting a request for review and approval of a collection of information under the emergency processing procedures in Office of Management and Budget (OMB) regulation 5 CFR 1320.13. FEMA is requesting that this information collection be approved by July 8, 2005. FEMA plans to follow this emergency request with a request for a 3 year approval. The request will be processed under OMB's normal clearance procedures in accordance with the provisions of OMB regulation 5 CFR 1320.10. To help us with the timely processing of this emergency submission to OMB, FEMA invites the general public to comment on the proposed collection of information.

SUPPLEMENTARY INFORMATION: The 9/11 Heroes Stamp Act of 2001, Public Law 107–67, sec. 652, 115 Stat. 514 (Nov. 12, 2001) (Heroes Stamp Act), directed the United States Postal Service (USPS) to issue a semipostal stamp and distribute the proceeds through the Federal Emergency Management Agency (FEMA) to the families of emergency relief personnel killed or permanently disabled while serving in the line of duty in connection with the terrorist attacks against the United States on September 11, 2001.

A semipostal stamp is a type of postage that is sold for a value greater than that of a regular first class stamp. The proceeds from the price differential between the sale price of the stamp and the cost of the postage fund the distribution provided for in the Heroes Stamp Act, after appropriate deduction for reasonable costs of producing and distributing the Heroes semipostal stamps by the USPS. The Heroes Stamp Act does not grant any administrative costs to FEMA. The USPS issued the Heroes semipostal stamp in June 2002, and discontinued selling the Heroes semipostal stamp on December 31, 2004.

FEMA is submitting a request for review and approval of a collection of information under the emergency processing procedures in Office of Management and Budget (OMB) regulation 5 CFR 1320.13. FEMA is requesting that this information collection be approved by July 8, 2005. FEMA plans to follow this emergency request with a request for a 3 year approval. The request will be processed under OMB's normal clearance procedures in accordance with the provisions of OMB regulation 5 CFR 1320.10. To help us with the timely processing of the emergency and normal clearance submissions to OMB, FEMA invites the general public to comment on the proposed collection of information.

This information collection allows respondents to apply for benefits using FEMA form 75–14. Primary respondents to this collection will be emergency relief personnel who were permanently physically disabled and the personal representatives of the emergency relief personnel killed while serving in the line of duty in connection with the terrorist attacks against the United States on September 11, 2001. Part IV of the Application Form (FEMA Form 75–14) will be completed by the applicant's Employer/Volunteer Organization as certification of applicant's official duties on 9/11. To facilitate disbursement of funds to eligible claimants, this collection will use Standard Form 1199A (Direct Deposit Sign-up Form) OMB No. 1510–0007, which will be completed by both the eligible claimant and his/her financial institution.

Collection of Information:

Title: 9/11 Heroes Stamp Act of 2001 Eligibility and Application for Benefits.

Type of Information Collection: New Collection.

OMB Number: 1660–0091.

Abstract: This collection implements FEMA's interim rule 44 CFR part 153

which establishes the process to distribute the proceeds of the semipostal stamp to the families of emergency relief personnel killed or permanently disabled while serving in the line of duty in connection with the terrorist attacks against the United States on September 11, 2001.

Affected Public: Individuals or Households; Business or Other For-Profit Organizations; State, Tribal, or Local Governments.

Number of Respondents: 5000.

Estimated Time per Respondent: Overall completion time for compiling and reporting information in the application form (FEMA Form 75–14) and authorizing direct deposit (SF 1199A) is estimated at 2 hours 10 minutes per respondent for claimants and 40 minutes for employers/financial institutions. Claimants appealing the process, if any, will spend an additional 30 minutes of their time preparing an ''intent to appeal notice/statement'' for an overall estimate of 2 hours and 40 minutes.

Estimated Total Annual Burden Hours: 3,340 hours.

Estimated Cost: Annualized cost—all respondents combined totals $58,620.00, with an average cost per respondent of $38.00 for claimants and $6.00 for employers and financial institutions.

Frequency of Response: One-time.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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 technology, *e.g.*, permitting electronic submission of responses. Submit comments to OMB within 30 days of the date of this notice. To ensure that FEMA is fully aware of any comments or concerns that you share with OMB, please provide us with a copy of your comments. FEMA will continue to accept comments from interested persons through September 26, 2005. Submit comments to the FEMA address listed below:

OMB Address: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, (Proposed New Information Collection—9/11 Heroes Stamp Act of 2001 Eligibility and Application for Benefits), facsimile number (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to the Chief, Records Management, Section, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security, 500 C Street, SW., Room 316, Washington, DC 20472. Facsimile number (202) 646–3347, or at e-mail address *FEMA-Information-Collections@dhs.gov.*

Dated: July 18, 2005.

George S. Trotter,

Acting Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. 05–14519 Filed 7–25–05; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary; Privacy Office

Heroes Stamp Act of 2001 Privacy Impact Assessment

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice of availability of Privacy Impact Assessment.

SUMMARY: The Department of Homeland Security gives notice that the United States Fire Administration, located in its Directorate of Emergency Preparedness and Response/Federal Emergency Management Agency, has conducted a Privacy Impact Assessment for a program to administer awards pursuant to the 9/11 Heroes Stamp Act of 2001. The Privacy Impact Assessment is available on the Web site of the Privacy Office of the Department of Homeland Security, *http://www.dhs.gov/privacy*, and on the United States Fire Administration Web site, *http://www.usfa.fema.gov*.

FOR FURTHER INFORMATION CONTACT: Rena Y. Kim, Privacy Act Officer, Federal Emergency Management Agency, Room 840, 500 C Street, SW., Washington, DC 20472, telephone (202) 646–3949.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security gives notice that the United States Fire Administration, located in its Directorate of Emergency Preparedness and Response/Federal Emergency Management Agency is establishing the 9/11 Heroes Stamp Act of 2001 Files System to support the administration of a program which provides assistance to individual emergency relief personnel killed or permanently disabled while serving in connection with the terrorist attacks of September 11, 2001. FEMA also drafted a Privacy Impact Assessment for the 9/11 Heroes Stamp Act of 2001. The Privacy Impact Assessment is available on the Web site of the Privacy Office of the Department of Homeland Security, *http://www.dhs.gov/privacy*, and on the United States Fire Administration Web site, *http://www.usfa.fema.gov*.

If you do not have access to the Internet, you may request a copy of the Privacy Act Impact Assessment for the 9/11 Heroes Stamp Act of 2001 by sending a written request to: Rena Y. Kim, Privacy Act Officer, Federal Emergency Management Agency, Room 840, 500 C Street, SW., Washington, DC 20472.

Dated: July 18, 2005.

Nuala O'Connor Kelly,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 05–14520 Filed 7–25–05; 8:45 am]

BILLING CODE 4410–10–P

Federal Register

Tuesday,
July 26, 2005

Part III

Department of Labor

Employment Standards Administration

20 CFR Parts 701 and 703
Regulations Implementing the Longshore and Harbor Workers' Compensation Act and Related Statutes; Final Rule

DEPARTMENT OF LABOR

Employment Standards Administration

20 CFR Parts 701 and 703

RIN 1215–AB38

Regulations Implementing the Longshore and Harbor Workers' Compensation Act and Related Statutes

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule requires each insurance carrier authorized to write insurance under the Longshore and Harbor Workers' Compensation Act and its extensions (the Defense Base Act; the Outer Continental Shelf Lands Act; the Nonappropriated Fund Instrumentalities Act; and the District of Columbia Workmen's Compensation Act) to demonstrate to the Office of Workers' Compensation Programs (OWCP) that its LHWCA obligations are sufficiently secured and, if necessary, to deposit security in an amount set by OWCP. This procedure will ensure the prompt and continued payment of compensation and medical benefits to injured workers and help protect the Longshore special fund's assets from consequences flowing from insurance carrier insolvencies. In addition, the rule conforms, where appropriate, the rules governing OWCP's authorization of employers as self-insurers to the provisions governing carrier security deposits.

DATES: This rule is effective August 25, 2005.

FOR FURTHER INFORMATION CONTACT: Michael Niss, Director, Division of Longshore and Harbor Workers' Compensation, Office of Workers' Compensation Programs, Employment Standards Administration, 202–693–0038. TTY/TDD callers may dial toll free (877) 889–5627 for further information.

SUPPLEMENTARY INFORMATION:

I. Background of This Rulemaking

On March 15, 2004, the Department issued a Notice of Proposed Rulemaking (NPRM) under the Longshore and Harbor Workers' Compensation Act, as amended (LHWCA), 33 U.S.C. 901 *et seq.*, proposing rules governing insurance carrier security deposits. 69 FR 12218–31 (March 15, 2004). As explained in the NPRM (69 FR 12218–19 (March 15, 2004)), since 1990 the Department has required insurance carriers it has authorized to write Longshore coverage to deposit security in an amount sufficient to secure the payment of their LHWCA obligations in States without guaranty or analogous funds and in States whose funds do not fully secure such obligations. The Department waived the deposit requirement for carriers with financial security ratings of "A'' or higher issued by the A.M. Best Company. Intervening changes in the insurance industry and related insurance rating systems, however, prompted the Department to re-examine and reformulate its security deposit policy. The NPRM embodied the Department's proposal to revamp this policy.

The NPRM proposed a process by which OWCP would determine: (1) The extent of an insurance carrier's unsecured LHWCA obligations; (2) the deposit amount necessary to secure those obligations in light of the guaranty or analogous funds in the State or States in which the carrier writes LHWCA insurance; (3) how such deposit will be held; and (4) when OWCP may seize or otherwise use deposited funds. 69 FR 12219 (March 15, 2004). The proposed rules also eliminated the Department's prior waiver policy so that all carriers, regardless of their financial strength, would be subject to the deposit requirements. 69 FR 12219 (March 15, 2004).

The Department has received five written comments in response to the NPRM: two from insurance carriers and one each from an insurance carrier association, a Longshore employer association, and a state insurance division. The Department has found these comments very helpful and, in several important respects, has revised the final rule in response.

II. Explanation of Changes

A. Statutory Authority

Congress granted the Department broad authority to "administer the provisions of [the LHWCA], and for such purpose the Secretary is authorized (1) to make such rules and regulations * * * as may be necessary in the administration of the Act.'' 33 U.S.C. 939(a). Three commenters fully support the Department's efforts to ensure a financially sound Longshore program through the proposed rules. Two commenters, however, argue that the LHWCA does not grant the Department authority to require carriers to post security deposits. They contend that section 32 (33 U.S.C. 932, erroneously referenced by the commenters as 33 U.S.C. 939) allows the Department to require employers who seek to self-insure to deposit security but does not allow imposition of a similar requirement on carriers. In these two commenters' view, the Department must instead rely on the various State regulators' supervision of carriers and those regulators' assessment of a carrier's financial strength to ensure solvency and the carrier's future ability to meet its obligations.

The Department disagrees with the commenters' construction of the statute and believes it has acted well within its rulemaking authority. Section 32 provides, in relevant part:

> (a) Every employer shall secure the payment of compensation under this Act—
>
> (1) By insuring and keeping insured the payment of such compensation with any stock company or mutual company or association, or with any other person or fund, which such person or fund is authorized (A) under the laws of the United States or of any State, to insure workmen's compensation, and (B) by the Secretary, to insure payment of compensation under this Act; or
>
> (2) By furnishing satisfactory proof to the Secretary of his financial ability to pay such compensation and receiving an authorization from the Secretary to pay such compensation directly. The Secretary may, as a condition to such authorization, require such employer to deposit * * * either an indemnity bond or securities * * * in an amount determined by the Secretary, based on the employer's financial condition, the employer's previous record of payments, and other relevant factors. * * *
>
> (b) In granting authorization to any carrier to insure payment of compensation under this Act the Secretary may take into consideration the recommendation of any State authority having supervision over carriers or over workmen's compensation. * * * The Secretary may suspend or revoke any such authorization for good cause shown. * * *

33 U.S.C. 932.

Section 32 ensures that there is money available to pay compensation to an injured worker. *United Marine Mutual Indemnity Assn.* v. *Marshall,* 510 F.Supp. 34, 36 (N.D. Cal. 1981), *affm'd sub nom., United Marine Mutual Indemnity Assn.* v. *Donovan,* 701 F.2d 791 (9th Cir. 1983). The Act seeks "certain and absolute payment'' of compensation, *United Marine,* 510 F.Supp. at 36, and the "major guarantee of the financial ability of the employer to compensate those injured or killed in the scope of employment is found in section 32.'' *Id.* at 793. As one court has noted, "[i]t is obvious from the language chosen that Congress wanted a central approval mechanism to support the fiscal soundness of the LHWCA system.'' *Id.*

To accomplish these goals, section 32(a)(1)(B) gives the Secretary discretion to authorize insurance carriers to write Longshore coverage. Apart from

requiring that the carrier be authorized by a State (or the United States) to insure workers' compensation, 33 U.S.C. 932(a)(1)(A), and permitting the Secretary to consider a State's recommendation as to the insurer's status, 33 U.S.C. 932(b), section 32 grants the Secretary the power to authorize carriers without any limitation, description, standards, or guidance. The power to authorize necessarily includes the power to refuse authorization as well; any other interpretation would render meaningless section 32(a)(1)(B)'s grant of authority to the Secretary to authorize carriers. Once granted, authorization may be suspended or revoked for "good cause.'' *Id.* By using broad, undefined terms such as "authorization'' and "good cause,'' Congress afforded the Secretary wide discretion in deciding which carriers should be allowed to write Longshore insurance.

Requiring carriers to post security as a condition of authorization to write Longshore insurance is a proper exercise of the Secretary's authority under section 32. The deposits fulfill section 32's goal because they will prevent interruption in compensation payments and medical benefits to injured workers in the event the carrier defaults or becomes insolvent. Moreover, the statute does not compel the Secretary to authorize any carrier she believes may not be able to meet its LHWCA obligations. No conceivable legislative purpose would be served, however, by precluding authorization of a carrier who demonstrates actual reliability by posting security. In fact, permitting the Secretary to require insurance carriers whom she might not otherwise authorize to post security enlarges, rather than diminishes, the opportunities available to carriers.

One commenter points to section 32(b), 33 U.S.C. 932(b), and argues that Congress intended the Secretary to rely exclusively on the various States' supervision of carriers to assure a carrier's future ability to meet its LHWCA obligations. The plain terms of the statute, however, contradict this interpretation. First, Congress wrote section 32(b) in permissive language: "the Secretary *may*'' consider a State supervisory authority's recommendation in making an authorization decision, but the statute does not require her to do so. Second, although State licensure is a condition to authorization, 33 U.S.C. 932(a)(1)(A), State approval is not sufficient alone because the statute also requires authorization by the Secretary to write Longshore insurance. 33 U.S.C. 932(a)(1)(B). Indeed, the commenter's view reads Section 32(a)(1)(B) out of the statute. The sweeping language of the statute and the sparseness of its requisites, coupled with Congress' decision not to make State licensure sufficient alone, all suggest congressional intent to permit the Secretary to condition authorization on the terms the Secretary considers most appropriate.

One comment states that because the statute expressly permits the Secretary to impose a security deposit requirement on employers seeking authorization to self-insure, 33 U.S.C. 932(a)(2), but does not include the same provision for carriers, Congress intended to preclude the Secretary from imposing this condition on carriers. The Department disagrees. The statute's express security deposit provision for self-insurers is logical because Longshore employers, unlike insurers, would not have funds put aside to cover their liabilities under the statute. Thus, security deposits the Department requires from self-insurers under section 32(a)(2) may be the only source of payment available for an employer's LHWCA obligations. Insurers, on the other hand, may have additional sources for the payment of carrier obligations, such as State guaranty funds. The statute therefore appropriately gives the Secretary wide latitude to regulate within the carrier authorization arena.

The Secretary could have determined that the steps States take to ensure a carrier's fiscal soundness, including any coverage afforded by State insurance guaranty funds, were sufficient to fulfill section 32's goal of ensuring adequate funds to compensate injured workers. But experience has proved that wrong. *See generally* 69 FR 12218–19 (March 15, 2004). In 2003 and 2004, 23 carriers authorized to write Longshore insurance became insolvent. For one of these carriers, the Department has already exhausted the company's $200,000 deposit (made under OWCP's existing policy) and is now paying the carrier's remaining obligations from the special fund. For two other carriers, whose security deposits total approximately $11,000,000, the Department is currently meeting the carriers' obligations by using the deposited security. The Department anticipates that it will exhaust those funds and will have to pay all remaining obligations from the special fund. Had the security deposits not been available, the industry as a whole, through annual special fund assessments, would have borne the full brunt of these insurers' insolvency. *See* 33 U.S.C. 918(b), 944.

Moreover, the statute's structure does not reveal congressional intent to limit the Secretary's regulatory options by negative implication. As already noted, section 32 contains virtually no limitations on the Secretary's right to authorize carriers to write Longshore coverage. And the Secretary may exercise her right to revoke authorization for "good cause,'' a term of broad compass. Given the broad general rulemaking authority conferred on the Secretary by section 39(a), and the sweeping authority section 32 gives the Secretary to grant or deny carrier authorization, it is counterintuitive to draw from Congress' silence a flat prohibition on the Secretary's ability to condition a carrier's authorization to write Longshore insurance on a deposit of security.

One comment contends that the proposed rules improperly create an "extra-statutory'' funding and payment structure because the Secretary has no authority to put seized deposits into the special fund under the funding mechanism set out in section 44 of the Act (33 U.S.C. 944), and the statute gives the Secretary no obligation or authority to pay for insolvent employers or insurers except from the special fund under section 18(b) (33 U.S.C. 918(b)). In this same vein, the commenter also argues that the Secretary cannot set up a separate guaranty fund for Longshore benefits to protect employers from carrier insolvencies.

The commenter misapprehends the nature of carrier security deposits. Security posted by a carrier under OWCP's current policy and these final rules is neither allocable to, nor payable from, the special fund established by section 44. Instead, the Department treats carrier security deposits in the same manner as security deposits made by authorized self-insurers, which are not placed in the special fund. *See* 33 U.S.C. 932(a)(2) (as a condition to self-insurer authorization, the Secretary may "require such employer to deposit in a depository designated by the Secretary either an indemnity bond or securities * * *''). Accordingly, negotiable securities posted by carriers are deposited in a Department of Labor Federal Reserve Bank account (now in St. Louis, Missouri) and held under sub-accounts the Bank creates in the name of each carrier and self-insurer. The Bank pays the carrier interest on the deposited securities as it accrues. The Department has no authority to disperse funds from these accounts. Letters of credit and indemnity bonds posted by carriers are held by OWCP in its Washington, DC office.

In the event the Department redeems the posted security, and the security is in the form of a surety bond, the surety will pay claims directly. If, however, the

security is in the form of a letter of credit or negotiable securities, OWCP deposits the proceeds of the security in an OWCP agency account, established by the Treasury Department, so that OWCP may disperse the funds when necessary. This agency account also contains, *inter alia*, monies that constitute the section 44 special fund, proceeds of seized self-insurer security deposits, and monies payable under the District of Columbia Workmen's Compensation Act. The carriers' security proceeds are neither part of the section 44 special fund nor pooled to form a separate insurance carrier guaranty fund. Instead, like the Federal Reserve Bank, OWCP creates sub-accounts for each carrier so that both interest on, and payments from, the security deposit proceeds are allocated to the individual carrier.

Security deposits simply provide some measure of assurance that a carrier will meet its *own* payment obligations. These obligations are separate from the increased assessment costs the carrier may also bear for another carrier's or employer's insolvency when the special fund makes payments under Section 18(b). Because OWCP uses a carrier's security deposit solely to satisfy the carrier's own liabilities, OWCP pays claims from the deposits in the same manner the carrier would. Accordingly, OWCP does not require claimants to follow the procedure set forth in section 18(b) for payments made from the special fund. If, for example, the employer is bankrupt and the carrier was voluntarily paying compensation to an injured worker prior to becoming insolvent, OWCP will continue those payments on the carrier's behalf if that carrier deposited security and continued payments are appropriate. Once the security deposit is exhausted, however, the claimant must obtain a compensation order before OWCP will make payments from the special fund under section 18(b).

Thus, rather than imposing an independent obligation on the United States or seeking to alter the role of the special fund, as the commenter suggests, security deposits provide a separate mechanism through which a carrier's liabilities may be satisfied. If the carrier fully discharges its payment obligations, then OWCP never uses the carrier's security deposit and returns it (or any unused portion) to the carrier (or its successor in interest) when the carrier ceases writing Longshore insurance or becomes insolvent. *See* §§ 703.209(c) and 703.211(c). For instance, one of the 23 insolvent carriers mentioned above had posted a $400,000 deposit in the form of negotiable securities. Because the carrier had no remaining LHWCA obligations, OWCP returned the deposited securities to the State office handling the carrier's liquidation.

Finally, nothing in the proposed or final rules relieves an employer from its payment obligations if its insurer is financially incapable of meeting those obligations. *See generally* 33 U.S.C. 904(a); *B.S. Costello* v. *Meagher*, 867 F.2d 722 (1st Cir. 1989). In these circumstances, OWCP routinely seeks payment from the employer before turning to any deposited security. Only if the employer is also unable to pay due to insolvency does OWCP use the carrier's deposited security. OWCP intends to continue this practice under these rules.

B. Changes Made Between Proposed and Final Rule To Allow Exemption From the Deposit Requirements for Certain Carriers

The proposed rule eliminated OWCP's current practice of exempting from the security deposit requirements those carriers who have an "A'' or higher A.M. Best rating. *See* 69 FR 12218–19 (March 15, 2004). Instead, the proposal required all carriers authorized to write Longshore insurance, regardless of their financial strength, to deposit security based on the amount of their outstanding Longshore obligations not otherwise secured by State guaranty funds. Two comments generally support this approach. Two other comments, however, object to eliminating the exemption and propose alternatives.

Commenters lodging objections point out that eliminating the exemption increases operating costs for the financially strongest companies who are exempt under OWCP's current policy. These companies pose the least risk to the special fund. The commenters also argue against moving away from private insurance carrier rating systems to a new system of OWCP's creation because the private rating systems provide an objective, verifiable standard for determining whether a particular company is financially fit. Thus, rather than eliminating the exemption altogether, the commenters recommend that OWCP elevate the standard for exempting companies, and they offer a variety of suggestions for accomplishing this goal: Raise the required rating above the current A.M. Best "A'' rating; consider ratings from multiple recognized carrier rating systems; factor in the carrier's overall size, as well as the size of its Longshore exposure; and consider the carrier's longevity in the workers' compensation insurance market.

The Department agrees that the strongest carriers should be exempt from the security deposit requirements. In implementing this decision, the Department has adopted the commenters' suggestion to strengthen the criteria for exemption. Under the final rule, carriers awarded the highest rating by each of three private insurance carrier rating services designated on OWCP's web site—currently, A.M. Best, Standard & Poor's, and Weiss Research—for the current rating year and the immediately preceding year will be exempt from the security deposit requirements. This change is reflected in revisions the Department has made to §§ 703.203(a) and 703.204(c)(1). The Department estimates that 10% of currently authorized carriers will meet the new exemption requirements.

The Department's decision to exempt certain carriers remains faithful to the measured approach the Department advocated in the NPRM. 69 FR 12219 (March 15, 2004). Although exempting even one carrier necessarily entails some degree of additional risk for the special fund, the Department believes that it has substantially reduced that risk by adopting a more stringent financial test for exemption than currently used so that only the strongest carriers—those least likely to run into financial difficulties—are granted an exemption. Moreover, by looking at ratings from three private systems and requiring sustained superior financial ratings over a two-year period, the Department believes it has minimized the impact of flaws inherent in any one static rating scheme for predicting future financial performance.

Granting an exemption to the strongest carriers has additional benefits. First, very strong carriers will not be discouraged from participating in the Longshore insurance market by the added costs the security deposit requirement would impose. Second, OWCP's administrative burden will be lessened because it will not have to determine security deposit amounts for exempt carriers.

The Department has responded to the remaining comments in the following section-by-section discussion.

C. Section-by-Section Explanation

The Department received two comments addressing specific sections of the proposed rule. The following discussion responds to those comments and explains any changes the Department has made in the final rules. The Department received no comments concerning, and has made no changes to, proposed rule sections not discussed

here; these sections appear in the final rule as proposed.

20 CFR 701.301(a)(7)

(a) The Department proposed revising the definition of "District Director'' by adding a sentence stating that "[a]ny action taken by a person under the authority of a district director will be considered the action of a deputy commissioner.'' 69 FR 12225 (March 15, 2004). The Department added this sentence to clarify that substitution of the title "district director'' for "deputy commissioner'' did not in any way alter OWCP staff members'' authority to act.

(b) One comment states that this sentence should be removed in order to avoid any implication that OWCP claims examiners have the same scope of authority as district directors. The Department agrees with this comment and has deleted the last sentence from the final rule. The Department did not intend to change the scope of authority of either district directors or claims examiners. Deleting the last sentence removes any implication to the contrary.

20 CFR 703.201

(a) Section 703.201 provides a general overview of security deposits and their purpose. As proposed, it states, in part: "Security deposits secure the payment of benefits when an insurance carrier defaults on any of its obligations under the LHWCA, regardless of the date such obligations arose.'' 69 FR 12226 (March 15, 2004).

(b) One comment states that the phrase "obligations under the LHWCA'' is unclear and should be revised. The Department agrees that this phrase in the proposed rule could be misconstrued. Accordingly, the Department has revised this section in the final rule by including specific language clarifying that the phrase "obligations under the LHWCA'' means a carrier's liability for both compensation payments and medical benefits, and that such meaning applies to the entire subpart.

(c) The same comment states that the word "default'' is unclear because it could include situations where a solvent insurer simply disputes a claim. The comment suggests that default be expressly limited to a carrier's failure "to timely pay a final judgment against the carrier for its obligation to pay benefits under the LHWCA and against which there is a right of execution.''

In both legal and everyday parlance, the term "default'' is commonly understood to mean a failure to meet a legal or contractual duty. *See, e.g., Black's Law Dictionary* (8th Ed. 2004); *The New Shorter Oxford English Dictionary* (1993). Such duty does not arise simply because an employer or insurance carrier contests a claim. Instead, it arises when a valid compensation order is entered. Under the Longshore Act's comprehensive adjudication scheme, claims are initially considered by an OWCP district director. 33 U.S.C. 919(c); 20 CFR 702.311–.317. If the district director is unable to resolve all disputed issues to the parties' satisfaction, an administrative law judge holds a *de novo* hearing and issues a compensation order. 33 U.S.C. 919(d), (e); 20 CFR 702.301, 702.332. Once filed by the district director, the administrative law judge's order becomes effective and imposes a legal obligation on the employer or carrier to pay any compensation awarded, notwithstanding any appeal from the order. 33 U.S.C. 919(e), 921(a), 921(b)(3); 20 CFR 702.350. Failure to comply with this effective order within the statutory 10-day time period constitutes a default. 33 U.S.C. 914(f); 20 CFR 702.350.

To the extent this comment implies that OWCP should be allowed to use the posted security only when a carrier fails to satisfy a district court order enforcing an underlying compensation order (or, as put by the commenter, a "final judgment * * * against which there is a right of execution'') issued under section 18 of the statute, 33 U.S.C. 918, the Department rejects the comment. Requiring claimants or the Director to go to district court in every case in which a financially troubled carrier defaults runs counter to the primary purpose of the security deposit requirement: the uninterrupted and prompt payment of compensation and medical benefits when a carrier is no longer capable of paying. Accordingly, the Department has not changed this portion of the rule.

(d) The Department has also revised the third sentence of this regulation for stylistic and grammatical purposes. As proposed, this sentence stated that security deposits "also secure the payment of compensation and medical benefits when a carrier with LHWCA obligations becomes insolvent in States with no insurance guaranty funds, or with guaranty funds that do not fully secure such obligations.'' The final rule states more simply and clearly that security deposits "secure the payment of compensation and medical benefits when a carrier becomes insolvent and such obligations are not otherwise fully secured by a State guaranty fund.''

20 CFR 703.202

(a) Section 703.202 discusses how the Department will determine gaps in State guaranty fund coverage and how it will convey those determinations to the public. Specifically, the rule: (1) Outlines factors OWCP will consider in determining each State's guaranty fund coverage of Longshore obligations; (2) requires OWCP to post its findings on the agency's web site, where they will be open for public inspection and comment; (3) provides that OWCP will deem 33 % of a carrier s Longshore obligations unsecured if the amount of State fund coverage cannot be determined or is ambiguous; and (4) states that OWCP will revise its findings in response to substantiated public comments or for any other relevant reason. 69 FR 12226 (March 15, 2004).

(b) One comment suggests that OWCP should complete State fund reviews and receive public comments before calculating and requiring security deposits. The commenter states that this would give State legislators and regulators an opportunity to remedy any State guaranty fund coverage deficiencies OWCP identifies, thus implying that the need for certain security deposits would be eliminated.

While the Department agrees that public comment on OWCP's State guaranty fund evaluations will be helpful, it has not incorporated the commenter's proposal in the final rule. The procedure § 703.202 adopts is a dynamic one: OWCP will revisit its determinations regarding State guaranty fund coverage when public comment or other relevant information makes a re-determination useful. This can happen before, during, or after calculating deposits for insurers on an individual basis. At a minimum, though, OWCP will consider each insurer's comments prior to setting the required security deposit amount for that company. Section 703.203(b) explicitly gives each insurer who disagrees with OWCP's assessment of State fund coverage the opportunity to submit evidence and/or argument on the question with its security deposit application. Thus, although OWCP might make a security deposit determination before all public comments are received, it is unlikely that general public comments will be more enlightening than information offered by insurers with a direct financial stake in the determination.

Moreover, the regulation's dynamic process is designed to take into account actions States may take in response to OWCP's evaluation of their guaranty funds' coverage for Longshore claims. The legislative process is often protracted, outcomes are uncertain, and OWCP has no control over that process in any event. If and when a State alters its guaranty fund coverage, that

alteration will be considered in the security deposit calculation process.

20 CFR 703.203

(a) Section 703.203 requires carriers to apply annually for a security deposit determination and prescribes the information the application must include. In addition to reporting its outstanding Longshore Act liabilities, the subsection (a)(2) of the proposed rule required each carrier to include a statement either "[o]f the deposit amount it believes will fully secure its obligations'' or "[t]hat it has sufficient assets or other means to fully secure its obligations.'' 69 FR 12227 (March 15, 2004).

(b) One commenter states that the proposed rule does not clearly explain: (1) How an insurance carrier "fully secures'' its obligations; (2) what factors a carrier should consider in suggesting a security deposit amount that will fully secure its liability; and (3) how a carrier determines whether it has sufficient assets to secure its obligations. The Department has reconsidered proposed subsection (a)(2) and determined that a carrier should not be required either to suggest a security deposit amount or to state that it has sufficient assets to fully secure its obligations. The statement the proposed rule describes is superfluous and unnecessary to the security deposit determination process set forth in the final rules. Accordingly, the Department has deleted these requirements. This change will make the application process simpler because the carrier need only supply very limited, clearly defined information: (1) A statement of its outstanding liabilities on a state-by-state basis; (2) other specific information OWCP requests; and (3) if the carrier wishes, evidence and/or argument regarding OWCP's evaluation of relevant State guaranty funds. Moreover, given the changes the Department has made to § 703.204 (*see* discussion below), a carrier generally will not be asked to submit voluminous financial information because it will no longer be necessary.

(c) The final version of § 703.203 adds a new subsection (a)(1) to implement the Department's decision to exempt the financially strongest carriers from the security deposit requirement. In order to obtain this exemption, a carrier must submit, as part of its annual application, documentation from three OWCP-designated private insurance rating organizations demonstrating the rating each service awarded the carrier for both the current year and the immediately preceding year. The carrier must receive the highest rating each service awards for both years in order to qualify for the exemption. OWCP will make an exemption decision each year. Thus, an exempt carrier whose rating is downgraded by any one of the rating services the following year will be required to deposit security. The carrier may again qualify for an exemption, but only after it has demonstrated sustained superior financial performance by receiving the highest ratings from the three designated rating organizations for two consecutive years.

Currently, OWCP has designated A.M. Best, Standard & Poor's, and Weiss Research as the three private rating services it will use. The rule does not name these rating services; instead, the rule requires OWCP to publish the services it selects by posting their names on the agency's web site. This procedure will give OWCP the option of selecting different rating services from time to time without having to engage in a new rulemaking. A variety of factors may lead OWCP to change its selections. For instance, a selected service could change its name or corporate form, or even go out of business. By the same token, new rating services that prove to be reliable may enter the market. The procedure the rule adopts allows OWCP the flexibility to make changes as the agency deems necessary. Subsection (a)(2) of the final rule also clarifies that a carrier seeking an exemption based on its financial standing need not include a statement of its outstanding LHWCA liabilities with its application unless OWCP denies its exemption request.

20 CFR 703.204

(a) This section sets forth the process OWCP will follow in determining the security deposit amount for each carrier.

(b) Proposed § 703.204(b) lists a variety of factors, most financial in nature, that OWCP could evaluate and consider in making its determination. These factors include the carrier's: (1) Financial strength; (2) insureds' strength; (3) reinsurance protection; (4) surplus and recent settlements; (5) amount of business written through the National Reinsurance Pool; (6) deductibles secured by letters of credit; (7) reduced exposure; (8) increases in capitalization; (9) State guaranty fund coverage for its LHWCA obligations; and (10) expansion of business into States without guaranty fund coverage for Longshore obligations. 69 FR 12227 (March 15, 2004).

One comment states that evaluation of these factors requires highly technical expertise in both insurance company and general financial analysis. The factors encompass voluminous information that is often confidential and difficult, if not impossible, to present in a meaningful way. The commenter contends that private insurance rating organizations are in a better position to conduct this analysis. In addition, the commenter notes that it is unclear whether OWCP intends to consider these factors as they pertain only to the carrier's Longshore business or its business as a whole.

The Department agrees with this comment. Accordingly, it has made substantial revisions in the final rule. OWCP has insufficient resources to conduct a financial evaluation of each carrier that matches the breadth and depth of recognized private rating organizations' evaluations. Moreover, a survey of private organizations' rating methodology documents verifies that they consider many of the same financial factors listed in the proposed rule.

Thus, the Department agrees that it should rely on insurance rating organizations for a picture of each carrier's financial health and has eliminated those factors already considered by the rating organizations from the list in § 703.204(b). There is one exception. The final rule retains consideration of the strength of a carrier's insureds in the Longshore industry. Because a carrier's insolvency does not absolve an employer of its own liabilities under the LHWCA, the size and financial strength of the employers a carrier insures is an important consideration in determining the special fund's risk in the event the carrier becomes insolvent. If the employer is financially capable of meeting its LHWCA obligations, notwithstanding its carrier's insolvency, the risk to the special fund is diminished. In some instances, the strength of a carrier's insureds is also relevant to the amount of coverage a State guaranty fund affords. For example, some State guaranty funds will not pay any of an insolvent carrier's obligations where the insured employer is insolvent as well; as a result, the special fund's risk increases.

The final rule also adds a variety of Longshore-insurance-related factors that fall within OWCP's particular expertise as administrator of the program. The Department drew two of these factors—a carrier's longevity in the Longshore insurance market and Longshore claim-payment history—from the comments discussing criteria for exempting carriers from the security deposit requirements. While a reliable payment history of significant duration does not guarantee future performance, this information is nevertheless a helpful indicator for OWCP in setting the

security deposit amount for a particular carrier.

The Department has also deleted from § 703.204(b) language regarding the deposit amount suggested by the insurance carrier. *See* 69 FR 12227 (March 15, 2004). This language is no longer necessary in light of the Department's revisions to proposed § 703.203 explained above.

(c) Proposed § 703.204(c) provides that OWCP will require all carriers that write LHWCA insurance in States without complete guaranty fund coverage identified under § 703.202(b) to deposit security for their unsecured LHWCA obligations. For each carrier who writes more than an insignificant or incidental amount of LHWCA insurance, OWCP will fix a security deposit amount between 33⅓% and 100% of the carrier's outstanding LHWCA obligations in each State. 69 FR 12227 (March 15, 2004).

One comment states that § 703.204(c) is unclear. The commenter suggests that the rule be revised to clarify that: (1) OWCP will require a security deposit for only those obligations not covered by State guaranty funds; (2) the 33⅓% minimum deposit applies only to that portion of a carrier's Longshore obligations not covered by State guaranty funds; and (3) OWCP will consider the factors set forth in § 703.204(b) in making its security deposit determination. The commenter's first two points have merit. Accordingly, the Department has revised the final rule by breaking § 703.204(c) into three subparts. Subpart (1) implements the Department's decision to exempt from the security deposit requirements those carriers awarded the highest financial ratings for both the current rating year and the immediately preceding year from the three rating organizations selected by OWCP. Subpart (2) clarifies that carriers whose LHWCA obligations are fully secured by State guaranty funds will not be required to deposit security. Subpart (3) contains language similar to proposed § 703.204(c), but specifically qualifies the phrase "outstanding LHWCA obligations'' by adding "not secured by a State guaranty fund.'' The Department does not believe any change to the proposed rule is necessary in response to the commenter's third point because § 703.204(b) makes clear that OWCP may consider the factors listed in that subsection in rendering a security deposit determination (*i.e.*, "The Branch may consider a number of factors in setting the security deposit amount, including. * * *'' § 703.204(b).).

One comment asks whether a carrier must make a pledge or other assurance that it will meet its payment obligations in addition to the security deposit if that deposit is less than 100% of its outstanding obligations. The Department does not believe an additional pledge or other guaranty is necessary. The statute already requires each carrier to meet its payment obligations, regardless of the amount of security a carrier deposits.

20 CFR 703.205

(a) Section 703.205(a) requires each carrier to execute an Agreement and Undertaking containing terms set forth in the regulation. As proposed, these terms give OWCP authority to act upon any deposited security when "[t]he carrier fails to renew any deposited letter of credit or substitute acceptable securities in their place'' or "[t]he carrier fails to renew any deposited negotiable securities at maturity or substitute acceptable securities in their place.'' 69 FR 12227 (March 15, 2004) (proposed § 703.205(a)(2)(ii), (iii)).

One comment suggests that proposed § 703.205(a)(2)(ii) be rewritten to clarify that a carrier may substitute a new letter of credit or a bond, in addition to negotiable securities, in lieu of renewing any deposited letter of credit. This comment has merit. As proposed, § 703.205(a)(2)(ii) could be read to foreclose a carrier's ability to use a new letter of credit or an indemnity bond to secure its obligations. Proposed § 703.205(a)(2)(iii) similarly could be read to preclude a carrier from substituting a letter of credit or an indemnity bond for matured securities. The Department does not wish to restrict a carrier's ability to shift among approved forms of security as the carrier deems necessary. Accordingly, the Department has revised both § 703.205(a)(2)(ii) and (iii) to make clear that a carrier may substitute approved forms of security for others that have reached maturity or expired. As set forth below, the Department has also revised several other regulations that contain the same language as proposed §§ 703.205(a)(2)(ii) and (iii).

(b) Proposed § 703.205(a)(2)(iii) requires that the carrier either renew matured negotiable securities or substitute acceptable securities in their place. 69 FR 12227 (March 15, 2004). One commenter contends this provision is unnecessary because the Treasury Department's regulations, which govern the conduct of the custodian of the deposited securities (*e.g.* the Federal Reserve Bank), prohibit release of the principal to the carrier unless OWCP consents or the carrier provides substitute securities. The commenter misconstrues this provision's point. The rule requires that carriers authorize OWCP to take possession of their security deposits under certain conditions. Thus, unlike the Treasury Department's rule, which governs the custodian's conduct, § 703.205(a)(2)(iii) governs the carrier's obligations and OWCP's rights with respect to the deposited security. The regulation is therefore appropriate and necessary.

(c) The Department has also corrected a typographical error that appeared in the proposed rule. As proposed, § 703.205's introductory paragraph cross-referenced § 703.203 when referring to OWCP's decision fixing a carrier's required security deposit amount. 69 FR 12227 (March 15, 2004). The regulation governing OWCP's decision, however, is § 703.204. Accordingly, the final rule contains the correct cross-reference to § 703.204.

20 CFR 703.207

(a) Proposed § 703.207 cross-references the Treasury Department's regulations to define the types of negotiable securities a carrier may post. The rule states that if a carrier elects to use negotiable securities, the carrier "shall deposit any negotiable securities acceptable as security for the deposit of public monies of the United States under regulations issued by the Secretary of the Treasury. (See 31 CFR part 225.)'' 69 FR 12228 (March 15, 2004).

(b) One comment objects to this provision on the ground that the Treasury Department's regulations appear inapplicable. The commenter states that those regulations define "bond'' as a written instrument that guarantees fulfillment of an obligation to the United States. From this premise, the commenter contends that because the statute does not place any financial obligations on the United States, the Treasury Department's rules are not applicable. The Department disagrees. As the statutorily designated administrator of the LHWCA invested with broad rulemaking authority, 33 U.S.C. 939(a), 944(a), the Secretary (and, thus, the United States) has a direct interest in ensuring that the statute's primary goal is met. That goal is the prompt and certain payment of compensation and medical benefits to injured workers and their families. Taking steps to safeguard the Longshore program's fiscal vitality by requiring insurers to deposit security furthers that goal. The Treasury Department rule referred to by the commenter does not lead to a different conclusion. That rule specifically pertains to obligations *to* the United States—the sort of obligation these rules impose on insurance

carriers—as opposed to obligations *of* the United States—those duties the United States owes to other entities. Obligations *to* the United States—the kind governed by this regulation—squarely fall within the Treasury Department's rules. *See* 31 CFR 225.2 ("Bond means an executed written instrument, which guarantees the fulfillment of an obligation to the United States and sets forth the terms, conditions, and stipulations of the obligation.'')

To the extent this comment relates to the Department's authority to require carriers to post security deposits, the Department has responded fully in the Statutory Authority discussion above. Accordingly, the Department rejects this comment and has made no changes in the final rule.

20 CFR 703.208

(a) This section provides that a carrier who chooses to secure its Longshore obligations with negotiable securities must deposit the securities with a Federal Reserve bank or the Treasurer of the United States. As proposed, this rule also sets forth OWCP's discretionary authority to authorize the securities' custodian to pay interest accrued on the deposited securities to the carrier. 69 FR 12228 (March 15, 2004).

(b) One comment states that the rule should be revised to require OWCP to direct interest payments to the carrier unless the carrier has defaulted on its Longshore obligations. OWCP currently directs the Federal Reserve bank to pay accrued interest on deposited negotiable securities to the carrier absent other specific instructions. OWCP does not plan to depart from its current practice under the new rules. The Department has therefore revised § 703.208 to reflect that interest accruing on deposited negotiable securities will be paid to the carrier unless any of the conditions set forth in § 703.211(a) occur (*i.e.* the conditions that allow OWCP to seize a carrier's security deposit and/or use its proceeds).

20 CFR 703.209

(a) Proposed § 703.209 proscribes substitution of "an indemnity bond, letters of credit or negotiable securities deposited by an insurance carrier under the regulations in this part'' without OWCP authorization. This regulation also explains how carriers may apply to withdraw their security deposits when they have ceased writing Longshore insurance. 69 FR 12228 (March 15, 2004).

(b) One comment suggests that for carriers who secure their obligations with negotiable securities, the Department should include in the rule a list of acceptable securities that a carrier could substitute without OWCP's consent. The commenter notes that this would reduce the administrative burden on OWCP and carriers alike.

The Department agrees in principal with this comment. Section 703.207 limits the types of negotiable securities a carrier may use to those approved by the Treasury Department. Because the approved list of securities and their valuations change over time, the Treasury Department has eliminated from its regulations all mention of acceptable classes of securities. It has opted instead to put this information in other documents (*e.g.* Treasury Department circulars) and to post it on the Treasury Department's Web site. Thus, it would not be advisable for the Department to promulgate a rule containing a list of acceptable substitute securities.

Nevertheless, the Treasury Department's regulations governing the conduct of the custodian (*e.g.* a Federal Reserve Bank holding the carrier's deposited securities) allow the custodian to release proceeds from matured securities to the depositor without specific instructions from the agency, but only if the depositor substitutes Treasury Department-approved securities in their place. 31 CFR 225.7(c). Because the custodian will allow substitution only with approved negotiable securities, a carrier need not seek the Department's approval in those circumstances. To implement this change in the final rule, the Department has: (1) Limited § 703.209(a) to requirements regarding substitution of security; (2) added language to § 703.209(a) to allow different treatment for substitution of negotiable securities; (3) moved language regarding withdrawal of security from proposed § 703.209(a) to § 703.209(b); and (4) renumbered proposed § 703.209(b) as § 703.209(c).

20 CFR 703.211

For the reasons set forth in paragraph (a) of the discussion of comments received regarding § 703.205(a)(2)(ii) and (iii), the Department has revised §§ 703.211(a)(2) and (3) in the same manner.

20 CFR 703.301

(a) Section 703.301 discusses the Department's authority to authorize employers to self-insure. As proposed, the rule allows the Department to authorize any employer who furnishes "satisfactory proof of its ability to pay compensation directly, and who agrees to immediately cancel any existing insurance policy when OWCP approves the employer's application to be self-insured.''

(b) Although the Department received no comments on this section, the Department realized in finalizing the rule that the phrase "immediately cancel any existing insurance policy'' could be construed more broadly than intended. For instance, the phrase could be read as requiring an employer to cancel any excess or catastrophic insurance it may have to cover its Longshore obligations, a reading that would be contrary to other regulations authorizing the Department to require a self-insurer to carry catastrophic coverage. *See*, *e.g.*, § 703.304(a)(6). To avoid confusion, the Department has added language to § 703.301 clarifying that an approved self-insurer must agree to cancel existing insurance policies covering its Longshore obligations but may continue to carry excess or catastrophic coverage it chooses (or is required by the Department) to purchase.

20 CFR 703.304

For the reasons set forth in paragraph (a) of the discussion of comments received regarding § 703.205(a)(2)(ii) and (iii), the Department has revised § 703.304(a)(4)(ii) and (iii) in the same manner. The Department has also added a comma after the phrase "in a form prescribed and provided by OWCP'' in § 703.304(a) for grammatical purposes.

20 CFR 703.307

For the reasons set forth in the discussion of comments received regarding § 703.208, the Department has revised § 703.307 in the same manner.

20 CFR 703.308

For the reasons set forth in the discussion of comments received regarding § 703.209, the Department has revised § 703.308 in the same manner.

20 CFR 703.310

For the reasons set forth in paragraph (a) of the discussion of comments received regarding § 703.205(a)(2)(ii) and (iii), the Department has revised §§ 703.310(a)(2) and (3) in the same manner.

III. Executive Order 12866 (Regulatory Planning and Review)

The Office of Management and Budget (OMB) has determined that this rule is a "significant regulatory action'' under section 3(f)(4) of Executive Order 12866. Under that section, a "significant regulatory action'' includes one that "raise[s] novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles

set forth in this Executive order.'' Accordingly, OMB has reviewed this rule.

In adopting this final rule, the Department considered several alternatives set forth in the NPRM. 69 FR 12219 (March 15, 2004). The Department considered requiring all carriers to fully secure their LHWCA obligations. This approach would place the risk of insolvency on the failed insurer rather than the surviving, healthy members of the insurance industry and self-insured employers through special fund assessments. 33 U.S.C. 944(c)(2). The Department rejected this approach, however, because it might lead some insurance carriers to leave the market and would duplicate, at least to some extent, the reserve requirements imposed by State insurance regulators.

Another alternative the Department considered but rejected was to use the existing special fund as an overall guaranty fund for all LHWCA claims. Although easy to administer, this approach would likely create negative incentives for prudent fiscal responsibility in the insurance industry.

Thus, the Department proposed a third approach in the NPRM. The proposed rules required all authorized insurance carriers to post security deposits, but only where there was no adequate State guaranty fund and only in amounts that reflected the actual risk of loss to the special fund. 69 FR 12226–12228 (March 15, 2004). As discussed in detail above, the Department has adopted this approach in the final rule, with the addition of an exemption from the security deposit requirements for the financially strongest carriers.

The benefits of this rule are numerous. First, security deposits will ensure that the Longshore Act's primary purpose—the prompt payment of compensation and medical benefits to injured workers and their survivors—is fulfilled, notwithstanding an insurance carrier's insolvency.

Second, security deposits protect both healthy members of the insurance industry and the special fund. The special fund's costs, which are calculated and assessed against authorized Longshore insurance carriers and self-insured employers each year, are primarily incurred for compensation payments in two circumstances: (1) When a carrier (and the employer it insured) or a self-insurer is insolvent; and (2) when a carrier or employer is entitled to relief under 33 U.S.C. 908(f) (second-injury fund). Security deposits will avoid draining the special fund's available resources in the event a carrier becomes insolvent. Moreover, as many industry members recognized in responding to the Department's request for information published in the **Federal Register** on February 22, 2002 (67 FR 8450), requiring authorized carriers to fully secure their LHWCA obligations obviates the need to collect annual special fund assessments from healthy carriers to pay for the insolvency of weaker carriers. *See* 69 FR 12219 (March 15, 2004). Because the requirement that liabilities be fully secured should decrease the fund's costs for benefits paid on behalf of insolvent carriers, the special fund assessments levied against carriers and self-insured employers are expected to decrease commensurately.

Third, security deposits protect the special fund from the unpredictable future, including the inherent inability of any static rating scheme to accurately predict the future financial stability of an insurance carrier, and the potential for catastrophic losses beyond the carrier's control (*e.g.* natural disasters, acts of terrorism) in the shipping and shipbuilding industries. *See* 69 FR 12219 (March 15, 2004).

By providing three methods for meeting the security deposit requirements, the final rules allow carriers to manage the direct costs associated with posting security by choosing an appropriate financial instrument. A carrier who deposits negotiable securities, for instance, continues to own the negotiable securities (subject to OWCP's security interest) and receive the income generated by them. *See* § 703.208. The majority of carriers have chosen this method for securing their LHWCA obligations under OWCP's current policy. A carrier may also elect to purchase an indemnity bond or letter of credit to meet its security deposit obligation. As noted in the NPRM, the Department estimates a $400,000 bond would require only a small initial cash outlay of approximately $6,000–$8,000 at typical current rates. *See* 69 FR 12223 (March 15, 2004).

In sum, the final rule balances the interests of insurance carriers, Longshore Act claimants, and the Department. The rule exempts from the deposit requirements those insurance carriers with the highest financial ratings who demonstrate solid financial strength, and limits the number of remaining carriers who must post deposits to those carriers operating in States with inadequate guaranty funds. At the same time, the rule meets the Department's objectives of protecting the special fund from insurance carrier insolvency and ensuring the prompt and continued payment of compensation and medical benefits to injured workers.

IV. Information Collection Requirements (Subject to the Paperwork Reduction Act)

As explained in the NPRM, the Department submitted several new collections of information contained in the proposed rules to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, and its implementing regulations at 5 CFR part 1320. 69 FR 12221–22 (March 15, 2004). The new information collection requirements are found in §§ 703.2, 703.203, 703.204, 703.205, 703.209, 703.210, 703.212, 703.303 and 703.304.

With the exception of §§ 703.303 and 703.304, these collections relate to information insurance carriers are required to submit as part of the authorization process for writing LHWCA insurance, and as part of the process by which OWCP decides both the extent of an authorized insurance carrier's unsecured LHWCA obligations and the amount of the required security deposit. To implement these new collections, the Department proposed creating two new forms for insurance carriers (LS–276 and LS–275 IC). 69 FR 12221 (March 15, 2004). The information collections established in §§ 703.303 and 703.304 relate to the security a self-insured employer deposits to secure its payment of compensation under the LHWCA and its extensions. To implement these collections, the Department proposed one new form for self-insurers (Form LS–275 SI). 69 FR 12221 (March 15, 2004).

Burden estimates. (1) Form LS–276, Application for Security Deposit Determination. As fully explained in the NPRM, approximately 385 insurance carriers annually will file Form LS–276. The Department estimates that on average, it will take a carrier one hour to collect the information, complete Form LS–276 and mail it. Thus, the total annual hour burden is estimated to be 385 hours. The Department also estimates respondents' total annual operating and maintenance (printing and mailing) costs to be $163.80. 69 FR 12221 (March 15, 2004).

(2) LS–275 IC, Agreement and Undertaking (Insurance Carrier); LS–276 SI, Agreement and Undertaking (Self-Insured Employer). As fully explained in the NPRM, the Department estimates that approximately 343 (or 50%) of all authorized insurance carriers and self-insurers annually will complete and file Form LS–275 IC or LS–275 SI. The

Department estimates that on average, it will take a respondent 15 minutes to locate the information, complete form LS–275 IC or LS–275 SI and mail it. Thus, the total annual hour burden is estimated to be 85.75 hours. The Department also estimates respondents' total annual operating and maintenance (printing and mailing) costs to be $145.60. 69 FR 12222 (March 15, 2004).

The Department invited public comment on the new information collection requirements. 69 FR 12218, 12221 (March 15, 2004). No comments were received. OMB subsequently approved the use of the three new forms under OMB No. 1215–0204 until June 30, 2007, provided that the Department reports on the viability of developing criteria to exempt financially secure carriers from making a security deposit when it renews these collections of information in 2007.

Changes made between the proposed and final rules in response to public comment require a minor revision to Form LS–276, Application for Security Deposit Determination. Under the final rules, any carrier seeking an exemption from the security deposit requirements must submit documentation establishing its current rating and its rating for the immediately preceding year from each of three private insurance rating services designated by the Department. The Department intends to revise Form LS–276 to: (1) Allow a carrier to indicate that it is seeking an exemption; and (2) notify the carrier that it must submit the required ratings from private insurance rating services with its application. The Department believes this new reporting requirement will result in only de minimus increases in the cost and time burdens estimated for completing Form LS–276 that the Department set forth in the NPRM's preamble. 69 FR 12221 (March 15, 2004).

V. Regulatory Flexibility Act and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

The Regulatory Flexibility Act of 1980, as amended (5 U.S.C. 601 *et seq.*), requires an agency to prepare regulatory flexibility analyses when it proposes regulations that will have "a significant economic impact on a substantial number of small entities,'' or to certify that the proposed regulations will have no such impact, and to make the analyses or certification available for public comment. For the reasons set forth in the NPRM, the Department determined that a complete regulatory flexibility analysis was not necessary, and certified that the proposed rules would not have a significant economic impact on a substantial number of small entities. 69 FR 12222–23. The Department invited public comment on the certification and delivered a copy of the NPRM to the Chief Counsel for Advocacy of the Small Business Administration.

The Department has received no comments responding to the certification or its underlying factual basis. Accordingly, for the reasons stated in the NPRM, the Assistant Secretary of Labor for Employment Standards again certifies that this rule will not have a significant economic impact on a substantial number of small entities. As a result, no regulatory impact analysis is required.

List of Subjects

20 CFR Part 701

Longshore and harbor workers, Organization and functions (government agencies), Workers' compensation.

20 CFR Part 703

Bonds, Insurance companies, Longshore and harbor workers, Reporting and recordkeeping requirements, Securities, Workers' compensation.

■ For the reasons set forth in the preamble, title 20, Chapter VI, Subchapter A of the Code of Federal Regulations is amended to read as follows:

PART 701—GENERAL PROVISIONS, DEFINITIONS AND USE OF TERMS

■ 1. The authority citation for Part 701 is revised to read as follows: Authority: 5 U.S.C. 301 and 8171 *et seq.*; 33 U.S.C. 939; 36 D.C. Code 501 *et seq.*; 42 U.S.C. 1651 *et seq.*; 43 U.S.C. 1331; Reorganization Plan No. 6 of 1950, 15 FR 3174, 3 CFR, 1949–1953 Comp., p. 1004, 64 Stat. 1263.

■ 2. Revise § 701.101 to read as follows:

§ 701.101 Scope of this subchapter and subchapter B.

(a) This subchapter contains the regulations governing the administration of the Longshore and Harbor Workers' Compensation Act, as amended (LHWCA), 33 U.S.C. 901 *et seq.*, except activities, pursuant to 33 U.S.C. 941, assigned to the Assistant Secretary of Labor for Occupational Safety and Health. It also contains the regulations governing the administration of the direct extensions of the LHWCA: the Defense Base Act (DBA), 42 U.S.C. 1651 *et seq.*; the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331; and the Nonappropriated Fund Instrumentalities Act (NFIA), 5 U.S.C. 8171 *et seq.*

(b) The regulations in this subchapter also apply to claims filed under the District of Columbia Workmen's Compensation Act (DCCA), 36 D.C. Code 501 *et seq.* That law applies to all claims for injuries or deaths based on employment events that occurred prior to July 26, 1982, the effective date of the District of Columbia Workers' Compensation Act, as amended (D.C. Code 32–1501 *et seq.*).

(c) The regulations governing the administration of the Black Lung Benefits Program are in subchapter B of this chapter.

■ 3. Revise § 701.102 to read as follows:

§ 701.102 Organization of this subchapter.

Part 701 provides a general description of the regulations in this subchapter; sets forth information regarding the persons and agencies within the Department of Labor authorized by the Secretary of Labor to administer the Longshore and Harbor Workers' Compensation Act, its extensions and the regulations in this subchapter; and defines and clarifies use of specific terms in the several parts of this subchapter. Part 702 of this subchapter contains the general administrative regulations governing claims filed under the LHWCA. Part 703 of this subchapter contains the regulations governing insurance carrier authorizations, insurance carrier security deposits, self-insurer authorizations, and certificates of compliance with the insurance regulations, as required by sections 32 and 37 of the LHWCA (33 U.S.C. 932, 937). Because the extensions of the LHWCA (*see* § 701.101) incorporate by reference nearly all the provisions of the LHWCA, the regulations in parts 701, 702 and 703 also apply to the administration of the extensions (DBA, DCCA, OCSLA, and NFIA), unless otherwise noted. Part 704 of this subchapter contains the exceptions to the general applicability of parts 702 and 703 for the DBA, the DCCA, the OCSLA, and the NFIA.

■ 4. Revise § 701.201 to read as follows:

§ 701.201 Office of Workers' Compensation Programs.

The Office of Workers' Compensation Programs (OWCP) is responsible for administering the LHWCA and its extensions (*see* 20 CFR 1.2(e)). The regulations in subchapter A of chapter I of this title (20 CFR part 1) describe OWCP's establishment within the Employment Standards Administration, the functions assigned to it by the Assistant Secretary of Labor for

Employment Standards, and how those functions were performed before OWCP's establishment.

§ 701.202 [Reserved]

§ 701.203 [Reserved]

■ 5. Remove and reserve §§ 701.202 and 701.203.

■ 6. Amend § 701.301 by revising paragraphs (a)(1), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9), (a)(10), (a)(12)(i)(B), (a)(12)(ii)(A) and (a)(12)(iii)(E) to read as follows:

§ 701.301 Definitions and use of terms.

(a) * * *

(1) *Act* or *LHWCA* means the Longshore and Harbor Workers' Compensation Act, as amended (33 U.S.C. 901 *et seq.*), and includes the provisions of any statutory extension of such Act (*see* § 701.101(a) and (b)) pursuant to which compensation on account of an injury is sought.

* * * * *

(5) *Office of Workers' Compensation Programs* or *OWCP* or *the Office* means the Office of Workers' Compensation Programs within the Employment Standards Administration, referred to in § 701.201 and described more fully in part 1 of this title. The term *Office of Workmen's Compensation Programs* shall have the same meaning as *Office of Workers' Compensation Programs* (*see* 20 CFR 1.6(b)).

(6) *Director* means the Director of OWCP, or his or her authorized representative.

(7) *District Director* means a person appointed as provided in sections 39 and 40 of the LHWCA or his or her designee, authorized to perform functions with respect to the processing and determination of claims for compensation under the LHWCA and its extensions as provided therein and under this subchapter. The term District Director is substituted for the term *Deputy Commissioner* used in the statute. This substitution is for administrative purposes only and in no way affects the power or authority of the position as established in the statute.

(8) *Administrative Law Judge* means a person appointed as provided in 5 U.S.C. 3105 and subpart B of 5 CFR part 930, who is qualified to preside at hearings under 5 U.S.C. 557 and is empowered by the Secretary to conduct formal hearings whenever necessary in respect of any claim for compensation arising under the LHWCA and its extensions.

(9) *Chief Administrative Law Judge* means the Chief Judge of the Office of Administrative Law Judges, United States Department of Labor, whose office is at the location set forth in 29 CFR 18.3(a).

(10) *Board or Benefits Review Board* means the Benefits Review Board established by section 21 of the LHWCA (33 U.S.C. 921) as amended and constituted and functioning pursuant to the provisions of chapter VII of this title and Secretary of Labor's Order No. 38–72 (38 FR 90), whose office is at the location set forth in 20 CFR 802.204.

* * * * *

(12) * * *

(i) * * *

(B) Any harbor worker, including a ship repairer, shipbuilder and shipbreaker; and

* * * * *

(ii) * * *

(A) A master or member of a crew of any vessel; or

* * * * *

(iii) * * *

(E) Aquaculture workers, meaning those employed by commercial enterprises involved in the controlled cultivation and harvest of aquatic plants and animals, including the cleaning, processing or canning of fish and fish products, the cultivation and harvesting of shellfish, and the controlled growing and harvesting of other aquatic species; or

* * * * *

PART 703—INSURANCE REGULATIONS

■ 7. The authority citation for Part 703 is revised to read as follows:

Authority: 5 U.S.C. 301 and 8171 *et seq.*; 31 U.S.C. 9701; 33 U.S.C. 932 and 939; 36 D.C. Code 501 *et seq.*; 42 U.S.C. 1651 *et seq.*; 43 U.S.C. 1331; Reorganization Plan No. 6 of 1950, 15 FR 3174, 3 CFR, 1949–1953 Comp., p. 1004, 64 Stat. 1263; Secretary's Order 4–2001, 66 FR 29656.

■ 8. Amend Part 703 by redesignating §§ 703.001 through 703.003 as §§ 703.1 through 703.3 and designating them as new "Subpart A—General,'' by designating center heading "Authorization of Insurance Carriers'' as "Subpart B—Authorization of Insurance Carriers,'' and revising newly designated subpart A to read as follows:

Subpart A—General

Sec.
703.1 Scope of part.
703.2 Forms.
703.3 Failure to secure coverage; penalties.

Subpart B—Authorization of Insurance Carriers

* * * * *

Subpart A—General

§ 703.1 Scope of part.

Part 703 governs insurance carrier authorizations, insurance carrier security deposits, self-insurer authorizations, and certificates of compliance with the insurance regulations. These provisions are required by the LHWCA and apply to the extensions of the LHWCA except as otherwise provided in part 704 of this subchapter.

§ 703.2 Forms.

(a) Any information required by the regulations in this part to be submitted to OWCP must be submitted on forms the Director authorizes from time to time for such purpose. Persons submitting forms may not modify the forms or use substitute forms without OWCP's approval.

Form No.	Title
(1) LS–271 ...	Application for Self-Insurance.
(2) LS–274 ...	Report of Injury Experience.
(3) LS–275 SI	Self-Insurer's Agreement and Undertaking.
(4) LS–275 IC	Insurance Carrier's Agreement and Undertaking.
(5) LS–276 ...	Application for Security Deposit Determination.
(6) LS–405 ...	Indemnity Bond.
(7) LS–570 ...	Card Report of Insurance.

(b) Copies of the forms listed in this section are available for public inspection at the Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. They may also be obtained from OWCP district offices and on the Internet at *http://www.dol.gov/esa/owcp/dlhwc/lsforms.htm.*

§ 703.3 Failure to secure coverage; penalties.

(a) Each employer must secure the payment of compensation under the Act either through an authorized insurance carrier or by becoming an authorized self-insurer under section 32(a)(1) or (2) of the Act (33 U.S.C. 932(a)(1) or (2)). An employer who fails to comply with these provisions is subject, upon conviction, to a fine of not more than $10,000, or by imprisonment for not more than one year, or both. Where the employer is a corporation, the president, secretary and treasurer each will also be subject to this fine and/or imprisonment, in addition to the fine against the corporation, and each is severally personally liable, jointly with the corporation, for all compensation or other benefits payable under the Act while the corporation fails to secure the payment of compensation.

(b) Any employer who willingly and knowingly transfers, sells, encumbers, assigns or in any manner disposes of, conceals, secretes, or destroys any property belonging to the employer after an employee sustains an injury covered by the Act, with the intent to avoid payment of compensation under the Act to that employee or his/her dependents, shall be guilty of a misdemeanor and punished, upon conviction, by a fine of not more than $10,000 and/or imprisonment for one year. Where the employer is a corporation, the president, secretary and treasurer are also severally liable to imprisonment and, along with the corporation, jointly liable for the fine.

■ 9. Amend Part 703 by adding new "Subpart C—Insurance Carrier Security Deposit Requirements'' (consisting of §§ 703.201 through 703.213), designating the center heading "Authorization of Self-Insurers'' as "Subpart D—Authorization of Self-Insurers,'' designating center heading "Issuance of Certificates of Compliance,'' as "Subpart E—Issuance of Certificates of Compliance,'' and revising new Subpart D.

The addition and revision read as follows:

Subpart C—Insurance Carrier Security Deposit Requirements

Sec.
703.201 Deposits of security by insurance carriers.
703.202 Identification of significant gaps in State guaranty fund coverage for LHWCA obligations.
703.203 Application for security deposit determination; information to be submitted; other requirements.
703.204 Decision on insurance carrier's application; minimum amount of deposit.
703.205 Filing of Agreement and Undertaking; deposit of security.
703.206 [Reserved]
703.207 Kinds of negotiable securities that may be deposited; conditions of deposit; acceptance of deposits.
703.208 Deposits of negotiable securities with Federal Reserve banks or the Treasurer of the United States; interest thereon.
703.209 Substitution and withdrawal of indemnity bond, letters of credit or negotiable securities.
703.210 Increase or reduction in security deposit amount.
703.211 Authority to seize security deposit; use and/or return of proceeds.
703.212 Required reports; examination of insurance carrier accounts.
703.213 Failure to comply.

Subpart D—Authorization of Self-Insurers

703.301 Employers who may be authorized as self-insurers.
703.302 Application for authority to become a self-insurer; how filed; information to be submitted; other requirements.
703.303 Decision on employer's application.
703.304 Filing of Agreement and Undertaking; deposit of security.
703.305 [Reserved]
703.306 Kinds of negotiable securities that may be deposited; conditions of deposit; acceptance of deposits.
703.307 Deposits of negotiable securities with Federal Reserve banks or the Treasurer of the United States; interest thereon.
703.308 Substitution and withdrawal of indemnity bond, letters of credit or negotiable securities.
703.309 Increase or reduction in the amount of indemnity bond, letters of credit or negotiable securities.
703.310 Authority to seize security deposit; use and/or return of proceeds.
703.311 Required reports; examination of self-insurer accounts.
703.312 Period of authorization as self-insurer.
703.313 Revocation of authorization to self-insure.

Subpart E—Issuance of Certificates of Compliance

* * * * *

Subpart C—Insurance Carrier Security Deposit Requirements

§ 703.201 Deposits of security by insurance carriers.

The regulations in this subpart require certain insurance carriers to deposit security in the form of indemnity bonds, letters of credit or negotiable securities (chosen at the option of the carrier) of a kind and in an amount determined by the Office, and prescribe the conditions under which deposits must be made. Security deposits secure the payment of compensation and medical benefits when an insurance carrier defaults on any of its obligations under the LHWCA, regardless of the date such obligations arose. They also secure the payment of compensation and medical benefits when a carrier becomes insolvent and such obligations are not otherwise fully secured by a State guaranty fund. Any gap in State guaranty fund coverage will have a direct effect on the amount of security the Office will require a carrier to post. As used in this subpart, the terms "obligations under the Act'' and "LHWCA obligations'' mean a carrier's liability for compensation payments and medical benefits arising under the Longshore and Harbor Workers' Compensation Act and any of its extensions.

§ 703.202 Identification of significant gaps in State guaranty fund coverage for LHWCA obligations.

(a) In determining the amount of a carrier's required security deposit, the Office will consider the extent to which a State guaranty fund secures the insurance carrier's LHWCA obligations in that State. When evaluating State guaranty funds, the Office may consider a number of factors including, but not limited to—

(1) Limits on weekly benefit amounts;

(2) Limits on aggregate maximum benefit amounts;

(3) Time limits on coverage;

(4) Ocean marine exclusions;

(5) Employer size and viability provisions; and

(6) Financial strength of the State guaranty fund itself.

(b) OWCP will identify States without guaranty funds and States with guaranty funds that do not fully and immediately secure LHWCA obligations and will post its findings on the Internet at *http://www.dol.gov/esa/owcp/dlhwc/lstable.htm.* These findings will indicate the extent of any partial or total gap in coverage provided by a State guaranty fund, and they will be open for inspection and comment by all interested parties. If the extent of coverage a particular State guaranty fund provides either cannot be determined or is ambiguous, OWCP will deem one third (33⅓ percent) of a carrier's LHWCA obligations in that State to be unsecured. OWCP will revise its findings from time to time, in response to substantiated public comments it receives or for any other reasons it considers relevant.

§ 703.203 Application for security deposit determination; information to be submitted; other requirements.

(a) Each insurance carrier authorized by OWCP to write insurance under the LHWCA or any of its extensions, and each insurance carrier seeking initial authorization to write such insurance, must apply annually, on a schedule set by OWCP, for a determination of the extent of its unsecured obligations and the security deposit required. The application must be addressed to the Branch of Financial Management and Insurance (Branch) within OWCP's Division of Longshore and Harbor Workers' Compensation, and be made on a form provided by OWCP. The application must contain the following:

(1) Any carrier seeking an exemption from the security deposit requirements based on its financial standing (*see* § 703.204(c)(1)) must submit documentation establishing the carrier's current rating and its rating for the

immediately preceding year from each insurance rating service designated by the Branch and posted on the Internet at *http://www.dol.gov/esa/owcp/dlhwc/lstable.htm.*

(2) All other carriers, and any carrier whose exemption request under paragraph (a)(1) of this section has been denied, must provide—

(i) A statement of the carrier's outstanding liabilities under the LHWCA or any of its extensions for its LHWCA obligations for each State in which the obligations arise; and

(ii) Any other information the Branch requests to enable it to give the application adequate consideration including, but not limited to, the reports set forth at § 703.212.

(b) If the carrier disagrees with any of OWCP's findings regarding State guaranty funds made under § 703.202(b) as they exist when it submits its application, the carrier may submit a statement of its unsecured obligations based on a different conclusion regarding the extent of coverage afforded by one or more State guaranty funds. The carrier must submit evidence and/or argument with its application sufficient to establish that such conclusion is correct.

(c) The carrier must sign and swear to the application. If the carrier is not an individual, the carrier's duly authorized officer must sign and swear to the application and list his or her official designation. If the carrier is a corporation, the officer must also affix the corporate seal.

(d) At any time after filing an application, the carrier must inform the Branch immediately of any material changes that may have rendered its application incomplete, inaccurate or misleading.

(e) By filing an application, the carrier consents to be bound by and to comply with the regulations and requirements in this part.

§ 703.204 Decision on insurance carrier's application; minimum amount of deposit.

(a) The Branch will issue a decision on the application determining the extent of an insurance carrier's unsecured LHWCA obligations and fixing the amount of security the carrier must deposit to fully secure payment of its unsecured obligations. The Branch will transmit its decision to the applicant in a way it considers appropriate.

(b) The Branch may consider a number of factors in setting the security deposit amount including, but not limited to, the—

(1) Financial strength of the carrier as determined by private insurance rating organizations;

(2) Financial strength of the carrier's insureds in the Longshore industry;

(3) Extent to which State guaranty funds secure the carrier's LHWCA obligations in the event the carrier defaults on its obligations or becomes insolvent;

(4) Carrier's longevity in writing LHWCA or other workers' compensation coverage;

(5) Extent of carrier's exposure for LHWCA coverage; and

(6) Carrier's payment history in satisfying its LHWCA obligations.

(c) In setting the security deposit amount, the Branch will follow these criteria:

(1) Carriers who hold the highest rating awarded by each of the three insurance rating services designated by the Branch and posted on the Internet at *http://www.dol.gov/esa/owcp/dlhwc/lstable.htm* for both the current rating year and the immediately preceding year will not be required to deposit security.

(2) Carriers whose LHWCA obligations are fully secured by one or more State guaranty funds, as evaluated by OWCP under § 703.202 of this subpart, will not be required to deposit security.

(3) The Branch will require all carriers not meeting the requirements of paragraphs (c)(1) or (2) of this section to deposit security for their LHWCA obligations not secured by a State guaranty fund, as evaluated by OWCP under § 703.202 of this subpart. For carriers that write only an insignificant or incidental amount of LHWCA insurance, the Branch will require a deposit in an amount determined by the Branch from time to time. For all other carriers, the Branch will require a minimum deposit of one third (33⅓ percent) of a carrier s outstanding LHWCA obligations not secured by a State guaranty fund, but may require a deposit up to an amount equal to the carrier's total outstanding LHWCA obligations (100 percent) not secured by a State guaranty fund.

(d) If a carrier believes that a lesser deposit would fully secure its LHWCA obligations, the carrier may request a hearing before the Director of the Division of Longshore and Harbor Workers' Compensation (Longshore Director) or the Longshore Director's representative. Requests for hearing must be in writing and sent to the Branch within 10 days of the date of the Branch's decision. The carrier may submit new evidence and/or argument in support of its challenge to the Branch's decision and must provide any additional documentation OWCP requests. The Longshore Director or his representative will notify the carrier of the hearing date within 10 days of receiving the request. The Longshore Director or his representative will issue the final agency decision on the application within 60 days of the hearing date, or, where evidence is submitted after the hearing, within 60 days of the receipt of such evidence, but no later than 180 days after receiving the carrier's request for a hearing.

§ 703.205 Filing of Agreement and Undertaking; deposit of security.

Within 45 days of the date on which the insurance carrier receives the Branch's decision (or, if the carrier requests a hearing, a period set by the Longshore Director or the Longshore Director's representative) determining the extent of its unsecured LHWCA obligations and fixing the required security deposit amount (*see* § 703.204), the carrier must:

(a) Execute and file with the Branch an Agreement and Undertaking, in a form prescribed and provided by OWCP, in which the carrier shall agree to—

(1) Deposit with the Branch indemnity bonds or letters of credit in the amount fixed by the Office, or deposit negotiable securities under §§ 703.207 and 703.208 in that amount;

(2) Authorize the Branch, at its discretion, to bring suit under any deposited indemnity bond or to draw upon any deposited letters of credit, as appropriate under the terms of the security instrument, or to collect the interest and principal as they become due on any deposited negotiable securities and to sell or otherwise liquidate such negotiable securities or any part thereof when—

(i) The carrier defaults on any of its LHWCA obligations;

(ii) The carrier fails to renew any deposited letter of credit or substitute a new letter of credit, indemnity bond or acceptable negotiable securities in its place;

(iii) The carrier fails to renew any deposited negotiable securities at maturity or substitute a letter of credit, indemnity bond or acceptable negotiable securities in their place;

(iv) State insolvency proceedings are initiated against the carrier; or

(v) The carrier fails to comply with any of the terms of the Agreement and Undertaking; and

(3) Authorize the Branch, at its discretion, to pay such ongoing claims of the carrier as it may find to be due

and payable from the proceeds of the deposited security;

(b) Give security in the amount fixed in the Office's decision:

(1) In the form of an indemnity bond with sureties satisfactory to the Branch and in such form, and containing such provisions, as the Branch may prescribe: *Provided*, That only surety companies approved by the United States Treasury Department under the laws of the United States and the rules and regulations governing bonding companies may act as sureties on such indemnity bonds (*see* Department of Treasury's Circular–570), and that a surety company that is a corporate subsidiary of an insurance carrier may not act as surety on such carrier's indemnity bond;

(2) In the form of letters of credit issued by a financial institution satisfactory to the Branch and upon which the Branch may draw; or

(3) By a deposit of negotiable securities with a Federal Reserve Bank or the Treasurer of the United States in compliance with §§ 703.207 and 703.208.

§ 703.206 [Reserved]

§ 703.207 Kinds of negotiable securities that may be deposited; conditions of deposit; acceptance of deposits.

An insurance carrier electing to deposit negotiable securities to secure its obligations under the Act in the amount fixed by the Office under the regulations in this part shall deposit any negotiable securities acceptable as security for the deposit of public monies of the United States under regulations issued by the Secretary of the Treasury. (*See* 31 CFR part 225.) The approval, valuation, acceptance, and custody of such securities is hereby committed to the several Federal Reserve Banks and the Treasurer of the United States.

§ 703.208 Deposits of negotiable securities with Federal Reserve banks or the Treasurer of the United States; interest thereon.

Deposits of negotiable securities provided for by the regulations in this part must be made with any Federal Reserve bank or any branch of a Federal Reserve bank designated by the Branch, or the Treasurer of the United States, and must be held subject to the order of the Branch. The Branch will authorize the insurance carrier to collect interest on the securities it deposits unless any of the conditions set forth at § 703.211(a) occur.

§ 703.209 Substitution and withdrawal of indemnity bond, letters of credit or negotiable securities.

(a) A carrier may not substitute other security for any indemnity bond or letters of credit deposited under the regulations in this part except when authorized by the Branch. A carrier may, however, substitute negotiable securities acceptable under the regulations in this part for previously-deposited negotiable securities without the Branch's prior approval.

(b) A carrier that has ceased to write insurance under the Act may apply to the Branch for withdrawal of its security deposit. The carrier must file with its application a sworn statement setting forth—

(1) A list of all cases in each State in which the carrier is paying compensation, together with the names of the employees and other beneficiaries, a description of causes of injury or death, and a statement of the amount of compensation paid;

(2) A similar list of all pending cases in which the carrier has not yet paid compensation; and

(3) A similar list of all cases in which injury or death has occurred within one year before such application or in which the last payment of compensation was made within one year before such application.

(c) The Branch may authorize withdrawal of previously-deposited indemnity bonds, letters of credit and negotiable securities that, in the opinion of the Branch, are not necessary to provide adequate security for the payment of the carrier's outstanding and potential LHWCA liabilities. No withdrawals will be authorized unless there has been no claim activity involving the carrier for a minimum of five years, and the Branch is reasonably certain that no further claims will arise.

§ 703.210 Increase or reduction in security deposit amount.

(a) Whenever the Office considers the security deposited by an insurance carrier insufficient to fully secure the carrier's LHWCA obligations, the carrier must, upon demand by the Branch, deposit additional security in accordance with the regulations in this part in an amount fixed by the Branch. The Branch will issue its decision requiring additional security in accordance with § 703.204, and the procedures set forth at §§ 703.204(d) and 703.205 for requesting a hearing and complying with the Office's decision will apply as appropriate.

(b) The Branch may reduce the required security at any time on its own initiative, or upon application of a carrier, when in the Branch's opinion the facts warrant a reduction. A carrier seeking a reduction must furnish any information the Office requests regarding its outstanding LHWCA obligations for any State in which it does business, its obligations not secured by a State guaranty fund in each of these States, and any other evidence as the Branch considers necessary.

§ 703.211 Authority to seize security deposit; use and/or return of proceeds.

(a) The Office may take any of the actions set forth in paragraph (b) of this section when an insurance carrier—

(1) Defaults on any of its LHWCA obligations;

(2) Fails to renew any deposited letter of credit or substitute a new letter of credit, indemnity bond or acceptable negotiable securities in its place;

(3) Fails to renew any deposited negotiable securities at maturity or substitute a letter of credit, indemnity bond or acceptable negotiable securities in their place;

(4) Has State insolvency proceedings initiated against it; or

(5) Fails to comply with any of the terms of the Agreement and Undertaking.

(b) When any of the conditions set forth in paragraph (a) of this section occur, the Office may, within its discretion and as appropriate to the security instrument—

(1) Bring suit under any indemnity bond;

(2) Draw upon any letters of credit;

(3) Seize any negotiable securities, collect the interest and principal as they may become due, and sell or otherwise liquidate the negotiable securities or any part thereof.

(c) When the Office, within its discretion, determines that it no longer needs to collect the interest and principal of any negotiable securities seized pursuant to paragraphs (a) and (b) of this section, or to retain the proceeds of their sale, it must return any of the carrier's negotiable securities still in its possession and any remaining proceeds of their sale.

§ 703.212 Required reports; examination of insurance carrier accounts.

(a) Upon the Office's request, each insurance carrier must submit the following reports:

(1) A certified financial statement of the carrier's assets and liabilities, or a balance sheet.

(2) A sworn statement showing the extent of the carrier's unsecured LHWCA obligations for each State in which it is authorized to write insurance under the LHWCA or any of its extensions.

(3) A sworn statement reporting the carrier's open cases as of the date of such report, listing by State all death and injury cases, together with a report of the status of all outstanding claims.

(b) Whenever it considers necessary, the Office may inspect or examine a carrier's books of account, records, and other papers to verify any financial statement or other information the carrier furnished to the Office in any statement or report required by this section, or any other section of the regulations in this part. The carrier must permit the Office or its duly authorized representative to make the inspection or examination. Alternatively, the Office may accept an adequate independent audit by a certified public accountant.

§ 703.213 Failure to comply.

The Office may suspend or revoke a carrier's certificate of authority to write LHWCA insurance under § 703.106 when the carrier fails to comply with any of the requirements of this part.

Subpart D—Authorization of Self-Insurers

§ 703.301 Employers who may be authorized as self-insurers.

The regulations in this subpart set forth procedures for authorizing employers to self-insure the payment of compensation under the Longshore and Harbor Workers' Compensation Act, or its extensions. The Office may authorize any employer to self-insure who, pursuant to the regulations in this part, furnishes to the Office satisfactory proof of its ability to pay compensation directly, and who agrees to immediately cancel any existing insurance policy covering its Longshore obligations (except for excess or catastrophic workers' compensation insurance, *see* §§ 703.302(a)(6), 703.304(a)(6)) when OWCP approves the employer's application to be self-insured. The regulations require self-insurers to deposit security in the form of an indemnity bond, letters of credit or negotiable securities (at the option of the employer) of a kind and in an amount determined by the Office, and prescribe the conditions under which such deposits shall be made. The term "self-insurer'' as used in these regulations means any employer securing the payment of compensation under the LHWCA or its extensions in accordance with the provisions of 33 U.S.C. 932(a)(2) and these regulations.

§ 703.302 Application for authority to become a self-insurer; how filed; information to be submitted; other requirements.

(a) Any employer may apply to become an authorized self-insurer. The application must be addressed to the Branch of Financial Management and Insurance (Branch) within OWCP's Division of Longshore and Harbor Workers' Compensation, and be made on a form provided by OWCP. The application must contain—

(1) A statement of the employer's total payroll for the 12 months before the application date;

(2) A statement of the average number of employees engaged in employment within the purview of the LHWCA or any of its extensions for the 12 months before the application date;

(3) A statement of the number of injuries to such employees resulting in disability of more than 7 days' duration, or in death, during each of the 5 years before the application date;

(4) A certified financial report for each of the three years before the application date;

(5) A description of the facilities maintained or the arrangements made for the medical and hospital care of injured employees;

(6) A statement describing the provisions and maximum amount of any excess or catastrophic insurance; and

(7) Any other information the Branch requests to enable it to give the application adequate consideration including, but not limited to, the reports set forth at § 703.310.

(b) The employer must sign and swear to the application. If the employer is not an individual, the employer's duly authorized officer must sign and swear to the application and list his or her official designation. If the employer is a corporation, the officer must also affix the corporate seal.

(c) At any time after filing an application, the employer must inform the Branch immediately of any material changes that may have rendered its application incomplete, inaccurate or misleading.

(d) By filing an application, the employer consents to be bound by and to comply with the regulations and requirements in this part.

§ 703.303 Decision on employer's application.

(a) The Branch will issue a decision granting or denying the employer's application to be an authorized self-insurer. If the Branch grants the application, the decision will fix the amount of security the employer must deposit. The Branch will transmit its decision to the employer in a way it considers appropriate.

(b) The employer is authorized to self-insure beginning with the date of the Branch's decision. Each grant of authority to self-insure is conditioned, however, upon the employer's execution and filing of an Agreement and Undertaking and deposit of the security fixed in the decision in the form and within the time limits required by § 703.304. In the event the employer fails to comply with the requirements set forth in § 703.304, its authorization to self-insure will be considered never to have been effective, and the employer will be subject to appropriate penalties for failure to secure its LHWCA obligations.

(c) The Branch will require security in the amount it considers necessary to fully secure the employer's LHWCA obligations. When fixing the amount of security, the Branch may consider a number of factors including, but not limited to, the—

(1) Employer's overall financial standing;

(2) Nature of the employer's work;

(3) Hazard of the work in which the employees are employed;

(4) Employer's payroll amount for employees engaged in employment within the purview of the Act; and

(5) Employer's accident record as shown in the application and the Office's records.

(d) If an employer believes that the Branch incorrectly denied its application to self-insure, or that a lesser security deposit would fully secure its LHWCA obligations, the employer may request a hearing before the Director of the Division of Longshore and Harbor Workers' Compensation (Longshore Director) or the Longshore Director's representative. Requests for hearing must be in writing and sent to the Branch within ten days of the date of the Branch's decision. The employer may submit new evidence and/or argument in support of its challenge to the Branch's decision and must provide any additional documentation OWCP requests. The Longshore Director or his representative will notify the employer of the hearing date within 10 days of receiving the request. The Longshore Director or his representative will issue the final agency decision on the application within 60 days of the hearing date, or, where evidence is submitted after the hearing, within 60 days of the receipt of such evidence, but no later than 180 days after receiving the employer's request for a hearing.

§ 703.304 Filing of Agreement and Undertaking; deposit of security.

Within 45 days of the date on which the employer receives the Branch's decision (or, if the employer requests a hearing, a period set by the Longshore Director or the Longshore Director's representative) granting its application to self-insure and fixing the required security deposit amount (*see* § 703.303), the employer must:

(a) Execute and file with the Branch an Agreement and Undertaking, in a form prescribed and provided by OWCP, in which the employer shall agree to:

(1) Pay when due, as required by the provisions of the Act, all compensation payable on account of injury or death of any of its employees injured within the purview of the Act;

(2) Furnish medical, surgical, hospital, and other attendance, treatment and care as required by the Act;

(3) Deposit with the Branch indemnity bonds or letters of credit in the amount fixed by the Office, or deposit negotiable securities under §§ 703.306 and 703.307 in that amount;

(4) Authorize the Branch, at its discretion, to bring suit under any deposited indemnity bond or to draw upon any deposited letters of credit, as appropriate under the terms of the security instrument, or to collect the interest and principal as they become due on any deposited negotiable securities and to seize and sell or otherwise liquidate such negotiable securities or any part thereof when the employer:

(i) Defaults on any of its LHWCA obligations;

(ii) Fails to renew any deposited letter of credit or substitute a new letter of credit, indemnity bond or acceptable negotiable securities in its place;

(iii) Fails to renew any deposited negotiable securities at maturity or substitute a letter of credit, indemnity bond or acceptable negotiable securities in their place; or

(iv) Fails to comply with any of the terms of the Agreement and Undertaking;

(5) Authorize the Branch, at its discretion, to pay such compensation, medical, and other expenses and any accrued penalties imposed by law as it may find to be due and payable from the proceeds of the deposited security; and

(6) Obtain and maintain, if required by the Office, excess or catastrophic insurance in amounts to be determined by the Office.

(b) Give security in the amount fixed in the Office's decision:

(1) In the form of an indemnity bond with sureties satisfactory to the Office, and in such form and containing such provisions as the Office may prescribe: *Provided*, That only surety companies approved by the United States Treasury Department under the laws of the United States and the rules and regulations governing bonding companies may act as sureties on such indemnity bonds (*see* Department of Treasury's Circular–570);

(2) In the form of letters of credit issued by a financial institution satisfactory to the Branch and upon which the Branch may draw; or,

(3) By a deposit of negotiable securities with a Federal Reserve Bank or the Treasurer of the United States in compliance with §§ 703.306 and 703.307.

§ 703.305 [Reserved]

§ 703.306 Kinds of negotiable securities that may be deposited; conditions of deposit; acceptance of deposits.

A self-insurer or a self-insurer applicant electing to deposit negotiable securities to secure its obligations under the Act in the amount fixed by the Office under the regulations in this part shall deposit any negotiable securities acceptable as security for the deposit of public monies of the United States under regulations issued by the Secretary of the Treasury. (*See* 31 CFR part 225.) The approval, valuation, acceptance, and custody of such securities is hereby committed to the several Federal Reserve Banks and the Treasurer of the United States.

§ 703.307 Deposits of negotiable securities with Federal Reserve banks or the Treasurer of the United States; interest thereon.

Deposits of negotiable securities provided for by the regulations in this part shall be made with any Federal Reserve bank or any branch of a Federal Reserve bank designated by the Office, or the Treasurer of the United States, and shall be held subject to the order of the Office. The Office will authorize the self-insurer to collect interest on the securities deposited by it unless any of the conditions set forth at § 703.304(a)(4) occur.

§ 703.308 Substitution and withdrawal of indemnity bond, letters of credit or negotiable securities.

(a) A self-insurer may not substitute other security for any indemnity bond or letters of credit deposited under the regulations in this part except when authorized by the Office. A self-insurer may, however, substitute negotiable securities acceptable under the regulations in this part for previously-deposited negotiable securities without the Office's prior approval.

(b) A self-insurer discontinuing business, discontinuing operations within the purview of the Act, or securing the payment of compensation by commercial insurance under the provisions of the Act may apply to the Office for the withdrawal of the security it provided under the regulations in this part. The self-insurer must file with its application a sworn statement setting forth—

(1) A list of all cases in each compensation district in which the self-insurer is paying compensation, together with the names of the employees and other beneficiaries, a description of causes of injury or death, and a statement of the amount of compensation paid;

(2) A similar list of all pending cases in which the self-insurer has not yet paid compensation; and

(3) A similar list of all cases in which injury or death has occurred within one year before such application or in which the last payment of compensation was made within one year before such application.

(c) The Office may authorize withdrawal of previously-deposited indemnity bonds, letters of credit and negotiable securities that, in the opinion of the Office, are not necessary to provide adequate security for the payment of the self-insurer's outstanding and potential LHWCA obligations. No withdrawals will be authorized unless there has been no claim activity involving the self-insurer for a minimum of five years, and the Office is reasonably certain no further claims will arise.

§ 703.309 Increase or reduction in the amount of indemnity bond, letters of credit or negotiable securities.

(a) Whenever the Office considers the principal sum of the indemnity bond or letters of credit filed or the amount of the negotiable securities deposited by a self-insurer insufficient to fully secure the self-insurer's LHWCA obligations, the self-insurer must, upon demand by the Office, deposit additional security in accordance with the regulations in this part in an amount fixed by the Branch. The Branch will issue its decision requiring additional security in accordance with § 703.303, and the procedures set forth at §§ 703.303(d) and 703.304 for requesting a hearing and complying with the Office's decision will apply as appropriate.

(b) The Office may reduce the required security at any time on its own initiative, or upon application of a self-

insurer, when in the Office's opinion the facts warrant a reduction. A self-insurer seeking a reduction must furnish any information the Office requests regarding its current affairs, the nature and hazard of the work of its employees, the amount of its payroll for employees engaged in maritime employment within the purview of the Act, its financial condition, its accident experience, a record of compensation payments it has made, and any other evidence the Branch considers necessary.

§ 703.310 Authority to seize security deposit; use and/or return of proceeds.

(a) The Office may take any of the actions set forth in paragraph (b) of this section when a self-insurer—

(1) Defaults on any of its LHWCA obligations;

(2) Fails to renew any deposited letter of credit or substitute a new letter of credit, indemnity bond or acceptable negotiable securities in its place;

(3) Fails to renew any deposited negotiable securities at maturity or substitute a letter of credit, indemnity bond or acceptable negotiable securities in their place; or

(4) Fails to comply with any of the terms of the Agreement and Undertaking.

(b) When any of the conditions set forth in paragraph (a) of this section occur, the Office may, within its discretion and as appropriate to the security instrument—

(1) Bring suit under any indemnity bond;

(2) Draw upon any letters of credit;

(3) Seize any negotiable securities, collect the interest and principal as they may become due, and sell or otherwise liquidate the negotiable securities or any part thereof.

(c) When the Office, within its discretion, determines that it no longer needs to collect the interest and principal of any negotiable securities seized pursuant to paragraphs (a) and (b) of this section, or to retain the proceeds of their sale, it must return any of the employer's negotiable securities still in its possession and any remaining proceeds of their sale.

§ 703.311 Required reports; examination of self-insurer accounts.

(a) Upon the Office's request, each self-insurer must submit the following reports:

(1) A certified financial statement of the self-insurer's assets and liabilities, or a balance sheet.

(2) A sworn statement showing by classifications the payroll of employees of the self-insurer who are engaged in employment within the purview of the LHWCA or any of its extensions.

(3) A sworn statement covering the six-month period preceding the date of such report, listing by compensation districts all death and injury cases which have occurred during such period, together with a report of the status of all outstanding claims showing the particulars of each case.

(b) Whenever it considers necessary, the Office may inspect or examine a self-insurer's books of account, records, and other papers to verify any financial statement or other information the self-insurer furnished to the Office in any report required by this section, or any other section of the regulations in this part. The self-insurer must permit the Office or its duly authorized representative to make the inspection or examination. Alternatively, the Office may accept an adequate report of a certified public accountant.

§ 703.312 Period of authorization as self-insurer.

(a) Self-insurance authorizations will remain in effect for so long as the self-insurer complies with the requirements of the Act, the regulations in this part, and OWCP.

(b) A self-insurer who has secured its liability by depositing an indemnity bond with the Office will, on or about May 10 of each year, receive from the Office a form for executing a bond that will continue its self-insurance authorization. The submission of such bond, duly executed in the amount indicated by the Office, will be deemed a condition of the continuing authorization.

§ 703.313 Revocation of authorization to self-insure.

The Office may for good cause shown suspend or revoke the authorization of any self-insurer. Failure by a self-insurer to comply with any provision or requirement of law or of the regulations in this part, or with any lawful order or communication of the Office, or the failure or insolvency of the surety on its indemnity bond, or impairment of financial responsibility of such self-insurer, shall be deemed good cause for suspension or revocation.

Signed at Washington, DC, this 18th day of July, 2005.

Victoria A. Lipnic,

Assistant Secretary for Employment Standards.

[FR Doc. 05–14530 Filed 7–25–05; 8:45 am]

BILLING CODE 4510–CF–P

Federal Register

Tuesday,
July 26, 2005

Part IV

Department of Housing and Urban Development

24 CFR Part 200

Multifamily Accelerated Processing (MAP): MAP Lender Quality Assurance Enforcement; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 200

[Docket No. FR–4836–F–02]

RIN 2502–AI01

Multifamily Accelerated Processing (MAP): MAP Lender Quality Assurance Enforcement

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule provides the bases for, and procedures applicable to, enforcement actions under Multifamily Accelerated Processing (MAP), a form of ''fast-track processing'' that gives qualified lenders the option of preparing the applicable Federal Housing Administration (FHA) forms and doing preliminary underwriting for certain loan applications. This final rule follows publication of a December 17, 2004, proposed rule.

DATES: *Effective Date:* August 25, 2005.

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Development, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6138, Washington, DC 20410–0500; telephone (202) 708–1142 (this is not a toll-free number). Persons with hearing or speech disabilities may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Multifamily lenders that are approved MAP lenders and that process a multifamily mortgage loan using MAP procedures do so with the understanding and agreement that their loan processing actions and decisions are subject to HUD review. By allowing a MAP lender to prepare much of the documentation for a loan submission for FHA multifamily mortgage insurance, HUD places confidence in the lender's integrity and competence. If, in the process of performing this function, the lender should place the FHA multifamily mortgage insurance portfolio at risk, HUD must have (1) an accelerated process for review of the lender's actions, and (2) the means to act expeditiously to correct violations. This accelerated review process and mechanism for HUD action is referred to as ''MAP Lender Quality Assurance Enforcement.'' On December 17, 2004 (69 FR 75812), HUD published a proposed rule to include in a new subpart Y of 24 CFR part 200, consisting of §§ 200.1500 through 200.1545, the requirements and procedures that constitute MAP Lender Quality Assurance Enforcement.

The December 17, 2004, proposed rule included provisions that addressed the procedures of the MAP Lender Review Board; lender notification; issuance of MAP warning letters; placement of a lender on MAP probation; suspension or termination of MAP privileges; negotiated settlement agreements between HUD and MAP lenders; and a MAP appeals process. A comment period of 60 days was provided in the proposed rule, which also specifically sought comment on whether there are any quantitative measures, such as a lender's frequency or severity of claims, that may serve as a basis for MAP sanctions.

II. This Final Rule

HUD did not receive any public comments on the proposed rule and this final rule makes no changes to the December 17, 2004, proposed rule.

III. Findings and Certifications

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule does not impose any Federal mandates on any state, local, or tribal government or the private sector within the meaning of UMRA.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the executive order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the executive order.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities for the following reasons. The rule provides clear, uniform, expeditious, and equitable requirements and procedures to permit HUD to take enforcement actions, correct MAP violations, and protect the financial interests of the government. As such, the rule results in an industry-wide and governmental benefit in that it clarifies the terms of the relationship between HUD and MAP lenders.

Environmental Impact

This rule does not direct, provide for assistance or loan or mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number applicable to the program affected by this rule is 14.134.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

■ Accordingly, HUD amends 24 CFR part 200 as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

■ 1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

■ 2. A new subpart Y is added to read as follows:

Subpart Y—Multifamily Accelerated Processing (MAP): MAP Lender Quality Assurance Enforcement

Sec.

200.1500 Sanctions against a MAP lender.

200.1505 Warning letter.
200.1510 Probation.
200.1515 Suspension of MAP privileges.
200.1520 Termination of MAP privileges.
200.1525 Settlement agreements.
200.1530 Bases for sanctioning a MAP lender.
200.1535 MAP Lender Review Board.
200.1540 Imminent harm notice of action.
200.1545 Appeals of MAP Lender Review Board decisions.

§ 200.1500 Sanctions against a MAP lender.

(a) In addition to any other legal remedy available to HUD, HUD may take the following actions with respect to a MAP lender:

(1) Warning letter;

(2) Probation;

(3) Suspension;

(4) Termination;

(5) Limited Denial of Participation (LDP);

(6) Referral to the Mortgagee Review Board; and

(7) Referral to the Office of Inspector General.

(b) The actions listed in paragraphs (a)(1) through (a)(4) of this section are carried out in accordance with the requirements of this subpart. An LDP is a sanction applied in accordance with subpart G of 24 CFR part 24 to participants in loan transactions other than FHA-insured lenders. The Mortgagee Review Board procedures are found at 24 CFR part 25.

§ 200.1505 Warning letter.

(a) *In general.* HUD may issue a warning letter, which specifies problems or violations identified by HUD, to a MAP lender.

(b) *Effect of warning letter.* The warning letter:

(1) Does not suspend a lender's MAP privileges;

(2) May impose a higher level of review of the lender's underwriting by HUD;

(3) May direct the taking of a corrective action; and

(4) May require a meeting in a designated HUD office with the principal owners or officers, or both, of the MAP lender to discuss the specified problems and violations, and possible corrective actions.

(c) *Relationship to other sanctions.* The issuance of a warning letter is not subject to the MAP Lender Review Board procedures in accordance with § 200.1535, and is not a prerequisite to the probation, or suspension, or termination of MAP privileges.

§ 200.1510 Probation.

(a) *In general.* Only the MAP Lender Review Board (or Board) may place a lender on probation, in accordance with the procedures of § 200.1535.

(b) *Effect of probation.* (1) Probation is intended to be corrective in nature and not punitive. As a result, release from probation is conditioned upon the lender meeting a specific requirement or requirements, such as replacement of a staff member. A lender's failure to take prompt corrective action after being placed on probation may be the basis for a recommendation of either suspension or termination. Any such recommendation shall, when possible, go to a MAP Lender Review Board composed of the same members who issued the original probation.

(2) During the probation period, a MAP lender:

(i) Shall be removed from the MAP-Approved Lender list posted on HUD's website;

(ii) May not submit, and HUD may not accept, materials after the close of business of the date of the probation letter for a new application under MAP for multifamily mortgage insurance from HUD; and

(iii) May continue to process any existing application for multifamily mortgage insurance submitted to a Multifamily Hub or Program Center before the date of the probation letter.

(3) The MAP Lender Review Board may impose a higher level of review of the lender's underwriting by HUD;

(4) Probation is nationwide in effect.

(c) *Duration of probation.* (1) Probation continues until all specific corrective actions required by the MAP Lender Review Board (for example, exclusion of a specific staff member from work on MAP loans) are taken by the MAP lender. When all corrective actions have been taken, the MAP lender shall notify the Board. Once the Board is satisfied that the corrective actions have occurred, the probation period shall end.

(2) A false statement that corrective action has been taken constitutes a false certification and may constitute a violation of 18 US.C. 1001.

(3) When probation is lifted, the lender's name shall be promptly reinstated on the MAP-Approved Lender list posted on HUD's Web site.

§ 200.1515 Suspension of MAP privileges.

(a) *In general.* Only the MAP Lender Review Board may suspend a lender's eligibility for MAP, in accordance with the procedures of § 200.1535.

(b) *Effect of suspension.* (1) A suspension may impose any conditions that may be imposed by probation.

(2) During the suspension period a MAP lender:

(i) Shall be removed from the MAP-approved lender list posted on HUD's Web site;

(ii) May not submit, and the HUD field office may not accept, materials after the close of business of the date of the suspension letter for a new application for multifamily mortgage insurance from HUD; and

(iii) May continue to process any existing application for multifamily mortgage insurance submitted to a Multifamily Hub or Program Center before the date of the suspension letter.

(3) The MAP Lender Review Board may impose a higher level of review of the lender's underwriting by HUD;

(4) Suspension is nationwide in effect.

(c) *Duration of suspension.* (1) Suspension may not exceed 12 months, except where conditions are imposed. If both a time period and conditions are imposed, a suspension shall terminate only when:

(i) The time period of the suspension has expired;

(ii) The MAP lender has submitted a certification of compliance with those conditions to the Board; and

(iii) The Board has notified the MAP lender it has received the certification of compliance and is satisfied that the corrective actions have occurred.

(2) When suspension is lifted, the lender's name shall be promptly reinstated on the MAP-Approved Lender list posted on HUD's Web site.

§ 200.1520 Termination of MAP privileges.

(a) *In general.* Except as provided in paragraph (b) of this section, only the MAP Lender Review Board may terminate a lender's MAP privileges, in accordance with the procedures of § 200.1535.

(b) *Administrative termination.* HUD will notify a lender of immediate termination of MAP privileges when either of the following circumstances is present:

(1) Failure by the MAP lender to maintain its status as an FHA-approved lender; or

(2) Failure by the MAP lender to maintain a minimum level of MAP lender activity, as evidenced by failure to submit either a pre-application package or firm commitment application at least once every 12 months.

(c) *Effect of termination.* (1) The terminated lender shall be removed from the MAP-Approved Lender list on HUD's Web site.

(2) A terminated lender may not submit, and the HUD field office may not accept, materials after the close of business of the date of the termination letter for new multifamily mortgage insurance from HUD.

(3) Any MAP pre-application or MAP application in process may no longer be processed under MAP by the terminated lender. The lender will either:

(i) Immediately transfer the transaction to the traditional application processing (TAP) procedure. HUD will completely reprocess all stages of the transaction; or

(ii) Immediately transfer the project to a new MAP lender. The new MAP lender must completely reprocess all stages of the transaction. At no time can the new MAP lender assign the pre-application, the firm application, the mortgage insurance commitment, or the insured construction loan back to the original MAP lender.

(4) HUD will not endorse any MAP loan processed by the terminated lender unless a firm commitment was issued before the date of termination.

(i) Firm commitments involving new construction or substantial rehabilitation must be immediately transferred to a new MAP lender. At no time can the new MAP lender assign the firm mortgage insurance commitment, or the insured construction loan, back to the original MAP lender.

(ii) Firm commitments issued for Section 223(f) projects may be transferred before final endorsement to any approved FHA lender or kept in the lender's portfolio.

(iii) For those construction loans that have been initially endorsed, the MAP lender will lose its MAP privileges for construction loan administration. HUD will assume all the construction loan administration duties it normally performs for TAP processing.

(iv) The original lender may service a transferred loan once it is finally endorsed.

(5) Termination is nationwide in effect.

(6) When a MAP lender loses its MAP lender status as a result of termination, the lender's status to process transactions using TAP is unaffected, provided that the lender has maintained its status as an FHA-approved multifamily lender.

(d) *Reinstatement.* An application for reinstatement of MAP authority may not be made until at least 12 months after the date of termination. The requirements for reinstatement shall be the same as for initial qualification, and the applicant must show that the problems that led to termination have been resolved.

§ 200.1525 Settlement agreements.

(a) HUD staff, as authorized, may negotiate a settlement agreement with a MAP lender before or after the issuance of a warning letter or referral to the MAP Lender Review Board. Once a matter has been referred to the MAP Lender Review Board, only the Board may approve a settlement agreement.

(b) Settlement agreements may provide for:

(1) Cessation of any violation;

(2) Correction or mitigation of the effects of any violation;

(3) Removal of lender staff from positions involving origination, underwriting, and/or construction loan administration;

(4) Actions to collect sums of money wrongfully or incorrectly paid by the MAP lender to a third party;

(5) Implementation or revision of a quality control plan or other corrective measure acceptable to HUD; and

(6) Modification of the duration or provisions of any administrative sanction deemed to be appropriate by HUD.

(c) A MAP lender's compliance with a settlement agreement is evidenced by the lender certifying its compliance with the conditions of the agreement, and HUD's determination that the lender is in compliance with the conditions of the agreement.

(d) Failure by a MAP lender to comply with a settlement agreement may result in a probation, or suspension, or termination of MAP privileges, or referral to the Mortgagee Review Board.

§ 200.1530 Bases for sanctioning a MAP lender.

It is HUD policy that approved MAP lenders are expected to comply at all times with HUD's underwriting and construction loan administration requirements and not to take any action that presents a risk to HUD's insurance funds. A MAP lender's improper underwriting and construction loan administration activities may lead to a warning letter or other sanction from HUD. Examples of such activities include, but are not limited to, the following:

(a) *Minor offenses that may be the basis for a warning letter include:*

(1) Failure to provide required exhibits or the submission of incomplete or inaccurate exhibits. Although the MAP lender will be permitted to correct minor errors or provide additional information, substantial inaccuracies or lack of significant information will result in a return of the application and retention of any fee collected;

(2) Repeated failure to complete processing to firm commitment unrelated to an underwriting analysis that demonstrates that the process should not proceed to firm commitment;

(3) Preparation of an underwriting summary that is not supported by the appropriate documentation and analysis;

(4) Failure to notify the HUD processing office promptly of changes in the mortgage loan application for a firm commitment submitted, such as changes in rents, numbers of units, or gross project area;

(5) Failure to meet MAP closing requirements or construction loan administration requirements;

(6) Business practices that do not conform to those generally accepted by prudent lenders or that show irresponsibility; and

(7) Failure to cooperate with a Lender Qualifications and Monitoring Division review by HUD.

(b) *Serious offenses that might be a basis for a warning letter or probation, suspension, or termination include:*

(1) Receipt of multiple warning letters over any one-year period. In determining which sanction to pursue as a result of prior warning letters, HUD will consider the facts and circumstances surrounding those warning letters and the corrective actions, if any, undertaken by the lender;

(2) Fraud or material misrepresentation in the lender's participation in FHA multifamily programs;

(3) Lender collusion with, or influence upon, third party contractors to modify reports affecting the contractor's independent evaluation;

(4) A violation of MAP procedures by a third party contractor, which the MAP lender knew, or should have known, was occurring and which, if performed by the MAP lender itself, would constitute a ground for a sanction under this chapter;

(5) Evidence that a lender's inadequate or inaccurate underwriting was a cause for assignment of an FHA-insured mortgage and claim for insurance benefits to HUD;

(6) Identity-of-interest violations as defined by Chapter 2 of the MAP Guide;

(7) Payment by, or receipt of a payment by, a MAP lender of any kickback or other consideration, directly or indirectly, which would affect the lender's independent evaluation, or represent a conflict of interest, in connection with any FHA-insured mortgage transaction;

(8) Failure to comply with any agreement, certification, undertaking, or condition of approval listed in a MAP lender's application for approval;

(9) Noncompliance with any requirement or directive of the MAP Lender Review Board;

(10) Violation of the requirements of any contract with HUD, or violation of the requirements in any statute or regulation;

(11) Submission of false information, or a false certification, to HUD in connection with any MAP mortgage transaction;

(12) Failure of a MAP lender to respond in a timely manner to inquiries from the MAP Lender Review Board in accordance with this subpart;

(13) Indictment or conviction of a MAP lender or any of its officers, directors, principals, or employees for an offense that reflects on the responsibility, integrity, or ability of the lender to participate in the MAP initiative;

(14) Employing or retaining an officer, partner, director, or principal at the time when the person was suspended, debarred, ineligible, or subject to an LDP under 24 CFR part 24, or otherwise prohibited from participation in HUD programs, when the MAP lender knew or should have known of the prohibition;

(15) Employing or retaining an employee who is not an officer, partner, director or principal, and who is or will be working on HUD–FHA program matters, at a time when that person was suspended, debarred, ineligible, or subject to an LDP under 24 CFR part 24 or otherwise prohibited from participation in HUD programs, when the MAP lender knew or should have known of the prohibition;

(16) Failure to cooperate with an audit or investigation by the HUD Office of Inspector General or an inquiry by HUD into the conduct of the MAP lender's FHA-insured loans; and

(17) Failure to fund MAP mortgage loans or any misuse of mortgage loan proceeds.

§ 200.1535 MAP Lender Review Board.

(a) *Authority.* (1) *Sanctions.* The MAP Lender Review Board (or Board) is authorized to impose appropriate sanctions on a MAP lender after:

(i) Conducting an impartial review of all information and documentation submitted to the Board; and

(ii) Making factual determinations that there has been a violation of MAP requirements.

(2) *Settlement agreements.* The Board is authorized to approve settlement agreements in accordance with § 200.1525 of any matter pending before the Board.

(3) *Extensions.* The Board is authorized to extend, on its own initiative or for good cause at the written request of a MAP lender, any time limit otherwise applicable under this section. Notice of any such extension shall be timely provided to a MAP lender.

(b) *Notice of violation.* Before the Board reviews a matter for consideration of a sanction, the Board's Chairman will issue written notice of violation to the MAP lender's contact person as listed on the Multifamily MAP Web site. The notice is sent by overnight delivery and must be signed for by an employee of the MAP lender upon receipt. The notice:

(1) Informs the lender that the Board is considering a specific violation;

(2) States the specific facts alleged concerning the violation, with citation to the HUD requirements that have been violated;

(3) Includes as attachments copies of all documents evidencing the violation and upon which the Board will rely in reaching a decision;

(4) Provides the lender with the opportunity to request in writing, within 15 business days after the date of the issuance of the notice, to:

(i) Meet for an informal conference with the Board in person or by video conference using HUD facilities at Headquarters or one of HUD's field offices; and

(ii) Present written evidence and any other relevant information at the conference;

(5) Requires a written response to be submitted to the Board by a date specified within the notice;

(6) Provides the street address, email address, or facsimile (FAX) number for purposes of receiving the lender's request for an informal conference and written response; and

(7) Is made part of the administrative record of the Board's decision of the matter.

(c) *Response to notice.* (1) The MAP lender's written response required by the notice of violation may not exceed 15 double-spaced typewritten pages and must include an executive summary, a statement of the facts, an argument, and a conclusion. The response and supporting documentation must be submitted in triplicate.

(2) Failure to respond by the dates specified within the notice may result in a determination by the Board without conducting an informal conference with the MAP lender and without consideration of any written response submitted by the MAP lender.

(d) *Informal conference.* (1) The Board will schedule an informal conference and notify the lender of the time and place of the conference, if one is requested.

(2) At the conference, the Board will meet with the lender or its designees and HUD staff to review documentary evidence and presentations by both sides.

(3) Oral statements made at the informal meeting will not be considered as part of the administrative record of the Board's determination, except:

(i) The Board may note for the record and consider voluntary admissions, made by the lender or a representative of the lender, of any element of the violation charged;

(ii) Statements substantiated by any additional documents or evidence submitted in accordance with paragraphs (e)(1) or (e)(3) of this section; and

(iii) Transcripts prepared and submitted in accordance with paragraph (e)(2) of this section.

(e) *Post-conference submissions.* (1) Any additional documents, evidence, or written arguments relevant to the notice of violation and the informal conference that the lender or HUD staff wish to present to the Board, must be presented within five business days after date of the informal conference.

(2) No transcript of the informal conference will be made, unless the lender elects to have a transcript made by a certified court reporter at its own expense. If the lender elects to have a transcript made, the lender must provide three copies of the transcript to HUD within five business days after the date of the informal conference. The transcript will not become a part of the administrative record of the Board's decision unless it is submitted within the required five-day period frame.

(3) Following the receipt of any post-conference submissions, the Board may request or permit additional documents or evidence to be submitted within a period set by the Board for inclusion in the administrative record.

(f) *Board action.* (1) The Board will confer to consider the evidence included in the administrative record and make a final decision concerning the matter. Any record of confidential communications between and among Board members at this stage of the proceedings is privileged from disclosure and will not be regarded as a part of the administrative record of any matter.

(2) In determining what action is appropriate concerning the matter, the Board considers, among other factors:

(i) The seriousness and the extent of the violation;

(ii) Any history of prior offenses;

(iii) Deterrence of future violations;

(iv) Any inappropriate benefits received by the MAP lender;

(v) Potential inappropriate benefit to other persons; and

(vi) Any mitigating factors.

(3) Board decisions will be determined by majority vote.

(g) *Notice of action.* (1) The Board will issue its final decision within 10 business days after the date of the informal conference or the expiration of any period allowed for the submission of documents and evidence, whichever is later.

(2) The Board will notify the MAP lender of its final decision by overnight delivery of a written notice of the final decision to the MAP lender's contact person as listed on the Multifamily MAP Web site. The Board will also notify HUD field offices of its final decision.

(3) The final decision finds that a violation either does, or does not, exist. If a violation is found to exist, the final decision:

(i) States the violation and any factual findings of the Board;

(ii) States the nature and duration of the sanction;

(iii) Informs the MAP lender of its right to an appeal conference and identifies the appeals official to be contacted; and

(iv) May add to or modify the violation as stated in the initial notice of violation.

§ 200.1540 Imminent harm notice of action.

The Board may issue an imminent harm notice of action to terminate a MAP lender, or to place a MAP lender on probation or suspension without advance notice to the MAP lender in those instances where the Board determines there exists a need to protect the financial interest of HUD from imminent harm. In all such instances, the Board shall notify the lender of the Board's decision promptly and give the reasons for the decision in accordance with § 200.1535(g)(2) and (3). The lender shall have the right to submit materials to the Board and to appear before the Board to seek prompt reconsideration of the Board's decision in accordance with the procedures of § 200.1535.

§ 200.1545 Appeals of MAP Lender Review Board decisions.

(a) *Request for appeal.* Whenever the Board imposes a sanction of probation, suspension, or termination against a MAP lender, the lender may request, in writing, an appeal conference before the appeals official. The MAP lender must deliver the written request for an appeal to the appeals official within 10 business days after the date noted on the notice of action or the right to an appeal is deemed waived. Participation in the appeal process under this section is not a prerequisite to filing an action for judicial review under the Administrative Procedure Act.

(b) *Appeals Official.* The appeals official must be an individual who has not been previously involved with the proceedings or settlement discussions at issue.

(c) *Notice of action in effect.* The notice of action issued by the Board remains in effect while the appeal is pending.

(d) *Scheduling of appeal.* (1) Upon receipt of the request for an appeal, the appeals official will promptly notify the MAP lender of the time and place of the appeal conference. The appeal conference will be held within 10 business days after receipt of the MAP lender's appeal request, except as provided in paragraph (d)(2) of this section.

(2) A MAP lender may request, and the appeals official may agree, to have an appeal conference held more than 10, but not more than 30 business days after the date of the lender's request for an appeal.

(e) *Scope of appeal.* The appeals official may consider information included in the administrative record and any new information presented at the appeal conference that is substantiated in accordance with paragraph (f) of this section. In addition, the appeals official may consider voluntary admissions by the lender or a representative of the lender of any element of the violation charged.

(f) *Additional documents.* (1) *Transcript.* No transcript of the appeal conference will be made, unless the MAP lender elects to have a transcript made by a certified court reporter at its own expense. If the lender elects to have a transcript made, it must provide three copies of the transcript to the appeals official within five business days after the date of the appeal conference.

(2) *Other documents.* Any additional, relevant documents or written arguments that the MAP lender wishes to present to the appeals official must be presented within five business days after the date of the appeal conference.

(g) *Determination of appeal.* Within 10 business days after the date of the appeal conference or the expiration of the period allowed for the submission of documents and written arguments, whichever is later, the appeals official will make a written determination to confirm, modify, or overturn the Board's decision and notice of action. If the appeals official overturns the Board's decision, the lender shall immediately return to an active status as a MAP lender and the written determination to overturn will be posted on HUD's MAP Web site.

Dated: July 19, 2005.

Brian D. Montgomery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 05–14744 Filed 7–25–05; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Tuesday,
July 26, 2005

Part V

The President

Memorandum of July 21, 2005—Assignment of Reporting Functions

Memorandum of July 21, 2005—Assignment of Certain Functions Under Section 337 of the Tariff Act of 1930

Federal Register
Vol. 70, No. 142
Tuesday, July 26, 2005

Presidential Documents

Title 3—

The President

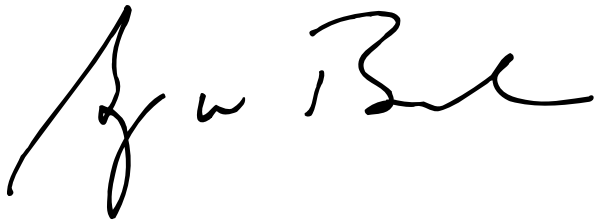
Memorandum of July 21, 2005

Assignment of Reporting Functions

Memorandum for the Secretary of the Interior

By virtue of the authority vested in me by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under section 104(h) of the Compact of Free Association Amendments Act of 2003 (Public Law 108–188).

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, July 21, 2005.

[FR Doc. 05–14888
Filed 7–25–05; 8:45 am]
Billing code 4310–10–P

Presidential Documents

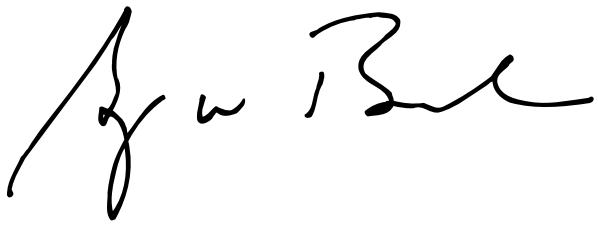
Memorandum of July 21, 2005

Assignment of Certain Functions Under Section 337 of the Tariff Act of 1930

Memorandum for the United States Trade Representative

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under section 337(j)(1)(B), section 337(j)(2), and section 337(j)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1337(j)(1), (j)(2), and (j)(4)).

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, July 21, 2005.

[FR Doc. 05–14889
Filed 7–25–05; 8:45 am]
Billing code 3190–01–P

Federal Register

Tuesday,
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Part VI

The President

Proclamation 7914—Parents' Day, 2005

Federal Register
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Tuesday, July 26, 2005

Presidential Documents

Title 3—

The President

Proclamation 7914 of July 21, 2005

Parents' Day, 2005

By the President of the United States of America

A Proclamation

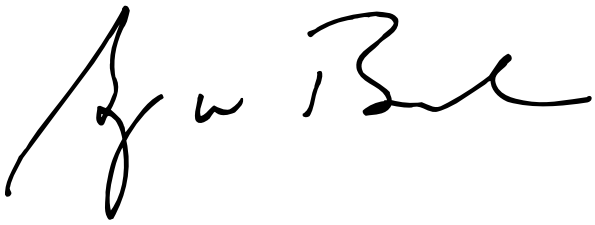
Parents are role models for their children. With patience, sacrifice, and love, they teach their children life lessons and prepare them for the future. On Parents' Day, we express our gratitude for the hard work of parents throughout America and reaffirm our commitment to promoting a culture of responsible parenthood.

Mothers and fathers love their children unconditionally and make daily sacrifices to provide for them. Parents create a safe, nurturing environment in which their children can grow and learn. By instructing their children to make right choices, parents instill lifelong values and prepare their children for the challenges and opportunities ahead. Parents experience the great joy of watching their sons and daughters mature into responsible adults and good citizens.

On Parents' Day, we recognize the boundless love and generosity of all parents, including the foster and adoptive parents who demonstrate the compassionate spirit of America. We honor parents for their dedication to providing our Nation's children with the love and support they need.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States and consistent with Public Law 103–362, as amended, do hereby proclaim Sunday, July 24, 2005, as Parents' Day. I encourage all Americans to express love, respect, and appreciation to parents across our Nation. I also call upon citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of July, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and thirtieth.



[FR Doc. 05–14918
Filed 7–25–05; 9:09 am]
Billing code 3195–01–P

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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. 3377/P.L. 109–37

Surface Transportation Extension Act of 2005, Part IV (July 22, 2005; 119 Stat. 394)

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