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WHEN: Thursday, September 22, 2005
9:00 a.m.–Noon

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV05–993–5 IFR]

Dried Prunes Produced in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the Prune Marketing Committee (committee) under Marketing Order No. 993 for the 2005–06 and subsequent crop years from $6.00 to $0.65 per ton of salable dried prunes. The committee locally administers the marketing order which regulates the handling of dried prunes grown in California. Authorization to assess dried prune handlers enables the committee to incur expenses that are reasonable and necessary to administer the program. The crop year began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: September 16, 2005. Comments received by November 14, 2005, will be considered prior to issuance of a final rule.

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

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Program Analyst, or Terry Vawter, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901; Fax (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

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

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

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California dried prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dried prunes beginning August 1, 2005, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule decreases the assessment rate established for the committee for the 2005–06 and subsequent crop years from $6.00 to $0.65 per ton of salable dried prunes handled.

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

For the 2004–05 and subsequent crop years the committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminate by USDA upon recommendation and information submitted by the committee or other information available to USDA.

The committee met on June 30, 2005, and unanimously recommended a decreased assessment rate of $0.65 per ton of salable dried prunes and a decreased level of expenses for the 2005–06 crop year. The committee recommended a total budget of $89,090.

The proposed assessment rate of $0.65 per ton of salable dried prunes is $5.35 lower than the rate currently in effect.

The committee recommended a lower assessment rate based on an estimated production of 104,500 tons of salable dried prunes. The committee's expenses are being reduced significantly from the 2004–05 budget as the result of the August 1, 2005, suspension of the reporting and handling requirements under the order. The assessment rate of $0.65 per ton of salable dried prunes plus excess funds from the 2004–2005 crop year are expected to provide sufficient funds for the committee's reduced activities.

In comparison, the actual expenditures for the 2004–05 crop year were $284,000 and the assessment rate was $6.00 per ton of salable prunes, based upon 47,203 salable tons.

The following table compares the proposed major budget expenditures recommended by the committee on June 30, 2005, and major budget expenditures in the 2004–05 budget.

Budget expense categories	2004–05	2005–06
Total Personnel Salaries	$208,335	$45,945
Total Operating Expenses	54,500	16,755
Reserve for Contingencies	21,165	26,390

The assessment rate recommended by the committee was derived by dividing anticipated expenses by the estimated salable tons of California dried prunes. Production of dried prunes for the year is estimated to be 104,500 salable tons, which should provide $67,925 in assessment income. Income derived from handler assessments plus excess funds from the 2004–2005 crop year should be adequate to cover budgeted expenses. The committee is authorized to use excess assessment funds from the 2004–05 crop year (currently estimated at $21,165) for up to 5 months beyond the end of the crop year to meet 2005–06 crop year expenses. At the end of the 5 months, the committee either refunds or credits excess funds to handlers (§ 993.81(c)).

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

Although this assessment rate is effective for an indefinite period, the committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of committee meetings are available from the committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The committee's 2005–06 budget and those for subsequent crop years would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 1,100 producers of dried prunes in the production area and approximately 22 handlers subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those whose annual receipts are less than $750,000, and small agricultural service firms as those whose annual receipts are less than $6,000,000.

Eight of the 22 handlers (36.4 percent) shipped over $6,000,000 of dried prunes and could be considered large handlers by the Small Business Administration. Fourteen of the 22 handlers (63.6 percent) shipped under $6,000,000 of dried prunes and could be considered small handlers. An estimated 32 producers, or less than 3 percent of the 1,100 total producers, would be considered large producers with annual incomes over $750,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

The producer price for the 2005–06 crop year is expected to average between $1,500 and $1,600 per ton of salable dried prunes. Based on an estimated 104,500 salable tons of dried prunes, assessment revenue as a percentage of producer prices during the 2005–06 crop year is expected to be between .041 and .043 percent.

This rule decreases the assessment rate established for the committee and collected from handlers for the 2005–06 and subsequent crop years from $6.00 to $0.65 per ton of salable dried prunes. The committee unanimously recommended a 2005–06 total budget of $89,090 and a decreased assessment rate of $0.65 per ton of salable dried prunes at the meeting on June 30, 2005. The proposed recommended budget of $89,090 is significantly reduced for the 2005–06 crop year as compared to previous crop years. The assessment rate of $0.65 per ton of salable dried prunes is $5.35 lower than the current rate. The quantity of salable dried prunes for the 2005–06 crop year is now estimated at 104,500 salable tons.

The following table compares the proposed major budget expenditures recommended by the committee on June 30, 2005, and major budget expenditures in the 2004–05 budget.

Budget expense categories	2004–05	2005–06
Total Personnel Salaries	$208,335	$45,945
Total Operating Expenses	54,500	16,755
Reserve for Contingencies	21,165	26,390

Prior to arriving at its budget of $89,090, the committee considered information from various sources, such as the committee's Executive Subcommittee. An alternative to this action would be to continue with the $6.00 per ton assessment rate. However, an assessment rate of $0.65 per ton of salable dried prunes and excess funds from the 2004–2005 crop year will provide enough income to fund the committee's reduced activities.

Therefore, the Executive Subcommittee and committee agreed that $0.65 per ton of salable dried prunes is an acceptable assessment rate. The committee is authorized to use excess assessment funds from the 2004–05 crop year (currently estimated at $21,165) for up to 5 months beyond the end of the crop year to meet 2003–04 crop year expenses. At the end of the 5 months, the committee either refunds or credits excess funds to handlers (§ 993.81(c)).

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the committee's meeting was widely publicized throughout the California dried prune industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the June 30, 2005, meeting was a public meeting and all entities, both large and small, were encouraged to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

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

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 60 days after publication in the **Federal Register** because: (1) The 2005–06 crop year began on August 1, 2005, and the marketing order requires that the rate of assessment for each crop year apply to all assessable prunes handled during such crop year; (2) the assessment rate is considerably lower than that which is currently in effect; and (3) handlers are aware of this action, which was unanimously recommended by the committee at a public meeting; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 993

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

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

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

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

Authority: 7 U.S.C. 601–674.

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

§ 993.347 Assessment rate.

On and after August 1, 2005, an assessment rate of $0.65 per ton of salable dried prunes is established for California dried prunes.

Dated: September 9, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05–18284 Filed 9–14–05; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 607, 614, 615, and 620

RIN 3052–AC09

Assessment and Apportionment of Administrative Expenses; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations; and Funding Operations; Disclosure to Shareholders; Capital Adequacy Risk-Weighting Revisions; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under parts 607, 614, 615, and 620 on June 17, 2005 (70 FR 35336). This final rule changed our regulatory capital standards on recourse obligations, direct credit substitutes, residual interests, asset- and mortgage-backed securities, claims on securities firms, and certain residential loans. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulation is September 8, 2005.

EFFECTIVE DATE: The regulation amending 12 CFR parts 607, 614, 615, and 620 published on June 17, 2005 (70 FR 35336) is effective September 8, 2005.

FOR FURTHER INFORMATION CONTACT: Robert Donnelly, Senior Accountant, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434; or

Jennifer A. Cohn, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

(12 U.S.C. 2252(a)(9) and (10))

Dated: September 8, 2005.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 05–18285 Filed 9–14–05; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21410; Directorate Identifier 2005–CE–31–AD; Amendment 39–14272; AD 2005–19–07]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Model 390 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for certain Raytheon Aircraft Company (Raytheon) Model 390 airplanes. This AD requires you to replace the rudder pedal arm assemblies used in the rudder control system with parts of improved design. This AD results from reports of cracks found on the rudder pedal arm assemblies. We are issuing this AD to prevent failure of the rudder pedal arm assemblies caused by fatigue cracks. This failure could lead to loss of rudder control, loss of nose gear steering, and loss of toe brakes on the side on which the failure occurs.

DATES: This AD becomes effective on October 31, 2005.

As of October 31, 2005, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: To get the service information identified in this AD, contact Raytheon Aircraft Company, 9709 E. Central, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140.

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–2005–21410; Directorate Identifier 2005–CE–31-AD.

FOR FURTHER INFORMATION CONTACT: David Ostrodka, Aerospace Engineer, Wichita Aircraft Certification Office (ACO), FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4129; facsimile: (316) 946–4107; e-mail: *david.ostrodka@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? Raytheon received a report that, during ground maintenance operations, the pilot's outboard rudder pedal arm assembly cracked at the upper end of the arm.

While maneuvering the aircraft from a right turn to neutral with toe brake applied during an on-ground compass swing, the rudder pedal arm assembly cracked.

Further investigation revealed another airplane with a crack on the copilot's outboard rudder pedal arm assembly.

Raytheon has determined that loading of the rudder pedals off the centerline of the rudder pedal arm assembly results in overload, which causes fatigue cracking of the rudder pedal arm assembly.

What is the potential impact if FAA took no action? If not prevented, cracks in the rudder pedal arm assembly could cause the rudder pedal arm assembly to fail. This failure could lead to loss of rudder control, loss of nose gear steering, and loss of toe brakes on the side on which the failure occurs.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon Model 390 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 20, 2005 (70 FR 35385). The NPRM proposed to require you to replace the rudder pedal arm assemblies, part numbers (P/Ns) 390–524350–0001, 390–524350–0002, 390–524351–0001, and 390–524351–0002 with improved design parts, P/Ns 390–524400–0001, 390–524400–0002, 390–524401–0003, and 390–524401–0004.

Comments

Was the public invited to comment? We provided the public the opportunity to participate in developing this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

What is FAA's final determination on this issue? We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Changes to 14 CFR Part 39—Effect on the AD

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, the FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the 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.

Costs of Compliance

How many airplanes does this AD impact? We estimate that this AD affects 98 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
8 work hours × $65 per hour = $520	$1,165	$1,685	$1,685 × 98 = $165,130.

Raytheon will provide warranty credit for parts and labor to the extent stated in the service information. Therefore, the required actions, if done following the service information, will have little or no cost to the owners/operators of the affected airplanes.

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 ''Docket No. FAA–2005–21410; Directorate Identifier 2005–CE–31–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. FAA amends § 39.13 by adding a new AD to read as follows:

2005–19–07 Raytheon Aircraft Company: Amendment 39–14272; Docket No. FAA–2005–21410; Directorate Identifier 2005–CE–31–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on October 31, 2005.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects the following serial-numbered Model 390 airplanes that are certificated in any category:

Serial Numbers

(1) RB–1
(2) RB–4 through RB–36
(3) RB–38 through RB–41
(4) RB–43 through RB–67
(5) RB–69 through RB–80
(6) RB–82 through RB–84
(7) RB–87 through RB–94
(8) RB–96 through RB–101
(9) RB–103 through RB–115
(10) RB–117 through RB–119
(11) RB–121

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of reports of cracks found on the rudder pedal arm assemblies used in the rudder control system. The actions specified in this AD are intended to prevent failure of the rudder pedal arm assemblies caused by fatigue cracks. This failure could lead to loss of rudder control, loss of nose gear steering, and loss of toe brakes on the side on which the failure occurs.

What Must I Do To Address This Problem?

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Replace rudder pedal arm assemblies, part numbers (P/Ns) 390–524350–0001, 390–524350–0002, 390–524351–0001, and 390–524351–0002 with improved design parts, P/Ns 390–524400–0001, 390–524400–0002, 390–524401–0003, and 390–524401–0004.	Upon accumulating 300 hours time-in-service (TIS) or within 100 hours TIS after October 31, 2005 (the effective date of this AD), whichever occurs later, unless already done.	Follow Raytheon Aircraft Company Mandatory Service Bulletin, SB 27–3691, Rev. 1, Revised: February, 2005, and the applicable maintenance manual.
(2) Do not install rudder pedal arm assemblies, P/Ns 390–524350–0001, 390–524350–0002, 390–524351–0001, and 390–524351–0002.	As of October 31, 2005 (the effective date of this AD).	Not applicable.

Note: Replacing the rudder pedal arm assemblies following Raytheon Aircraft Company Mandatory Service Bulletin, SB 27–3691, Issued: October 2004, does not comply with this AD.

May I Request an Alternative Method of Compliance?

(f) 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, Wichita Aircraft Certification Office (ACO), FAA. For information on any already approved alternative methods of compliance, contact David Ostrodka, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4129; facsimile: (316) 946–4107; e-mail: *david.ostrodka@faa.gov*.

Does This AD Incorporate Any Material by Reference?

(g) You must do the actions required by this AD following the instructions in Raytheon Aircraft Company Mandatory Service Bulletin, SB 27–3691, Rev. 1, Revised: February, 2005. 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. To get a copy of this service information, contact Raytheon Aircraft Company, 9709 E. Central, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. 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–2005–21410; Directorate Identifier 2005–CE–31–AD.

Issued in Kansas City, Missouri, on September 8, 2005.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–18199 Filed 9–14–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22413; Directorate Identifier 2005–NM–167–AD; Amendment 39–14271; AD 2005–19–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP Series Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes. This AD requires repetitive detailed and ultrasonic inspections of the thrust links of the rear engine mounts for any crack or fracture and corrective actions if necessary. This AD results from the finding of a fractured forward lug of the rear engine mount thrust link on the number one strut. We are issuing this AD to detect and correct cracked or fractured thrust links that could lead to the loss of the load path for the rear engine mount bulkhead and damage to other primary engine mount structure, which could result in the in-flight separation of the engine from the airplane and consequent loss of control of the airplane.

DATES: This AD becomes effective September 30, 2005.

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

We must receive comments on this AD by November 14, 2005.

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

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

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We have received a report indicating that one operator found a fractured forward lug of the rear engine mount thrust link on the number one strut. The fractured thrust link was found on a Model 747–200B series airplane equipped with Pratt & Whitney JT9D–7Q engines. The fractured thrust link had accumulated 91,173 total flight hours (and 27,931 total flight cycles). The fracture occurred about 65,000 flight hours (and 14,000 flight cycles) after the thrust link had been overhauled to replace a worn spherical bearing. The same operator also reported finding a cracked thrust link on the number one strut of a Model 747–200B series airplane equipped with Pratt & Whitney JT9D–7Q engines. That cracked thrust link had accumulated about 66,000 total flight hours (and about 19,000 total flight cycles) and about 55,700 flight hours (and about 11,100 flight cycles) since it was last overhauled. Metallurgical analysis by the airplane manufacturer indicates that cracking of the high-strength steel thrust links resulted from fatigue. In both of the reported incidents, cracking could have occurred before the overhaul. Continued airplane operation with a cracked or fractured thrust link could lead to the loss of the load path for the rear engine mount bulkhead and damage to other primary engine mount structure. This condition, if not detected and corrected, could result in the in-flight separation of the engine from the airplane and consequent loss of control of the airplane.

The rear engine mount thrust links on the Model 747–200B series airplanes equipped with Pratt & Whitney JT9D–7Q engines are similar to those on the affected Model 747–100, 747–100B, 747–100B SUD, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes, equipped with Pratt & Whitney JT9D–3 and –7 series engines, except JT9D–70 engines. Therefore, all of these models may be subject to the same unsafe condition.

Other Related Rulemaking

On July 19, 2001, we issued AD 2001–15–15, amendment 39–12349 (66 FR 39425, dated July 31, 2001), applicable to certain Boeing Model 747 airplanes powered by Pratt & Whitney JT9D–7 series engines. That AD requires detailed visual inspections of the lugs on the bulkhead fitting of the rear engine mounts, and corrective action if necessary. That AD also requires ultrasonic inspections and, for certain airplanes, rework of the bulkhead fitting of the rear engine mounts. Reworking the lugs on the bulkhead fitting of the rear engine mounts (in accordance with ''Part 5—Rework'' of the Accomplishment Instructions of Boeing Service Bulletin 747–54A2200, Revision 1, dated February 15, 2001) as specified in paragraphs (b)(2), (e), and (f) of AD 2001–15–15 is acceptable for compliance with ''Part 3—Rear Engine Mount Bulkhead Inspection and Lug Overhaul and Upper Fitting Overhaul and Bolt Replacement'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–71A2309, dated August 18, 2005 (which is referenced as the appropriate source of service information for doing the actions required by this AD).

On March 24, 2004, we issued AD 2004–07–22, amendment 39–13566 (69 FR 18250, April 7, 2004), applicable to all Boeing Model 747 airplanes. (A correction to AD 2004–07–22 was published in the **Federal Register** on May 3, 2004 (69 FR 24063).) That AD requires that the FAA-approved maintenance inspection program be revised to include inspections that will give no less than the required damage tolerance rating for each structural significant item (SSI), and repair of cracked structure. Accomplishing the inspections and repetitive overhaul or replacement specified in paragraphs (g) and (j) of this AD are approved as an alternative method of compliance to paragraphs (c) and (d) of AD 2004–07–22 for the inspections of SSI S–2, for the thrust links only, of the Boeing Supplemental Structural Inspection Document D6–35022, Revision G, dated December 2000.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 747–71A2309, dated August 18, 2005. The service bulletin describes procedures for doing detailed and ultrasonic inspections of the thrust link lugs of the rear engine mount of struts 1, 2, 3, and 4 for any crack or fracture and other specified and corrective actions as applicable.

If a thrust link is not cracked or fractured, the service bulletin specifies repeating the detailed and ultrasonic inspections and doing other specified actions. The other specified actions are to repetitively replace the thrust link with a new or overhauled thrust link, which ends the repetitive inspections of the thrust link lugs.

If a thrust link is cracked, the corrective action is to repetitively replace the cracked thrust link with a new or overhauled thrust link. If the thrust link is fractured, the corrective actions include the following:

- Repetitively replacing the fractured thrust link with a new or overhauled thrust link (Part 2 of the Accomplishment Instructions of the service bulletin).
- Inspecting the upper fitting assembly of the rear engine mount for cracks and material deformation and repairing if necessary; doing a detailed inspection of the bulkhead assembly of the rear engine mount for cracks, fracture, and material deformation and contacting the manufacturer for additional instructions if necessary; overhauling the lugs of the rear engine mount bulkhead and upper fitting assembly and contacting the manufacturer for additional instructions if necessary; and replacing the bolts that attach the upper fitting to the rear engine mount bulkhead with new bolts (Part 3 of the Accomplishment Instructions of the service bulletin).
- Doing the inspection of the engine nacelle for damage, as specified in Chapter 05–51–06 of the Boeing 747–100/–200/–300 Airplane Maintenance Manual, and contacting the manufacturer for additional instructions if necessary (Part 4 of the Accomplishment Instructions of the service bulletin).
- Doing a detailed inspection of the forward engine mount for material deformation and contacting the manufacturer for additional instructions if necessary (Part 5 of the Accomplishment Instructions of the service bulletin).

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. For this reason, we are issuing this AD to detect and correct cracked or fractured thrust links of the rear engine mount that could lead to the loss of the load path for the rear engine mount bulkhead and damage to other primary engine mount structure, which could result in the in-flight separation of the engine from the airplane and consequent loss of control of the airplane. This AD requires repetitive detailed and ultrasonic inspections of the thrust link lugs of the rear engine mount of struts 1, 2, 3, and 4 for any crack or fracture and corrective actions as applicable in accordance with the service information described above, except as discussed under ''Differences Between the AD and Service Bulletin.''

Differences Between the AD and Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this AD requires repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

The service bulletin specifies doing corrective actions if a fractured thrust link is found during any required inspections, but does not specify what action to take if one is found during any replacement or overhaul of the thrust link. This AD requires accomplishing those same corrective actions before further flight, whether the fractured thrust link is found during an inspection, replacement, or overhaul. (Those corrective actions are defined in the ''Relevant Service Information'' section of this AD.) This difference has been coordinated with the manufacturer.

Although the service bulletin recommends repetitively replacing the thrust links of the rear engine mounts with new or overhauled thrust links at an initial threshold of within 36 months after issuance of the service bulletin, this AD is not mandating those replacements in this rulemaking action. Instead, we have included those replacements as an optional terminating action in this AD.

Interim Action

This is considered to be interim action. The FAA is currently considering requiring the repetitive replacement or overhaul of the thrust links of the rear engine mounts, which will constitute terminating action for the repetitive inspections required by this AD action. However, the planned compliance time for the other specified actions is sufficiently long so that notice and opportunity for prior public comment will be practicable.

FAA's Determination of the Effective Date

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

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2005–22413; Directorate Identifier 2005–NM–167–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

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

Examining the Dockets

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 DOT street address stated in the **ADDRESSES** section. Comments will be available in

the AD docket shortly after the Docket Management System receives them.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a 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):

2005–19–06 Boeing: Amendment 39–14271. Docket No. FAA–2005–22413; Directorate Identifier 2005–NM–167–AD.

Effective Date

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

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SR, and 747SP series airplanes, certificated in any category; equipped with Pratt & Whitney JT9D–3 and –7 series engines, except JT9D–70 engines; as identified in Boeing Alert Service Bulletin 747–71A2309, dated August 18, 2005.

Unsafe Condition

(d) This AD results from the finding of a fractured forward lug of the rear engine mount thrust link on the number one strut. We are issuing this AD to detect and correct cracked or fractured thrust links that could lead to the loss of the load path for the rear engine mount bulkhead and damage to other primary engine mount structure, which could result in the in-flight separation of the engine from the airplane and consequent loss of control of the airplane.

Compliance

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

Service Bulletin References

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Boeing Alert Service Bulletin 747–71A2309, dated August 18, 2005.

Repetitive Inspections of Thrust Links

(g) Within 90 days after the effective date of this AD, do a detailed inspection and ultrasonic inspection of thrust link lugs having part number (P/N) 65B90360–1 or –4 of the rear engine mount of struts 1, 2, 3, and 4 for any crack or fracture, in accordance with Part 1 of the service bulletin. If the thrust link is not found cracked or fractured: Repeat the inspections thereafter at intervals not to exceed 1,200 flight cycles or 18 months, whichever is first, until the optional repetitive replacement or overhaul of the thrust link as specified in paragraph (j) of this AD is accomplished. Accomplishing the repetitive replacement or overhaul of a thrust link specified in paragraph (h) or (j) of this AD terminates the repetitive inspections for that thrust link only.

Corrective Actions

(h) If a cracked thrust link is found during any inspection required by paragraph (g) of this AD or during any replacement or overhaul done in accordance with the service bulletin: Before further flight, do the actions specified in paragraph (h)(1) of this AD. If a fractured thrust link is found during any inspection required by paragraph (g) of this AD or during any replacement or overhaul done in accordance with the service bulletin: Before further flight, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Replace the cracked thrust link with a new or overhauled thrust link in accordance with Part 2 of the service bulletin; except as provided by paragraph (i) of this AD. Repeat the replacement at the applicable compliance time specified in paragraph (h)(1)(i) or (h)(2)(ii) of this AD.

(i) For replacement with a thrust link assembly having P/N 65B90360–1 or –4: Thereafter at intervals not to exceed 6,000 flight cycles.

(ii) For replacement with a thrust link assembly having P/N 65B90360–7: Thereafter at intervals not to exceed 12,000 flight cycles.

(2) Do the corrective actions in accordance with Parts 3, 4, and 5 of the service bulletin; except as provided by paragraph (i) of this AD.

(i) Where the service bulletin specifies to contact Boeing for appropriate action, do the corrective action using a method approved in accordance with paragraph (l) of this AD.

Optional Repetitive Replacement or Overhaul of a Thrust Link

(j) For a thrust link that is not found cracked or fractured during the inspections required by paragraph (g) of this AD: Repetitive replacement of the thrust link with a new or overhauled thrust link at the applicable compliance time specified in paragraph (j)(1) or (j)(2) of this AD, in accordance with Part 2 of the service bulletin, terminates the repetitive inspections required by paragraph (g) of this AD for that thrust link only. If a cracked or fractured thrust link is found during any replacement or overhaul done in accordance with the service bulletin: Before further flight, do the applicable corrective actions specified in paragraph (h) of this AD at the applicable compliance time specified in that paragraph.

(1) For a thrust link assembly having P/N 65B90360–1 or –4: Within 36 months after the effective date of this AD. Thereafter at intervals not to exceed 6,000 flight cycles.

(2) For a thrust link assembly having P/N 65B90360–7: Within 12,000 flight cycles after the new or overhauled thrust link has been installed. Thereafter at intervals not to exceed 12,000 flight cycles.

Credit for Certain Corrective Actions

(k) Reworking the lugs on the bulkhead fitting of the rear engine mount as specified in paragraphs (b)(2), (e), and (f) of AD 2001–15–15, amendment 39–12349, is acceptable for compliance with accomplishing the corrective action specified in ''Part 3—Rear Engine Mount Bulkhead Inspection and Lug

Overhaul and Upper Fitting Overhaul and Bolt Replacement'' of the service bulletin.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(3) The actions identified in paragraphs (g) and (j) of this AD are approved as an AMOC to paragraphs (c) and (d) of AD 2004–07–22, amendment 39–13566, for the inspections of structural significant item S–2, for the thrust links only, of Boeing Supplemental Structural Inspection Document D6–35022, Revision G, dated December 2000. All provisions of AD 2004–07–22 that are not specifically referenced in this paragraph, including the initial inspection threshold required by paragraph (d) of AD 2004–07–22, remain fully applicable and must be complied with.

Material Incorporated by Reference

(m) You must use Boeing Alert Service Bulletin 747–71A2309, dated August 18, 2005, 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, 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 September 6, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–18212 Filed 9–14–05; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in October 2005. Interest assumptions are also published on the PBGC's Web site *(http://www.pbgc.gov).*

DATES: Effective October 1, 2005.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in appendix C to part 4022).

Accordingly, this amendment (1) Adds to appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during October 2005, (2) adds to appendix B to part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during October 2005, and (3) adds to appendix C to part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during October 2005.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in appendix B to part 4044) will be 3.50 percent for the first 20 years following the valuation date and 4.75 percent thereafter. These interest assumptions represent a decrease (from those in effect for August 2005) of 0.10 percent for the first 20 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in appendix B to part 4022) will be 2.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent a decrease (from those in effect for August 2005) of 0.25 percent for the period during which a benefit is in pay status and are otherwise unchanged.

For private-sector payments, the interest assumptions (set forth in appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during October 2005, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 144, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
144	10–1–05	11–1–05	2.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 144, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
144	10–1–05	11–1–05	2.25	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B To Part 4044—Interest Rates Used To Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *		*	*	*		*
October 2005	.0350	1–20	.0475	>20	N/A	N/A

Issued in Washington, DC, on this 9th day of September, 2005.

Vincent K. Snowbarger,

Deputy Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 05–18328 Filed 9–14–05; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–05–110]

RIN 1625–AA08

Special Local Regulations for Marine Events; Wrightsville Channel, Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.513 during the Wilmington YMCA Triathlon to be held September 24, 2005, on the waters of Wrightsville Channel, Wrightsville Beach, North Carolina. This action is necessary to provide for the safety of life on navigable waters during the event. The effect will be to restrict general navigation in the regulated area for the safety of participants and vessels transiting the event area.

Enforcement Dates: 33 CFR 100.513 will be enforced from 6:30 a.m. to 8:30 a.m. on September 24, 2005.

FOR FURTHER INFORMATION CONTACT: D.M. Sens, Project Manager, Fifth Coast

Guard District, Operations Division, Auxiliary and Boating Safety Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION: The Wilmington YMCA will sponsor the Wilmington YMCA Triathlon on September 24, 2005 on the waters of Wrightsville Channel, Wrightsville Beach, North Carolina. The event will involve approximately 1100 swimmers competing along a course within the regulated area. In order to ensure the safety of the swimmers and transiting vessels, 33 CFR 100.513 will be enforced for the duration of the event. Under provisions of 33 CFR 100.513, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine information broadcasts, local radio stations and area newspapers, so mariners can adjust their plans accordingly.

Dated: August 31, 2005.

L.L. Hereth,

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

[FR Doc. 05–18341 Filed 9–14–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–05–113]

RIN 1625–AA00

Safety Zone; Manasquan Inlet

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Manasquan Inlet, to encompass all waters east of the Bascule Span Bridge in Manasquan, NJ. This temporary safety zone is needed to conduct an oil spill protective strategy test. This action is necessary to provide for the safety of the boating public, oil spill response workers and equipment during the strategic oil spill protective strategy test.

DATES: This rule is effective from 7 a.m. to 1 p.m. on September 22, 2005. If the event is cancelled due to weather, this section is effective either September 21 or 23. The Coast Guard Patrol Commander will announce by Broadcast Notice to Mariners the specific time this regulation will be enforced.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–05–113 and are available for inspection or copying at Coast Guard Sector Delaware Bay, One Washington Avenue, Philadelphia, Pennsylvania, 19147, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Carmen McKinstry or Lieutenant Junior Grade Antoinett Scott, Coast Guard Sector Delaware Bay, at (215) 271–4889.

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) and (d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM and delaying its effective date would be contrary to public interest, since immediate action is needed to protect mariners against potential hazards associated with the protective strategy exercise.

Background and Purpose

The New Jersey Department of Environmental Protection commissioned a project to develop potential protection strategies for each tidal inlet along the Atlantic Coast of New Jersey. There are thirteen tidal inlets or channels along the New Jersey coastline that divide the barrier islands into segments. The inlets are subject to reversing tidal currents, and are conduits for the volume of water that flows in and out of the bay and estuarine system during tidal cycles. It is through these inlets that oil spilled on open ocean waters could reach environmentally sensitive resources, such as salt marshes, that occur along the bay and estuarine shorelines. Coastal tidal inlets are therefore focal points for designing oil spill response strategies to protect these vital resources from an oil spill. Exercises are conducted at NJ inlets and channels to develop strategic plans and to evaluate equipment. On September 22, 2005 an oil spill protective strategy exercise will be conducted at Manasquan Inlet.

Regulatory Evaluation

This temporary rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 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 proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

The primary impact of this temporary rule will be on vessels wishing to transit the affected waterway during the oil spill protective strategy test on September 22, 2005. Although this temporary rule restricts vessel traffic from transiting Manasquan Inlet during the exercise, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans.

Small Entities

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

This will have virtually no impact on any small entities. This rule does not require a general notice of proposed rulemaking and, therefore, it is exempt from the requirement of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this will not have a significant impact on a substantial number of small entities.

Assistance for Small Entities

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

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 (1–888–743–3247).

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. We have analyzed this rule under that Order and have determined that this rule 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 would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–113 to read as follows:

§ 165.T05–113 Safety zone; Manasquan Inlet.

(a) *Location.* The following area is a temporary safety zone: All waters of the Manasquan Inlet, east of the Bascule Span Bridge in Manasquan, NJ.

(b) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23 of this part.

(1) No person or vessel may enter or navigate within this safety zone unless authorized to do so by the Coast Guard or designated representatives. Any person or vessel authorized to enter the safety zone must operate in strict conformance with any directions given by the Coast Guard or designated representative and leave the safety zone immediately if the Coast Guard or designated representative so orders.

(2) All Coast Guard assets enforcing this safety zone can be contacted on VHF marine band radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271–4807.

(3) The Captain of the Port will notify the public of any changes in the status of this safety zone by Marine Safety Radio Broadcast on VHF–FM marine band radio, channel 22 (157.1 MHZ).

(c) *Definitions.* (1) The Captain of the Port means the Commanding Officer of Sector Delaware Bay or any Coast Guard commissioned warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(d) *Effective period.* This section is effective from September 22, 2005 from 7 a.m. to 1 p.m.

Dated: September 7, 2005.

David L. Scott,

Captain, U.S. Coast Guard, Captain of the Port Sector Delaware Bay.

[FR Doc. 05–18340 Filed 9–14–05; 8:45 am]

BILLING CODE 4910–15–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301–10

[FTR Amendment 2005–04; FTR Case 2005–307]

RIN 3090–AI18

Federal Travel Regulation; Privately Owned Vehicle Mileage Reimbursement

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the mileage reimbursement rate for use of a privately owned vehicle (POV) on official travel to reflect recent gas price increases. The governing regulation is revised to increase the cost of operating a privately owned automobile from 40.5 to 48.5 cents per mile.

EFFECTIVE DATE: *Applicability Date:* This final rule is effective from September 1 to December 31, 2005, and applies to travel performed during that time period.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GSA Building, Washington DC 20405, (202) 208–7312, for information pertaining to status or publication schedules. For clarification of content, contact Peggy DeProspero, Office of Governmentwide Policy, Travel Management Policy, at (202) 501–2826. Please cite FTR Amendment 2005–04; FTR case 2005–307.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to 5 U.S.C. 5707(b), the Administrator of General Services has the responsibility to establish the privately owned vehicle (POV) mileage reimbursement rates. In recognition of recent gasoline price increases, the Administrator of General Services has determined the per-mile operating costs of a POV to be 48.5 cents for automobiles. As provided in 5 U.S.C. 5704(a)(1), the automobile reimbursement rate cannot exceed the single standard mileage rate established by the Internal Revenue Services (IRS). The IRS announced on September 9, 2005, a new single standard mileage rate for automobiles of 48.5 cents effective from September 1 to December 31, 2005.

B. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act does not apply.

C. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 301–10

Government employees, Travel and transportation expenses.

Dated: September 12, 2005.

Stephen A. Perry,

Administrator of General Services.

■ For the reasons set forth in the preamble, under 5 U.S.C. 5701–5709, GSA amends 41 CFR part 301–10 as set forth below:

PART 301–10—TRANSPORTATION EXPENSES

■ 1. The authority citation for 41 CFR part 301–10 is revised to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c).

§ 301–10.303 [Amended]

■ 2. In section 301–10.303, in the table, in the second column, in the third entry under the heading ''Your reimbursement is'', remove ''$0.405'' and insert ''$0.485'' in its place.

[FR Doc. 05–18390 Filed 9–13–05; 10:11 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7893]

Suspension of Community Eligibility

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

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

EFFECTIVE DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Mitigation Division, 500 C Street, SW., Room 412, Washington, DC 20472, (202) 646–2878.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue

their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification letter addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

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.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 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.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region VI				
Texas:				
Midland City of, Midland County	480477	May 16, 1975, Emerg; September 27, 1991, Reg; September 16, 2005, Susp.	9/16/05	9/16/05
Midland County, Unincorporated Areas.	481239	March 8, 1978, Emerg; September 27, 1991, Reg; September 16, 2005, Susp.	9/16/05	9/16/05
Odessa, City of, Midland County	480206	March 27, 1980; Emerg; March 4, 1991, Reg; September 16, 2005, Susp.	9/16/05	9/16/05
Region IX				
Hawaii: Kauai County, All Jurisdictions	150002	April 2, 1971, Emerg; November 4, 1981, Reg; September 16, 2005, Susp.	9/16/05	9/16/05

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: September 8, 2005.

Michael K. Buckley,

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

[FR Doc. 05–18293 Filed 9–14–05; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AT76

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter Service or we) published a document in the August 31, 2005, **Federal Register** prescribing the hunting seasons, hours, areas, and daily bag and possession limits for mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and some extended falconry seasons. This document corrects errors in the season dates and other pertinent information for the States of Hawaii and Texas.

EFFECTIVE DATE: September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Brian Millsap, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, (703) 358–1714.

SUPPLEMENTARY INFORMATION: In the August 31, 2005, **Federal Register** (70 FR 51946), we published a final rule prescribing hunting seasons, hours, areas, and daily bag and possession limits for mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and some extended falconry seasons. The rule contained errors in the entries for Hawaii and Texas, which are discussed briefly below and corrected by this notice.

We received public comment on the proposed rules for the seasons and limits established by the August 31 final rule. We addressed these comments in a final rule published in the August 30, 2005 (70 FR 51522), **Federal Register**. The corrections are typographical in nature and involve no substantial changes to the substance in the contents of the prior proposed and final rules.

In rule FR Doc. 05–17238, published August 31, 2005 (70 FR 51946), make the following corrections:

§ 20.103 [Corrected]

■ 1. On page 51955 under the heading *Texas*, subheading *South Zone*, subheading *Special Area*, subheading *(Special Season)*, subheading *12 noon to sunset*, the daily bag and possession limits of ''10'' and ''20'' are corrected to read ''12'' and ''24'' both times they appear.

■ 2. On page 51955 under the heading *Hawaii,* the season dates of ''Dec. 1–Dec. 26'' and ''Dec. 30–Jan. 16'' are corrected to read ''Dec. 2–Dec.26'' and ''Dec. 31–Jan. 16''.

Dated: September 8, 2005.

Sara Prigan,

Fish and Wildlife Service Federal Register Liaison.

[FR Doc. 05–18282 Filed 9–14–05; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register

Vol. 70, No. 178

Thursday, September 15, 2005

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22437; Directorate Identifier 2005–NM–082–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400, 747–400D, and 747–400F Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 747–400, 747–400D, and 747–400F series airplanes. This proposed AD would require repetitive detailed inspections for damage (degraded finish; missing, lifted, peeling, or blistering paint; or signs of corrosion) of the interior skin in the forward and aft cargo compartments, and corrective actions if necessary. This proposed AD is prompted by reports of skin corrosion on four Boeing Model 747 series airplanes that were delivered between 1995 and 1999. We are proposing this AD to detect and correct corrosion, which can penetrate the thickness of the skin and cause cracking, and result in rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by October 31, 2005.

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

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

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–22437; the directorate identifier for this docket is 2005–NM–082–AD.

FOR FURTHER INFORMATION CONTACT: Nicholas 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:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–22437; Directorate Identifier 2005–NM–082–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

In April 1988, a high-cycle transport category airplane (specifically, a Boeing Model 737) was involved in an accident in which the airplane suffered major structural damage during flight. Investigation of this accident revealed that the airplane had numerous fatigue cracks and a great deal of corrosion. Subsequent inspections conducted by the operator on other high-cycle transport category airplanes in its fleet revealed that other airplanes had extensive fatigue cracking and corrosion.

Prompted by the data gained from this accident, we sponsored a conference on aging airplanes in June 1988, which was attended by representatives from the aviation industry and airworthiness authorities from around the world. It became obvious that, because of the tremendous increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes rather than retiring them, increased attention needed to be focused on the aging airplane fleet and maintaining its continued operational safety.

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America agreed to undertake the task of identifying and implementing procedures to ensure the continued structural airworthiness of aging transport category airplanes. An Airworthiness Assurance Working Group (AAWG) was established in August 1988, with members

representing aircraft manufacturers, operators, regulatory authorities, and other aviation industry representatives worldwide. The objective of the AAWG was to sponsor ''Task Groups'' to:

1. Select service bulletins, applicable to each airplane model in the transport fleet, to be recommended for mandatory modification of aging airplanes;
2. Develop corrosion-directed inspections and prevention programs;
3. Review the adequacy of each operator's structural maintenance program;
4. Review and update the Supplemental Inspection Documents (SID); and
5. Assess repair quality.

The Working Group assigned to review Boeing Model 747 series airplanes completed its work on Item (2) in 1989 and developed a baseline program for controlling corrosion problems that may jeopardize the continued airworthiness of the Boeing Model 747 fleet. This program is contained in Boeing Document Number D6–36022, ''Aging Airplane Corrosion Prevention and Control Program—Model 747,'' Revision A, dated July 28, 1989. On November 5, 1990, we issued AD 90–25–05, amendment 39–6790 (55 FR 49268, November 27, 1990). That AD mandates Boeing Document Number D6–36022, and requires that operators of Boeing Model 747 series airplanes implement a Corrosion Prevention and Control Program (CPCP).

Since we issued AD 90–25–05, two operators found skin corrosion on four Boeing Model 747 series airplanes that were delivered between 1995 and 1999. The corrosion happened when primer peeled off in some areas of the skin and left the aluminum unprotected against moisture and corrosive elements. The operators repaired three of the airplanes by trimming-out the damaged skin, and one of the airplanes by blending to remove the damage. One other operator reported finding peeling primer, but no corrosion, on the interior skin surface of one airplane, below the cargo bay. The manufacturer investigated these incidents and found that the manufacturing process for the skins resulted in inadequate adhesion of the primer to the skin. The interior surface of the skin below the cargo bay is susceptible to corrosion because of the presence of moisture. If areas of corrosion are not repaired, the corrosion can penetrate the thickness of the skin and cause cracking. This condition, if not corrected, could result in rapid decompression of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 747–53A2505, dated March 17, 2005. The service bulletin describes procedures for doing a detailed inspection for damage of the interior skin in the forward and aft cargo compartments. Damage includes a degraded finish; missing, lifted, peeling, or blistering paint; or signs of corrosion. If any damage is found, the service bulletin describes procedures for corrective actions. The corrective actions are restoring the finish if only damage to the finish is found; or repairing the affected area and restoring the protective finish if the finish is damaged and any corrosion is found. If any corrosion damage exceeds limits in the structural repair manual (SRM), the service bulletin states that operators should contact Boeing for repair instructions. If no damage or corrosion is found, the service bulletin states that no further action is necessary until the next inspection. The service bulletin recommends repeating the detailed inspection every four years until the initial inspection threshold for the applicable CPCP task in Boeing Document Number D6–36022 is reached. The service bulletin also requests that operators send reports of the inspection program and details of any corrosion damage and peeling primer to the manufacturer. Accomplishing the actions specified in the service bulletin is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and the Service Bulletin.''

Differences Between the Proposed AD and the Service Bulletin

Although the service bulletin referenced in this proposed AD specifies to submit to the manufacturer a report of the inspection program and details of any corrosion damage and peeling paint primer, this proposed AD does not include those actions.

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair corrosion damage that exceeds limits in the SRM, but this proposed AD would require you to repair those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

Costs of Compliance

There are about 260 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Detailed inspection, per inspection cycle.	10	$65	N/A	$650, per inspection cycle.	36	$23,400, 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2005–22437; Directorate Identifier 2005–NM–082–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by October 31, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–400, 747–400D, and 747–400F series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–53A2505, dated March 17, 2005.

Unsafe Condition

(d) This AD was prompted by reports of skin corrosion on four Boeing Model 747 series airplanes that were delivered between 1995 and 1999. We are issuing this AD to detect and correct corrosion, which can penetrate the thickness of the skin and cause cracking, and result in 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.

Repetitive Inspections and Corrective Actions

(f) Within 12 months after the effective date of this AD, do a detailed inspection for damage (degraded finish; missing, lifted, peeling, or blistering paint; or signs of corrosion) of the interior skin in the forward and aft cargo compartments. Do any applicable corrective actions before further flight. Except as required by paragraphs (g) and (h) of this AD, do all actions in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2505, dated March 17, 2005. Repeat the inspection thereafter at intervals not to exceed 48 months until accomplishing task number C53–125–01 of Boeing Document Number D6–36022, ''Aging Airplane Corrosion Prevention and Control Program—Model 747,'' Revision A, dated July 28, 1989, or until accomplishing tasks S53–520 and S53–550 of Boeing Document Number D621U400–MRB, ''B747–400 Maintenance Review Board Report,'' Revision E, dated May 2003.

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.''

Damage that Exceeds Structural Repair Manual Limits

(g) If any corrosion damage that exceeds the limits specified in the structural repair manual is found during any action required by this AD, and Boeing Alert Service Bulletin 747–53A2505, dated March 17, 2005 specifies to contact Boeing for repair instructions: Before further flight, repair the damage using a method approved in accordance with paragraph (i) of this AD.

No Reporting Requirement

(h) Although Boeing Alert Service Bulletin 747–53A2505, dated March 17, 2005, specifies to submit to the manufacturer a report of the inspection program and details of any corrosion damage and peeling paint primer, this AD does not include those actions.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on September 8, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–18319 Filed 9–14–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19566; Directorate Identifier 2004–NM–72–AD]

RIN 2120–AA64

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

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

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: The FAA is revising an earlier NPRM for an airworthiness directive (AD) that applies to certain Airbus airplanes as listed above. The original NPRM would have required repetitively inspecting for cracking in the web of nose rib 7 of the inner flap on the wings, and performing related investigative/corrective actions if necessary. The original NPRM was prompted by reports of cracking in the web of nose rib 7 of the inner flap. This action revises the original NPRM by adding additional inspections for cracking in the web of nose rib 7 of the inner flap on the wings, and revising compliance times for certain airplanes. We are proposing this supplemental NPRM to detect and correct cracking in the web of nose rib

7, which could result in rupture of the attachment fitting between the inner flap and flap track no. 2, and consequent reduced structural integrity of the flap.

DATES: We must receive comments on this supplemental NPRM by October 11, 2005.

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

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

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2004–19566; the directorate identifier for this docket is 2004-NM–72–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2004–19566; Directorate Identifier 2004–NM–72–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

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

Examining the Docket

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

Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an airworthiness directive (AD) (the ''original NPRM''). The original NPRM applies to all Airbus Model A300 B2 and A300 B4 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes). The original NPRM was published in the **Federal Register** on November 10, 2004 (69 FR 65097). The original NPRM proposed to require repetitively inspecting for cracking in the web of nose rib 7 of the inner flap on the wings, and performing related investigative/corrective actions if necessary.

Since the original NPRM was issued, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has notified us of additional crack findings in the rib flange at the junction flange with the flap track.

New Relevant Service Information

Airbus has issued Service Bulletins A300–57–0240 (for Model A300 B2 and B4 series airplanes) and A300–57–6095 (for Model A300–600 series airplanes), both Revision 01, both dated December 2, 2004. (The original NPRM refers to the original issues of those service bulletins, both including Appendix 01, and both dated April 7, 2003), as the acceptable sources of service information for the proposed actions.) These service bulletins describe procedures for performing the following repetitive inspections:

- Using a borescope or endoscope to detect cracking in the vertical stiffeners, and the horizontal flanges between the stiffeners, of nose rib 7.
- Using an eddy current method to detect cracking in the horizontal flanges of the attachment lug root of nose rib 7.

If cracking is found that is within certain limits, the service bulletins specify replacing nose rib 7 with a new, reinforced rib in accordance with Airbus Service Bulletin A300–57–0242 or A300–57–6097, both dated December 18, 2003, as applicable. If cracking is found that is outside the limits, the service bulletins specify contacting Airbus. The procedures in Airbus Service Bulletins A300–57–0242 and A300–57–6097 include related investigative actions of performing high-frequency eddy current inspections or detailed visual inspections, as applicable, to detect cracking in fastener holes and in the upper radii of the skin flanges of the ribs and front spar. If any cracking is found during these inspections, Airbus Service Bulletins A300–57–0242 and A300–57–6097 specify contacting Airbus.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive F–2005–022, dated February 2, 2005, to ensure the continued airworthiness of these airplanes in France.

Comments

We have considered the following comments on the original NPRM.

Request To Revise Estimated Costs of Compliance

One commenter requests that we increase, from 2 work hours to 5 work hours, our estimate of the time needed to perform the proposed inspection. The commenter states that this estimate is realistic based on its experience, and is also consistent with the estimate specified in Airbus Service Bulletin A300–57–6095.

We partially agree with the commenter's request. We note that the 5-work-hour estimate specified in the original issue of Airbus Service Bulletin A300–57–6095 includes time for getting access and closing up. The cost analysis

in AD rulemaking actions, however, 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 note, though, that the estimated number of work hours for the inspections (not including time for gaining access and closing up) has been increased to 3 work hours in Revision 01 of Airbus Service Bulletins A300–57–0240 and A300–57–6095. We have revised the cost estimate in this supplemental NPRM accordingly.

The same commenter also requests that we revise the estimated costs of compliance to include the estimated cost of replacing the nose rib. The commenter states that its experience shows that the likelihood of crack findings is high. The commenter also states that it has found that 65 work hours are necessary for replacing the rib, and that the replacement necessitates approximately 3 days' out-of-service time. The commenter states that adding this information would more accurately reflect the economic burden imposed by this rule.

We do not agree with the commenter's request to include an estimate of the time needed for replacing the nose rib. The economic analysis of an AD is limited to the cost of actions that are actually required. The economic analysis does not consider the costs of conditional actions, such as an action taken to address a crack found during a required inspection (''repair, if necessary''). Such conditional repairs would be required—regardless of AD direction—to correct an unsafe condition identified in an airplane and to ensure that the airplane is operated in an airworthy condition, as required by the Federal Aviation Regulations. We have not changed the supplemental NPRM in this regard.

We also do not agree with the commenter's request to include the out-of-service time that may result from replacing of the nose rib. Normally, compliance with the AD will not necessitate any additional out-of-service time beyond that of a regularly scheduled maintenance hold. Even if additional out-of-service time is necessary for some airplanes in some cases, we do not have sufficient information to evaluate the number of airplanes that may be so affected or the amount of additional down time that may be required. Therefore, attempting to estimate such costs would not be beneficial. We have not changed the supplemental NPRM in this regard.

Request To Allow Flight With Cracks

One commenter requests that we revise the original NPRM to permit limited flight with a crack of a certain length, as allowed by the DGAC in the parallel French airworthiness directive and by Airbus in the referenced service bulletins. The commenter states that the approach taken by the DGAC and Airbus to allow limited flight with cracks is adequately conservative. The commenter's experience shows that a crack will remain contained in the vertical stiffeners and will not result in any distress or signs of sudden fracture if flights are continued for a limited time.

We disagree with the commenter's request. The original NPRM specified that the proposed AD would not permit further flight if any crack is detected in nose rib 7 due to the safety implications and consequences associated with such cracking. This proposed requirement is in line with FAA policy. We would consider altering this policy only in rare cases of unusual need or hardship, which the commenter did not demonstrate. We have not changed the requirement in this supplemental NPRM.

The same commenter also infers that, because the original NPRM does not contain information on ferry flights, ferry flights are not allowed.

We do not agree with the commenter's inference that ferry flights would not be allowed. On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to special flight permits (e.g., ferry flights), as well as altered products and alternative methods of compliance (AMOCs). Since this information is now included in 14 CFR part 39, information on special flight permits is not included in each individual AD unless there are limitations on special flight permits for an individual AD.

Explanation of Change to Applicability

We have revised the applicability of this supplemental NPRM to identify model designations as published in the most recent type certificate data sheet for the affected models.

FAA's Determination and Proposed Requirements of the Supplemental NPRM

Certain changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

Differences Among the Supplemental NPRM, French Airworthiness Directive, and New Relevant Service Information

For airplanes on which Airbus Service Bulletin A300–57–0242 or A300–57–6097 has not been accomplished, French airworthiness directive F–2005–022 specifies a compliance time for the initial inspection of the later of 5,000 total flight cycles, or 1,000 flight cycles after the effective date of the French airworthiness directive. This supplemental NPRM would base the compliance time for the initial inspection of these airplanes on the total number of flight cycles accumulated as of the effective date of the AD:

- For airplanes with 18,599 or fewer total flight cycles as of the effective date of the AD: the initial inspection would be required before the accumulation of 5,000 total flight cycles, or within 1,000 flight cycles after the effective date of the AD, whichever is later.
- For airplanes with 18,600 or more total flight cycles as of the effective date of this AD: the initial inspection would be required within 500 flight cycles after the effective date of the AD.

The compliance time in this supplemental NPRM is similar to the one proposed in the original NPRM, which was consistent with the compliance time specified in French airworthiness directive 2003–410, dated October 29, 2003 (the parallel French airworthiness directive referenced in the original NPRM, which was superseded by French airworthiness directive F–2005–022, described previously). However, the more restrictive grace period of 500 flight cycles for airplanes with 18,600 total flight cycles or more was not included in French airworthiness directive F–2005–022. We have coordinated this issue with the DGAC and Airbus, and they have informed us that the more restrictive grace period was not included in French airworthiness directive F–2005–022 because the affected airplanes were previously inspected in accordance with French airworthiness directive 2003–410. The DGAC and Airbus agree with our decision to use a compliance time similar to that specified in French airworthiness directive 2003–410.

Also, the service information specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this supplemental NPRM would require you to repair those conditions using a method that we or the DGAC (or its delegated agent) approve. In light of the type of repair

that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair that we or the DGAC approve would be acceptable for compliance with this proposed AD.

Also, the service information and the French airworthiness directive specify reporting inspection findings to Airbus. This supplemental NPRM would not require that action.

Clarification of Inspection Terminology

In this proposed AD, the ''detailed visual inspection'' specified in Airbus Service Bulletins A300–57–0242 and A300–57–6097 is referred to as a ''detailed inspection.'' We have included the definition for a detailed inspection in a note in this supplemental NPRM.

Interim Action

We consider this proposed AD interim action. The manufacturer is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we may consider additional rulemaking.

Costs of Compliance

This supplemental NPRM would affect about 143 airplanes of U.S. registry. The proposed inspections would take about 3 work hours per airplane, per inspection cycle, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of this supplemental NPRM on U.S. operators is $27,885, or $195 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2004–19566; Directorate Identifier 2004–NM–72–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by October 11, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, B4–203, B4–601, B4–603, B4–605R, B4–620, B4–622, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports of cracking in the web of nose rib 7 of the inner flap. We are issuing this AD to detect and correct cracking in the web of nose rib 7, which could result in rupture of the attachment fitting between the inner flap and flap track no. 2, and consequent reduced structural integrity of the flap.

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.

Inspections

(f) Do a detailed inspection, using a borescope or endoscope, for cracking of the vertical stiffeners, and of the horizontal flanges between the stiffeners, of nose rib 7 of the inner flap of the left- and right-hand wings; and do an eddy current inspection to detect cracking in the horizontal flanges of the attachment lug root of nose rib 7 of the inner flap of the left- and right-hand wings; in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0240 or A300–57–6095, both Revision 01, both dated December 2, 2004, as applicable. Do the initial inspections at the applicable compliance time specified in paragraph (f)(1) or (f)(2) 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.''

(1) For airplanes on which nose rib 7 has not been replaced in accordance with Airbus Service Bulletin A300–57–0242 or A300–57–6097, both dated December 18, 2003: Do the initial inspections at the applicable time specified in paragraph (f)(1)(i) or (f)(1)(ii) of this AD.

(i) For airplanes with 18,599 or fewer total flight cycles as of the effective date of this AD: Prior to the accumulation of 5,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever is later.

(ii) For airplanes with 18,600 or more total flight cycles as of the effective date of this AD: Within 500 flight cycles after the effective date of this AD.

(2) For airplanes on which nose rib 7 has been replaced in accordance with Airbus Service Bulletin A300–57–0242 or A300–57–6097, both dated December 18, 2003: Do the initial inspection within 5,000 flight cycles after accomplishing the replacement, or within 1,000 flight cycles after the effective date of this AD, whichever is later.

Repetitive Inspections

(g) If no cracking is found during the inspection required by paragraph (f) of this AD: Repeat the inspection at intervals not to exceed 1,000 flight cycles.

Related Investigative/Corrective Actions

(h) If any cracking is found during any inspection required by paragraph (f) or (g) of this AD: Before further flight, replace nose rib 7 with a new, reinforced rib and do all related investigative actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0242 or A300–57–6097, both dated December 18, 2003, as applicable, except as provided by paragraph (i) of this AD. Then, within 5,000 flight cycles after doing the replacement, do the inspection in paragraph (f) of this AD, and perform repetitive inspections or related investigative/corrective actions as required by paragraphs (g) and (h) of this AD, as applicable.

(i) If any cracking is found for which the service bulletin specifies to contact Airbus: Before further flight, repair per a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Direction Générale de l'Aviation Civile (or its delegated agent).

No Reporting Required

(j) Airbus Service Bulletins A300–57–0240 and A300–57–6095, both Revision 01, both dated December 2, 2004, specify to submit certain information to the manufacturer, but this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(l) French airworthiness directive F–2005–022, dated February 2, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on September 8, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–18312 Filed 9–14–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

[CO–031–FOR]

Colorado Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of revisions pertaining to a previously proposed amendment to the Colorado abandoned mine land reclamation (AMLR) plan (hereinafter, the ''Colorado plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Colorado proposes revisions about: Project selection criteria; selection of project alternatives; requirements for authorization to proceed; evaluation of project benefits; incorporation of the ''Common Rule'' in the procedures for financial management and accounting; interaction with the Colorado State Forest Service; and minor editorial revisions. Colorado intends to revise its plan to meet the requirements of the corresponding Federal regulations, to provide additional safeguards, and to clarify ambiguities.

DATES: Comments on this amendment must be received on or before 4 p.m., m.d.t., on October 17, 2005 to ensure our consideration. If requested, we will hold a public hearing on the amendment on October 11, 2005. We will accept requests to speak until 4 p.m., m.d.t., on September 30, 2005.

ADDRESSES: You may submit comments, identified by ''CO–031–FOR,'' by any of the following methods:

E-mail: *rpair@osmre.gov.* Include ''CO–031–FOR'' in the subject line of the message.

Mail: James Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, P.O. Box No. 46667, Denver, CO 80201–6667.

Hand Delivery/Courier: James Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, CO 80202–5733, 303–844–1400 x1424.

Fax: 303–844–1545.

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

Instructions: All submissions received must include the agency name and be identified by ''CO–031–FOR''. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: You may review the docket (administrative record) for this plan amendment at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. The docket will contain copies of the Colorado plan, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document. You may receive one free copy of the amendment by contacting Office of Surface Mining Reclamation and Enforcement's (OSM) Denver Field Division. In addition, you may review a copy of the amendment during regular business hours at the following locations:

James Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, CO 80202. 303–844–1400 x1424.

Ms. Loretta Pineda, Program Supervisor, Colorado Inactive Mine Reclamation Program, Division of Minerals and Geology, Colorado Department of Natural Resources, 1313 Sherman Street, Room 215, Denver, CO 80203. Telephone: 303–866–3567. E-mail address: *loretta.pineda@state.co.us.*

FOR FURTHER INFORMATION CONTACT: James Fulton, Telephone: 303–844–1400 x1424, E-mail address: *jfulton@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Colorado Plan
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Colorado Plan

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act, (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On June 11, 1982, the Secretary of the Interior approved the Colorado plan. You can find general background information on the Colorado plan, including the Secretary's findings and the disposition of comments, in the June 11, 1982, **Federal Register** (47 FR 25332). You can also find later actions concerning Colorado's plan and plan amendments at 30 CFR 906.25.

II. Description of the Proposed Amendment

By letter dated October 29, 1996, Colorado sent to us a proposed

amendment to its plan (administrative record number CO–AML–24) under SMCRA (30 U.S.C. 1201 *et seq.*). Colorado sent the amendment in response to a September 26, 1994, letter (administrative record number CO–AML–19) that we sent to Colorado in accordance with 30 CFR 884.15(b), and at its own initiative. The full text of the Colorado plan amendment is available for you to read at the locations listed above under **ADDRESSES** above.

We announced receipt of the proposed amendment in the November 19, 1996, **Federal Register** (61 FR 58800), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record number CO–AML–26). Because no one requested a public hearing or meeting, none was held. The public comment period ended on December 19, 1996. We received comments from one industry group, four Federal agencies and two citizen or academic groups.

During our review of the amendment, we identified a concern relating to the provisions of Colorado's plan provisions at Section V.B.2. concerning the determination of eligibility for proposed sites. We notified Colorado of our concern by letter dated June 7, 1999 (administrative record number CO–AML–35). Colorado responded by a memo dated June 15, 2005, by submitting a revised amendment (administrative record number CO–AML–36). Colorado is also taking this opportunity to submit additional revisions at its own initiative.

The provisions of the plan that Colorado now proposes to revise are: II.B, Project selection criteria; II.C., Selection of project alternatives; V.B., Requirements for authorization to proceed; V.B.5., Evaluation of project benefits; VII.A.1.and 2., incorporation of the ''Common Rule'' in the procedures for financial management and accounting; VIII., Interaction with the Colorado State Forest Service; and several editorial corrections.

Specifically, Colorado proposes the following revisions.

II.B., Project selection criteria. Colorado proposes 15 criteria to be used in selecting projects for submission to OSM in grant applications. These include: (1) Public safety hazards (coal hazards receive top priority; noncoal projects must represent ''extreme hazards''); (2) funding considerations (consideration of total funds from all sources and any constraints on the funds); (3) technology available to accomplish the required tasks; (4) adverse impacts (consideration of impacts on people and the environment during and after reclamation work, including existing impacts); (5) value in economy and efficiency of the proposed project; (6) mineral recoverability (consider loss of mineral recoverability and possible disruption of the reclamation effort by future mining); (7) post-reclamation management (compatibility with on-site and surrounding land uses and applicable land use controls); (8) minerals involved in the inactive mining (coal receives top priority; noncoal or hardrock problems are of lower priority and must be extreme hazards); (9) geographic distribution (the plan tries to maintain a presence in all areas of the State each year for hardrock projects; geography is not applicable for coal-related projects); (10) accessibility (preference given to sites that are accessible and show significant visitation); (11) staffing (number of projects is limited by staff available); (12) community/landowner support (special consideration given to sites and projects where reclamation has been requested by landowners or the local community); (13) project size (small projects encourage local contractor participation); (14) project review (representing the priorities of an advisory committee); and (15) formal public hearing (final approval of site selection is given by the Mined Land Reclamation Board).

II.C., Selection of project alternatives. Colorado proposes that after a tentative project selection, a suitable reclamation design for each project be selected. General alternatives are: (1) Hazard abatement (eliminate the hazard without necessarily addressing future land use); (2) partial reclamation (corrective action on hazards, but also make immediate site compatible with adjacent land uses); and (3) full reclamation (not only correct hazardous conditions, but also reclaim other effects of past mining, possibly including restoration of degraded land or water resources). Colorado proposes that the objective is to do as complete a reclamation job as possible, including restoration and abatement or control of adverse effects of past mining; but in some cases, only hazard abatement or partial reclamation will be performed.

V.B. Colorado proposes to change the title of this section from ''Project Feasibility Studies'' to ''Authorization to Proceed Requirements.''

V.B.5., Evaluation of project benefits. Colorado proposes to limit the requirement for a written finding of project benefits to those projects which would potentially produce a significant increase in market value.

VII.A.1. (financial management). Colorado proposes to change the reference regarding Federal financial requirements to ''OMB Circular A–102 and DOI's Grants Management Common Rule at 43 CFR 12''. Colorado proposes that fiscal management will comply with the Common Rule.

VII.A.2., Audits. Colorado proposes to change the reference regarding Federal audit requirements from ''OMB Circular A–102'' to ''the Common Rule.''

VIII.I., Colorado State Forest Service (CSFS). Colorado proposes to add a new section describing the role that the CSFS plays in the plan implementation, which describes the CSFS's expertise in natural resource protection.

We note that the document submitted to OSM (administrative record number CO–AML–36) is not limited to the proposed revisions described here. It is a full version of the Colorado plan document, and indicates all changes since the plan was originally approved by OSM (see Section I. Background on the Colorado Plan above). In this document, text highlighted in magenta indicates language that has been approved by OSM (in 1985). Text highlighted with yellow and blue is language that was proposed in 1996, and has already been opened to public comment (see Section II. Description of the Proposed Amendment above). The text that is new with this current submittal is highlighted in green. We noted a couple of new changes that are not highlighted in green, but they are minor editorial changes. In this proposed rule, we are specifically requesting comments on the new material highlighted in green, as described above.

III. Public Comment Procedures

Written Comments

Send your written comments to us at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We cannot ensure consideration of comments received at locations other than the Denver Field Division (see **ADDRESSES** above).

Electronic Comments

Please submit Internet comments as an ASCII or MS Word file, avoiding the use of special characters and any form of encryption. Please also include ''Attn: SATS No. CO–031–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the

Denver Field Division at 303–844–1400 x1446.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t., on September 30, 2005. If you are disabled and need special accommodations to attend a public hearing, please contact the individual listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak, and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of Tribal or State AMLR plans and revisions thereof because each plan is drafted and promulgated by a specific Tribe or State, not by OSM. Decisions on proposed Tribal or State AMLR plans and revisions thereof submitted by a Tribe or State are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR part 884.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State Governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian Tribes and have determined that the rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The rule does not involve or affect Indian Tribes in any way.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed Tribal or State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2) of the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 906

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 12, 2005.

Allen D. Klein,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 05–18329 Filed 9–14–05; 8:45 am]

BILLING CODE 4310–05–P

POSTAL SERVICE

39 CFR Part 20

International Mail: Proposed Changes in Postal Rates and Fees

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service, under its authority in Title 39 U.S.C. 407, is proposing changes to international mail postage rates and fees. As provided under the Postal Reorganization Act, the proposed changes will result in international postage rates that retain the overall value of service to customers, are fair and reasonable, and are not unduly or unreasonably discriminatory or preferential.

The total international rate increase is 5.9 percent. To the extent possible, the targeted increase is 5.4 percent across-the-board, consistent with our domestic rate filing with the Postal Rate Commission. We are proposing to implement this international pricing change at the same time as the domestic pricing change.

DATES: Submit comments on or before October 17, 2005.

ADDRESSES: Mail or deliver comments to the Manager, Mailing Standards, Attn: Obataiye Akinwole, U.S. Postal Service, 475 L'Enfant Plaza SW., RM 3436, Washington, DC 20260–3436. You may also fax written comments to 202–268–4955. You may inspect and photocopy all written comments between 9 a.m. and 4 p.m., Monday through Friday, at USPS Headquarters Library, 11th Floor North, 475 L'Enfant Plaza SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Obataiye B. Akinwole at 202–268–7262, or Thomas P. Philson at 202–268–7355.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing to change international postage rates and fees concurrent with the implementation of new domestic postage rates and fees. We also plan to realign certain Express Mail and Air Parcel Post rate groups based on operational changes that have taken place since the last rate change in 2001. This realignment will enhance service to some European and Asian countries.

The total international rate increase is 5.9 percent. To the extent possible, we targeted the same 5.4 percent across-the-board increase we requested in our domestic rate filing with the Postal Rate Commission. However, for some services and country groups, our proposed increase is more than 5.4 percent. There are two reasons for this difference. First, unlike domestic rates, international rates have not changed since January 2001. During that time, costs have increased. To cover those increases, we need to raise some rates more than 5.4 percent. Second, rates were rounded, in some cases to the nearest $0.05. This rounding resulted in increases for services such as postcards and aerogrammes of more than 5.4 percent. Postcards and aerogrammes are predominantly retail services, and we rounded those rates for customer convenience.

There are five principal categories of international mail service, primarily differentiated by speed of service. They are Global Express Guaranteed (GXG), Global Express Mail (EMS), Global Priority Mail (GPM), Airmail, and Economy Mail. Following is a summary of our proposed changes.

Global Express Guaranteed® (GXG™)

Global Express Guaranteed (GXG) is an international expedited delivery service providing high-speed, guaranteed, and time-definite service from selected post offices to many international destinations. GXG is available for documents (correspondence) and merchandise. Our proposal would increase rates approximately 5.3 percent.

Global Express Mail™ (EMS®)

Global Express Mail (EMS) is an international expedited delivery service provided to approximately 180 countries. Our proposal would increase rates 5.7 percent. For most country groups, the increase is an across-the-board 5.4 percent, rounded to the nearest $0.05. However, with enhanced service and operational changes, rates to certain Asian destinations increased more than 5.4 percent to cover costs.

Global Priority Mail® (GPM)

Global Priority Mail (GPM) is an expedited airmail letter service for documents, printed matter, and uninsured merchandise up to 4 pounds to approximately 50 countries. Our proposal would increase rates 5.6 percent. The proposed change represents an across-the-board 5.4 percent increase, rounded to the nearest $0.25. Because of this rounding, the rate increase is more than 5.4 percent.

Air Letters

Air letters includes personal correspondence, statements of account, printed matter, and uninsured merchandise weighing up to 4 pounds. Our proposal would increase rates 5.2 percent.

Postcards and Postal Cards

Postcards and postal cards are unsealed personal and business correspondence similar to First-Class Mail domestic postcards. Our proposal would increase rates 7.8 percent. The proposed change represents a 5.4 percent increase rounded to the nearest $0.05. Because of this rounding, the rate increase is more than 5.4 percent. Postcards are predominantly a retail service, and we rounded rates for customer convenience.

Aerogrammes

Aerogrammes are designed for personal correspondence and consist of

a single page that folds into a self-sealing envelope. There is no domestic equivalent to this service. Our proposal would increase rates 7.1 percent. The proposed change represents a 5.4 percent increase, rounded to the nearest $0.05. Because of this rounding, the rate increase is more than 5.4 percent. Aerogrammes are predominantly a retail service, and we rounded rates for customer convenience.

Air Parcels

Air parcels resemble and are treated similar to heavier-weight domestic Priority Mail. Our proposal would increase rates 5.4 percent.

International Priority Airmail (IPA)

International Priority Airmail (IPA) is a bulk air letter service for letter-post mail weighing up to 4 pounds. Presorted mail and drop ship discounts are available. Volume discounts are available through the International Customized Mail (ICM) program for customers who tender at least 1 million pounds of international letter-post mail (excluding Global Priority Mail) to the Postal Service, or pay at least $2 million in international letter-post postage to the Postal Service. Our proposal would increase rates 7.4 percent. For most country groups, the increase is an across-the-board 5.4 percent. However, because of cost increases to country group 3, rates increased more than 5.4 percent to cover costs.

Economy Letters

Economy letters consists of personal correspondence and business correspondence similar to air letters, except that economy letters travel by surface transportation. Our proposal would increase rates 9.7 percent. For country groups 1 and 4 the increase is an across-the-board 5.4 percent. However, because of cost increases to country groups 2, 3, and 5, rates increased more than 5.4 percent to cover costs.

Economy Parcels

Economy parcels resemble and are treated similar to domestic Parcel Post. Our proposal would increase rates 5.4 percent.

International Surface Air Lift (ISAL)

International Surface Air Lift (ISAL) is a bulk advertising and publications mail service for mail weighing up to 4 pounds. There is a 50-pound minimum per mailing. Presorted mail and drop ship discounts are available. Volume discounts are available through the ICM program for customers who tender at least 1 million pounds of international letter-post mail (excluding Global Priority Mail) to the Postal Service, or pay at least $2 million in international letter-post postage to the Postal Service. Our proposal would increase rates 5.3 percent.

Publishers' Periodicals

Publishers' Periodicals, like domestic periodicals, include magazines, newspapers, journals, and other publications. Our proposal would increase rates 28.4 percent. Because this mail does not cover costs, we increased rates more than 5.4 percent.

Books and Sheet Music

Books and Sheet Music include printed sheet music or books with no advertising and consisting wholly of reading matter or scholarly bibliography. This mail is similar to domestic Media Mail and is transported by surface transportation. Our proposal would increase rates 15.1 percent. For country groups 2, 3, and 4, the increase is an across-the-board 5.4 percent. However, because of cost increases to rate groups 1 and 5, rates increased more than 5.4 percent.

Direct Sacks of Printed Matter to One Addressee (M-Bags)

M-Bags include printed matter and uninsured merchandise weighing up to 4 pounds and accompanying printed matter destined to a single address. M-Bags can be sent by airmail, economy mail, or ISAL. Our proposal would increase rates 7.8 percent. For most country groups, the increase is an across-the-board 5.4 percent. However, because of cost increases for airmail M-Bags, we increased country group 2 and economy M-Bag country group rates more than 5.4 percent.

Special Services

International Special Services fees linked to domestic fees are currently under review by the Postal Rate Commission in Docket No. R2005–1. All other international Special Services fees are included in this document.

Linked to domestic fees	Not linked to domestic fees
Certificate of Mailing	Insurance.[1]
Recorded Delivery	International Money Orders.
Express Mail Merchandise Insurance over $100	International Business Reply Mail.
Restricted Delivery	International Reply Coupons.
Return Receipt	Customs Clearance and Delivery Fee.
Registered Mail	
Pickup Fee	

[1] Insurance fees for Canada are linked to domestic fees.

EMS—Airmail Parcel Post Rate Group Assignments

Some countries are reassigned from one country group to another because of changes in EMS and Air Parcel operations. The changes are listed in the table below.

EMS

Code	Country	From group	To group
881	Andorra	6	7
708	Australia	8	5
750	France	6	7
773	Hong Kong	8	5
781	Ireland	6	7
789	Korea, Republic of (South)	8	5

EMS—Continued

Code	Country	From group	To group
796	Luxembourg	6	7
735	Slovak Republic (Slovakia)	6	7
844	Spain	6	7

AIRMAIL PARCEL POST

Code	Country	From group	To group
708	Australia	9	5
714	Belgium	6	7
739	Denmark	6	7
749	Finland	6	7
750	France	6	7
760	Germany	6	7
762	Gibraltar	6	7
766	Greece	6	7
773	Hong Kong	9	5
781	Ireland	6	7
783	Italy	6	7
789	Korea, Republic of (South)	9	5
957	Liechtenstein	6	7
796	Luxembourg	6	7
809	Netherlands	6	7
818	Norway	6	7
960	San Marino	9	7
735	Slovak Republic (Slovakia)	6	7
847	Switzerland	6	7
861	Vatican City	6	7

The rates, fees, and conditions of mailing proposed in this notice, if adopted, would become effective concurrent with any domestic rates adopted as a result of the current proceedings before the Postal Rate Commission (Docket No. R2005–1). All regulatory changes necessary to implement this proposal are given below.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to the International Mail Manual (IMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Amend the International Mail Manual (IMM) to incorporate the following rates and fees:

International Rates and Fees

GLOBAL EXPRESS GUARANTEED—DOCUMENT SERVICE RATES/GROUPS

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7	Group 8
0.5	$25.25	$26.25	$33.75	$33.75	$47.50	$34.75	$35.75	$68.50
1	34.75	35.75	41.00	47.50	54.75	49.50	48.50	79.00
2	40.00	42.25	48.50	54.75	68.50	58.00	54.75	93.75
3	42.25	48.50	55.75	62.25	83.25	65.25	63.25	106.50
4	45.25	52.75	63.25	69.50	98.00	71.75	71.75	118.00
5	48.50	58.00	70.50	77.00	111.75	79.00	79.00	130.75
6	50.50	61.25	76.00	84.25	125.50	84.25	86.50	143.25
7	53.75	64.25	80.00	90.75	138.00	90.75	93.75	156.00
8	55.75	68.50	84.25	98.00	150.75	96.00	101.25	168.75
9	58.00	71.75	89.50	105.50	164.50	101.25	108.50	181.25
10	61.25	73.75	93.75	109.50	174.00	107.50	116.00	189.75
11	63.25	77.00	97.00	115.00	184.50	110.75	122.25	201.25
12	65.25	80.00	101.25	121.25	195.00	115.00	128.50	214.00
13	68.50	83.25	104.25	126.50	205.50	119.00	133.75	226.50
14	70.50	85.25	108.50	131.75	216.00	123.25	139.25	238.25
15	72.75	88.50	111.75	137.00	225.50	127.50	144.50	250.75
16	76.00	91.75	115.00	143.25	235.00	131.75	149.75	262.50
17	78.00	93.75	119.00	148.50	243.50	136.00	155.00	274.00
18	80.00	97.00	122.25	154.00	250.75	140.25	161.25	285.75
19	83.25	100.25	126.50	159.25	259.25	144.50	167.50	297.25
20	85.25	102.25	129.75	164.50	266.75	148.50	174.00	308.75
21	87.50	105.50	132.75	169.75	274.00	151.75	180.25	318.25

GLOBAL EXPRESS GUARANTEED—DOCUMENT SERVICE RATES/GROUPS—Continued

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7	Group 8
22	89.50	107.50	137.00	175.00	282.50	156.00	185.50	327.75
23	91.75	110.75	140.25	180.25	289.75	160.25	190.75	335.25
24	94.75	113.75	144.50	185.50	298.25	164.50	196.00	342.50
25	97.00	116.00	147.50	190.75	305.75	168.75	201.25	351.00
26	99.00	119.00	150.75	196.00	314.00	172.75	206.50	358.25
27	101.25	121.25	155.00	200.25	321.50	177.00	211.75	365.75
28	103.25	124.25	158.00	205.50	330.00	181.25	217.00	374.25
29	105.50	126.50	161.25	210.75	337.25	185.50	222.50	381.50
30	108.50	130.75	166.50	218.25	348.75	191.75	227.75	393.25
31	110.75	133.75	170.75	223.50	356.25	196.00	233.00	401.50
32	112.75	136.00	174.00	228.75	364.75	200.25	238.25	409.00
33	115.00	138.00	178.25	234.00	372.00	204.50	243.50	417.50
34	118.00	139.25	181.25	239.25	380.50	208.75	248.75	424.75
35	120.25	141.25	184.50	244.50	389.00	213.00	254.00	433.25
36	122.25	143.25	188.75	248.75	396.25	217.00	259.25	440.50
37	124.25	145.50	191.75	254.00	404.75	221.25	264.50	449.00
38	126.50	147.50	196.00	259.25	412.00	225.50	269.75	456.50
39	128.50	149.75	199.25	264.50	419.50	229.75	275.00	463.75
40	130.75	151.75	202.25	269.75	425.75	234.00	280.25	472.25
41	132.75	154.00	206.50	275.00	433.25	238.25	285.75	479.50
42	137.00	156.00	209.75	280.25	440.50	242.50	291.00	488.00
43	139.25	158.00	214.00	285.75	448.00	246.75	296.25	495.50
44	141.25	159.25	217.00	291.00	455.25	250.75	301.50	503.75
45	144.50	161.25	221.25	295.00	462.75	255.00	306.75	511.25
46	146.50	163.25	224.50	300.50	470.00	259.25	312.00	518.50
47	148.50	164.50	227.75	305.75	476.50	263.50	317.25	527.00
48	150.75	166.50	232.00	311.00	483.75	267.75	322.50	534.50
49	154.00	168.75	235.00	316.25	491.25	272.00	327.75	542.75
50	156.00	171.75	241.25	324.75	503.75	278.25	333.00	556.50
51	160.25	174.00	244.50	330.00	511.25	278.25	338.25	572.25
52	162.25	176.00	248.75	335.25	518.50	286.75	343.50	572.25
53	164.50	178.25	252.00	340.50	526.00	291.00	348.75	589.25
54	167.50	179.25	256.00	345.75	533.25	295.00	354.25	589.25
55	168.75	181.25	259.25	351.00	540.75	298.25	359.50	603.00
56	170.75	182.25	263.50	356.25	548.00	303.50	364.75	603.00
57	171.75	184.50	266.75	361.50	555.50	306.75	370.00	615.50
58	172.75	185.50	269.75	366.75	561.75	312.00	375.25	615.50
59	175.00	187.50	274.00	372.00	569.25	315.25	380.50	629.25
60	176.00	189.75	277.25	377.25	576.50	320.50	385.75	629.25
61	178.25	190.75	281.50	382.50	584.00	323.50	391.00	645.00
62	179.25	191.75	284.50	386.75	590.25	330.00	396.25	645.00
63	180.25	194.00	288.75	392.00	598.75	332.00	401.50	660.75
64	181.25	195.00	292.00	397.25	601.75	338.25	406.75	660.75
65	182.25	197.00	296.25	402.75	613.50	340.50	412.00	676.75
66	183.50	198.25	299.25	408.00	613.50	346.75	417.50	676.75
67	184.50	200.25	302.50	413.25	625.00	348.75	422.75	692.50
68	185.50	202.25	306.75	418.50	627.25	355.25	428.00	692.50
69	186.50	203.50	310.00	423.75	636.50	357.25	433.25	708.25
70	187.50	204.50	314.00	429.00	636.50	363.75	438.50	708.25

GLOBAL EXPRESS GUARANTEED—NON-DOCUMENT SERVICE RATES/GROUPS

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7	Group 8
1	$38.00	$40.00	$46.50	$50.50	$62.25	$54.75	$58.00	$86.50
2	43.25	47.50	53.75	58.00	76.00	63.25	61.25	101.25
3	46.50	53.75	61.25	67.50	90.75	70.50	66.50	115.00
4	49.50	58.00	68.50	74.75	105.50	77.00	73.75	126.50
5	52.75	63.25	76.00	82.25	119.00	84.25	81.25	141.25
6	54.75	66.50	81.25	89.50	132.75	89.50	88.50	154.00
7	58.00	69.50	85.25	96.00	145.50	96.00	96.00	166.50
8	60.00	74.75	90.75	103.25	158.00	101.25	103.25	179.25
9	62.25	78.00	96.00	110.75	171.75	106.50	110.75	191.75
10	65.25	81.25	100.25	117.00	186.50	112.75	118.00	200.25
11	67.50	84.25	105.50	122.25	197.00	118.00	124.25	217.00
12	69.50	87.50	109.50	128.50	207.75	122.25	129.75	229.75
13	72.75	90.75	112.75	133.75	218.25	126.50	136.00	242.50
14	74.75	92.75	117.00	139.25	228.75	130.75	141.25	254.00
15	77.00	96.00	120.25	144.50	241.25	138.00	146.50	266.75
16	80.00	99.00	123.25	150.75	250.75	142.25	151.75	278.25
17	82.25	102.25	127.50	156.00	259.25	146.50	157.00	289.75

GLOBAL EXPRESS GUARANTEED—NON-DOCUMENT SERVICE RATES/GROUPS—Continued

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7	Group 8
18	84.25	105.50	130.75	161.25	266.75	150.75	163.25	301.50
19	87.50	108.50	135.00	166.50	275.00	155.00	169.75	313.00
20	91.75	112.75	138.00	174.00	282.50	159.25	176.00	324.75
21	93.75	116.00	141.25	179.25	289.75	162.25	182.25	334.00
22	96.00	118.00	145.50	184.50	298.25	166.50	187.50	343.50
23	98.00	121.25	148.50	189.75	305.75	170.75	193.00	351.00
24	101.25	124.25	152.75	195.00	314.00	175.00	198.25	358.25
25	103.25	126.50	156.00	200.25	321.50	179.25	203.50	366.75
26	105.50	128.50	161.25	205.50	330.00	183.50	208.75	374.25
27	107.50	129.75	165.50	209.75	337.25	187.50	214.00	381.50
28	109.50	132.75	168.75	215.00	345.75	191.75	219.25	390.00
29	111.75	135.00	171.75	220.25	353.00	196.00	224.50	397.25
30	115.00	139.25	177.00	227.75	364.75	202.25	229.75	409.00
31	117.00	142.25	181.25	233.00	372.00	206.50	235.00	417.50
32	119.00	144.50	184.50	238.25	380.50	210.75	240.25	424.75
33	121.25	146.50	188.75	243.50	387.75	215.00	245.50	433.25
34	124.25	148.50	191.75	248.75	396.25	219.25	250.75	440.50
35	126.50	150.75	195.00	254.00	404.75	223.50	256.00	454.25
36	128.50	152.75	199.25	258.25	412.00	227.75	261.50	461.75
37	130.75	155.00	202.25	263.50	420.50	232.00	266.75	470.00
38	132.75	157.00	206.50	268.75	428.00	236.00	272.00	477.50
39	135.00	159.25	209.75	274.00	435.25	240.25	277.25	484.75
40	137.00	161.25	213.00	282.50	441.75	244.50	282.50	493.25
41	139.25	163.25	217.00	287.75	449.00	248.75	287.75	500.75
42	143.25	165.50	220.25	293.00	456.50	253.00	293.00	509.00
43	145.50	167.50	224.50	298.25	463.75	257.25	298.25	516.50
44	147.50	168.75	227.75	303.50	471.25	261.50	303.50	525.00
45	150.75	170.75	232.00	311.00	478.50	265.50	308.75	532.25
46	152.75	172.75	235.00	316.25	486.00	269.75	314.00	534.50
47	155.00	174.00	238.25	321.50	492.25	274.00	319.25	542.75
48	157.00	176.00	242.50	326.75	499.50	278.25	324.75	550.25
49	159.25	178.25	245.50	332.00	507.00	282.50	330.00	558.50
50	160.25	181.25	252.00	337.25	519.50	288.75	335.25	572.25
51	164.50	183.50	255.00	342.50	525.00	291.00	340.50	588.25
52	166.50	185.50	259.25	347.75	532.25	297.25	345.75	588.25
53	168.75	187.50	262.50	353.00	539.75	301.50	351.00	605.00
54	171.75	188.75	266.75	358.25	547.00	305.75	356.25	605.00
55	172.75	190.75	269.75	363.75	554.50	308.75	361.50	618.75
56	175.00	191.75	274.00	369.00	561.75	314.00	366.75	618.75
57	176.00	194.00	277.25	374.25	569.25	317.25	372.00	631.25
58	177.00	195.00	280.25	379.50	575.50	322.50	377.25	631.25
59	179.25	197.00	284.50	384.75	582.75	325.75	382.50	645.00
60	179.25	199.25	287.75	390.00	590.25	331.00	387.75	645.00
61	181.25	203.50	292.00	395.25	597.50	334.00	393.25	660.75
62	182.25	204.50	295.00	399.50	604.00	340.50	398.50	660.75
63	183.50	206.50	299.25	404.75	612.25	342.50	403.75	676.75
64	184.50	207.75	302.50	410.00	615.50	348.75	409.00	676.75
65	185.50	209.75	306.75	415.25	627.25	351.00	414.25	692.50
66	186.50	210.75	310.00	420.50	627.25	357.25	419.50	692.50
67	187.50	213.00	313.00	425.75	638.75	359.50	424.75	708.25
68	188.75	215.00	317.25	431.00	640.75	365.75	430.00	708.25
69	189.75	216.00	320.50	436.25	650.25	367.75	435.25	724.00
70	190.75	217.00	324.75	441.75	650.25	374.25	440.50	724.00

GLOBAL EXPRESS MAIL

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7
0.5	$16.25	$17.75	$21.00	$18.25	$20.00	$18.00	$24.25
1	17.15	21.10	26.10	22.55	24.00	20.20	27.40
2	17.90	25.00	30.30	26.85	27.45	22.80	30.55
3	19.25	29.10	34.50	31.15	32.15	26.30	33.75
4	20.30	32.80	37.70	35.45	36.80	29.65	36.90
5	21.60	36.05	40.85	39.45	41.30	33.55	40.05
6	24.00	38.35	44.00	43.00	45.80	36.85	43.40
7	26.35	40.70	47.15	46.55	50.30	40.10	46.80
8	28.70	43.00	50.35	50.10	54.75	43.35	50.15
9	31.10	45.30	53.50	53.65	59.25	46.65	53.55
10	33.45	47.65	56.65	57.20	63.70	49.90	56.90
11	35.85	49.95	59.80	60.75	68.20	53.15	60.30
12	38.20	52.30	63.00	64.30	72.65	56.45	63.65

GLOBAL EXPRESS MAIL—Continued

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7
13	40.60	54.60	66.15	67.80	77.15	59.70	67.05
14	42.95	56.90	69.30	71.35	81.65	63.00	70.40
15	45.30	59.25	72.45	74.90	86.10	66.25	73.80
16	47.70	61.55	75.60	78.45	90.60	69.50	77.15
17	50.05	63.85	78.80	82.00	95.05	72.80	80.55
18	52.45	66.20	81.95	85.55	99.55	76.05	83.90
19	54.80	68.50	85.10	89.10	104.05	79.30	87.25
20	57.20	70.85	88.25	92.65	108.50	82.60	90.65
21	59.55	73.15	91.45	96.20	113.00	85.85	94.00
22	61.90	75.45	94.60	99.70	117.45	89.10	97.40
23	64.30	77.80	97.75	103.25	121.95	92.40	100.75
24	66.65	80.10	100.90	106.80	126.45	95.65	104.15
25	69.05	82.40	104.10	110.35	130.90	98.90	107.50
26	71.40	84.75	107.25	113.90	135.40	102.20	110.90
27	73.80	87.05	110.40	117.45	139.85	105.45	114.25
28	76.15	89.40	113.55	121.00	144.35	108.70	117.65
29	78.50	91.70	116.75	124.55	148.80	112.00	121.00
30	80.90	94.00	119.90	128.05	153.30	115.25	124.35
31	83.25	96.35	123.05	131.60	157.80	118.50	127.75
32	85.65	98.65	126.20	135.15	162.25	121.80	131.10
33	88.00	100.95	129.40	138.70	166.75	125.05	134.50
34	90.40	103.30	132.55	142.25	171.20	128.30	137.85
35	92.75	105.60	135.70	145.80	175.70	131.60	141.25
36	95.10	107.95	138.85	149.35	180.20	134.85	144.60
37	97.50	110.25	142.05	152.90	184.65	138.15	148.00
38	99.85	112.55	145.20	156.45	189.15	141.40	151.35
39	102.25	114.90	148.35	159.95	193.60	144.65	154.75
40	104.60	117.20	151.50	163.50	198.10	147.95	158.10
41	107.00	119.50	154.65	167.05	202.60	151.20	161.45
42	109.35	121.85	157.85	170.60	207.05	154.45	164.85
43	111.70	124.15	161.00	174.15	211.55	157.75	168.20
44	114.10	126.50	164.15	177.70	216.00	161.00	171.60
45	116.45	128.80	167.30	181.25	220.50	164.25	174.95
46	118.85	131.10	170.50	184.80	225.00	167.55	178.35
47	121.20	133.45	173.65	188.35	229.45	170.80	181.70
48	123.60	135.75	176.80	191.85	233.95	174.05	185.10
49	125.95	138.05	179.95	195.40	238.40	177.35	188.45
50	128.30	140.40	183.15	198.95	242.90	180.60	191.85
51	130.70	142.70	186.30	202.50	247.35	183.85	195.20
52	133.05	145.05	189.45	206.05	251.85	187.15	198.55
53	135.45	147.35	192.60	209.60	256.35	190.40	201.95
54	137.80	149.65	195.80	213.15	260.80	193.65	205.30
55	140.20	152.00	198.95	216.70	265.30	196.95	208.70
56	142.55	154.30	202.10	220.20	269.75	200.20	212.05
57	144.95	156.60	205.25	223.75	274.25	203.45	215.45
58	147.30	158.95	208.45	227.30	278.75	206.75	218.80
59	149.65	161.25	211.60	230.85	283.20	210.00	222.20
60	152.05	163.60	214.75	234.40	287.70	213.30	225.55
61	154.40	165.90	217.90	237.95	292.15	216.55	228.95
62	156.80	168.20	221.10	241.50	296.65	219.80	232.30
63	159.15	170.55	224.25	245.05	301.15	223.10	235.65
64	161.55	172.85	227.40	248.60	305.60	226.35	239.05
65	163.90	175.15	230.55	252.10	310.10	229.60	242.40
66	166.25	177.50	233.70	255.65	314.55	232.90	245.80
67	N/A	N/A	N/A	N/A	N/A	235.65	249.55
68	N/A	N/A	N/A	N/A	N/A	238.40	253.30
69	N/A	N/A	N/A	N/A	N/A	241.15	257.05
70	N/A	N/A	N/A	N/A	N/A	243.90	260.80

GLOBAL EXPRESS MAIL

Weight not over (lbs.)	Group 8	Group 9	Group 10	Group 11	Group 12
0.5	$18.00	$20.00	$24.00	$30.00	$23.50
1	21.60	23.20	26.60	32.95	26.10
2	25.30	27.40	29.80	37.40	29.50
3	29.50	31.60	34.25	42.70	33.75
4	33.75	36.90	38.45	47.15	37.95
5	37.95	42.15	42.95	52.45	42.15
6	42.35	47.05	47.45	57.45	46.40
7	46.80	51.95	51.90	62.45	50.60

GLOBAL EXPRESS MAIL—Continued

Weight not over (lbs.)	Group 8	Group 9	Group 10	Group 11	Group 12
8	51.20	56.85	56.40	67.45	54.80
9	55.65	61.75	60.85	72.45	59.00
10	60.10	66.65	65.35	77.45	63.25
11	64.50	71.55	69.85	82.50	67.45
12	68.95	76.45	74.30	87.50	71.65
13	73.35	81.35	78.80	92.50	75.90
14	77.80	86.25	83.25	97.50	80.10
15	82.20	91.15	87.75	102.50	84.30
16	86.65	96.05	92.25	107.50	88.55
17	91.05	100.95	96.70	112.50	92.75
18	95.50	105.85	101.20	117.50	96.95
19	99.90	110.80	105.65	122.55	101.20
20	104.35	115.70	110.15	127.55	105.40
21	108.75	120.60	114.60	132.55	109.60
22	113.20	125.50	119.10	137.55	113.85
23	117.65	130.40	123.60	142.55	118.05
24	122.05	135.30	128.05	147.55	122.25
25	126.50	140.20	132.55	152.55	126.50
26	130.90	145.10	137.00	157.55	130.70
27	135.35	150.00	141.50	162.60	134.90
28	139.75	154.90	146.00	167.60	139.15
29	144.20	159.80	150.45	172.60	143.35
30	148.60	164.70	154.95	177.60	147.55
31	153.05	169.60	159.40	182.60	151.80
32	157.45	174.50	163.90	187.60	156.00
33	161.90	179.40	168.40	192.60	160.20
34	166.30	184.30	172.85	197.65	164.40
35	170.75	189.20	177.35	202.65	168.65
36	175.15	194.10	181.80	207.65	172.85
37	179.60	199.00	186.30	212.65	177.05
38	184.05	203.90	190.75	217.65	181.30
39	188.45	208.80	195.25	222.65	185.50
40	192.90	213.70	199.75	227.65	189.70
41	197.30	218.60	204.20	232.65	193.95
42	201.75	223.50	208.70	237.70	198.15
43	206.15	228.40	213.15	242.70	202.35
44	210.60	233.30	217.65	247.70	206.60
45	215.00	238.20	222.15	252.70	210.80
46	219.45	243.10	226.60	257.70	215.00
47	223.85	248.00	231.10	262.70	219.25
48	228.30	252.90	235.55	267.70	223.45
49	232.70	257.80	240.05	272.70	227.65
50	237.15	262.70	244.55	277.75	231.90
51	241.60	267.60	249.00	282.75	236.10
52	246.00	272.50	253.50	287.75	240.30
53	250.45	277.40	257.95	292.75	244.55
54	254.85	282.30	262.45	297.75	248.75
55	259.30	287.20	266.95	302.75	252.95
56	263.70	292.10	271.40	307.75	257.20
57	268.15	297.00	275.90	312.75	261.40
58	272.55	301.90	280.35	317.80	265.60
59	277.00	306.80	284.85	322.80	269.80
60	281.40	311.70	289.30	327.80	274.05
61	285.85	316.60	293.80	332.80	278.25
62	290.25	321.50	298.30	337.80	282.45
63	294.70	326.40	302.75	342.80	286.70
64	299.15	331.30	307.25	347.80	290.90
65	303.55	336.25	311.70	352.85	295.10
66	308.00	341.15	316.20	357.85	299.35
67	313.00	346.15	320.95	363.10	303.85
68	318.00	351.15	325.70	368.35	308.35
69	323.00	356.15	330.45	373.60	312.85
70	328.00	361.15	335.20	378.85	317.35

EMS corporate account: 5 percent discount from single-piece rates.

GLOBAL PRIORITY MAIL—FLAT-RATE ENVELOPE

Destination	Small	Large
Canada and Mexico	$4.25	$7.50
Other Countries	5.25	9.50

GLOBAL PRIORITY MAIL—VARIABLE WEIGHT

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5
0.5	$6.25	$7.50	$8.50	$9.50	$8.50
1	8.50	9.50	10.50	11.50	12.75
1.5	9.50	10.50	12.75	13.75	14.75
2	11.50	13.75	15.75	16.75	18.00
2.5	12.75	16.75	19.00	20.00	22.25
3	14.75	20.00	22.25	23.25	25.25
3.5	16.75	23.25	24.25	25.25	29.50
4	19.00	26.25	27.50	28.50	32.75

AEROGRAMMES

All Countries	$0.75

POSTAL CARDS AND POSTCARDS

Canada & Mexico	Other countries	Republic of Marshall Islands and Federated States of Micronesia
$0.55	$0.75	$0.34

AIRMAIL LETTER-POST

Weight not over (ozs.)	Group 1	Group 2	Group 3	Group 4	Group 5
1	$0.63	$0.63	$0.84	$0.84	$0.84
2	0.90	0.90	1.70	1.80	1.65
3	1.15	1.30	2.55	2.75	2.40
4	1.40	1.75	3.35	3.70	3.20
5	1.70	2.15	4.20	4.65	4.00
6	1.95	2.60	5.05	5.60	4.80
7	2.20	3.00	5.90	6.55	5.60
8	2.50	3.45	6.75	7.50	6.40
12	3.25	4.20	7.95	8.85	8.05
16	3.95	5.45	9.15	10.20	9.75
20	4.65	6.65	10.40	11.60	11.45
24	5.30	7.85	11.60	12.95	13.10
28	6.00	9.05	12.80	14.35	14.80
32	6.70	10.30	14.00	15.70	16.50
36	7.40	11.55	15.30	17.15	18.30
40	8.05	12.80	16.55	18.55	20.10
44	8.75	14.05	17.80	19.95	21.85
48	9.45	15.35	19.10	21.40	23.65
52	10.15	16.65	20.40	22.85	25.50
56	10.90	17.95	21.70	24.35	27.35
60	11.65	19.30	23.05	25.80	29.20
64	12.40	20.60	24.35	27.30	31.05

AIRMAIL PARCEL POST

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7
1	$14.00	$13.75	$16.75	$17.25	$16.00	$14.75	$17.50
2	14.00	16.35	21.10	21.60	20.80	16.35	20.05
3	15.00	18.70	25.30	25.80	25.80	18.45	22.90
4	16.35	21.35	29.50	30.55	31.35	21.35	25.80
5	17.65	24.25	33.75	35.30	36.90	24.00	28.70
6	18.80	26.35	36.90	38.80	41.35	27.05	31.90
7	19.95	28.45	40.05	42.25	45.85	30.10	35.05
8	21.15	30.55	43.20	45.75	50.35	33.15	38.20
9	22.30	32.65	46.40	49.20	54.80	36.20	41.35
10	23.45	34.80	49.55	52.70	59.30	39.25	44.55
11	24.60	36.90	52.70	56.20	63.75	42.30	47.70
12	25.75	39.00	55.85	59.65	68.25	45.35	50.85
13	26.95	41.10	59.00	63.15	72.75	48.45	54.00
14	28.10	43.20	62.20	66.60	77.20	51.50	57.20

AIRMAIL PARCEL POST—Continued

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7
15	29.25	45.30	65.35	70.10	81.70	54.55	60.35
16	30.40	47.45	68.50	73.55	86.15	57.60	63.50
17	31.55	49.55	71.65	77.05	90.65	60.65	66.65
18	32.75	51.65	74.85	80.55	95.10	63.70	69.85
19	33.90	53.75	78.00	84.00	99.60	66.75	73.00
20	35.05	55.85	81.15	87.50	104.10	69.85	76.15
21	36.20	57.95	84.30	90.95	108.55	72.90	79.30
22	37.35	60.10	87.50	94.45	113.05	75.95	82.50
23	38.50	62.20	90.65	97.90	117.50	79.00	85.65
24	39.70	64.30	93.80	101.40	122.00	82.05	88.80
25	40.85	66.40	96.95	104.85	126.50	85.10	91.95
26	42.00	68.50	100.15	108.35	130.95	88.15	95.10
27	43.15	70.60	103.30	111.85	135.45	91.20	98.30
28	44.30	72.75	106.45	115.30	139.90	94.30	101.45
29	45.50	74.85	109.60	118.80	144.40	97.35	104.60
30	46.65	76.95	112.80	122.25	148.90	100.40	107.75
31	47.80	79.05	115.95	125.75	153.35	103.45	110.95
32	48.95	81.15	119.10	129.20	157.85	106.50	114.10
33	50.10	83.25	122.25	132.70	162.30	109.55	117.25
34	51.30	85.35	125.45	136.20	166.80	112.60	120.40
35	52.45	87.50	128.60	139.65	171.30	115.70	123.60
36	53.60	89.60	131.75	143.15	175.75	118.75	126.75
37	54.75	91.70	134.90	146.60	180.25	121.80	129.90
38	55.90	93.80	138.05	150.10	184.70	124.85	133.05
39	57.05	95.90	141.25	153.55	189.20	127.90	136.25
40	58.25	98.00	144.40	157.05	193.65	130.95	139.40
41	59.40	100.15	147.55	160.50	198.15	134.00	142.55
42	60.55	102.25	150.70	164.00	202.65	137.05	145.70
43	61.70	104.35	153.90	167.50	207.10	140.15	148.90
44	62.85	106.45	157.05	170.95	211.60	143.20	152.05
45	64.05	N/A	160.20	174.45	216.05	146.25	155.20
46	65.20	N/A	163.35	177.90	220.55	149.30	158.35
47	66.35	N/A	166.55	181.40	225.05	152.35	161.55
48	67.50	N/A	169.70	184.85	229.50	155.40	164.70
49	68.65	N/A	172.85	188.35	234.00	158.45	167.85
50	69.85	N/A	176.00	191.85	238.45	161.55	171.00
51	71.00	N/A	179.20	195.30	242.95	164.60	174.15
52	72.15	N/A	182.35	198.80	247.45	167.65	177.35
53	73.30	N/A	185.50	202.25	251.90	170.70	180.50
54	74.45	N/A	188.65	205.75	256.40	173.75	183.65
55	75.60	N/A	191.85	209.20	260.85	176.80	186.80
56	76.80	N/A	195.00	212.70	265.35	179.85	190.00
57	77.95	N/A	198.15	216.20	269.80	182.90	193.15
58	79.10	N/A	201.30	219.65	274.30	186.00	196.30
59	80.25	N/A	204.50	223.15	278.80	189.05	199.45
60	81.40	N/A	207.65	226.60	283.25	192.10	202.65
61	82.60	N/A	210.80	230.10	287.75	195.15	205.80
62	83.75	N/A	213.95	233.55	292.20	198.20	208.95
63	84.90	N/A	217.10	237.05	296.70	201.25	212.10
64	86.05	N/A	220.30	240.50	301.20	204.30	215.30
65	87.20	N/A	223.45	244.00	305.65	207.35	218.45
66	88.40	N/A	226.60	247.50	310.15	210.45	221.60
67	N/A	N/A	N/A	N/A	314.60	213.50	224.75
68	N/A	N/A	N/A	N/A	319.10	216.55	227.95
69	N/A	N/A	N/A	N/A	323.60	219.60	231.10
70	N/A	N/A	N/A	N/A	328.05	222.65	234.25

AIRMAIL PARCL POST

Weight not over (lbs.)	Group 8	Group 9	Group 10	Group 11	Group 12	Group 13
1	$13.25	$15.25	$16.75	$19.00	$14.75	$18.00
2	16.85	19.75	19.50	23.20	16.35	20.05
3	21.10	24.50	22.65	27.40	18.20	23.20
4	25.55	28.20	25.30	31.60	20.30	26.35
5	30.30	34.50	27.95	35.85	22.40	29.50
6	34.40	38.45	31.10	39.50	25.05	32.95
7	38.50	42.60	34.25	43.20	27.65	36.35
8	42.65	46.70	37.40	46.90	30.30	39.80
9	46.75	50.80	40.60	50.60	32.95	43.20
10	50.85	54.90	43.75	54.30	35.55	46.65

AIRMAIL PARCL POST—Continued

Weight not over (lbs.)	Group 8	Group 9	Group 10	Group 11	Group 12	Group 13
11	54.95	59.00	46.90	57.95	38.20	50.05
12	59.10	63.15	50.05	61.65	40.85	53.50
13	63.20	67.25	53.25	65.35	43.50	56.90
14	67.30	71.35	56.40	69.05	46.10	60.35
15	71.40	75.45	59.55	72.75	48.75	63.75
16	75.50	79.60	62.70	76.40	51.40	67.20
17	79.65	83.70	65.90	80.10	54.00	70.60
18	83.75	87.80	69.05	83.80	56.65	74.05
19	87.85	91.90	72.20	87.50	59.30	77.45
20	91.95	96.00	75.35	91.15	61.90	80.90
21	96.05	100.15	78.50	94.85	64.55	84.30
22	100.20	104.25	81.70	98.55	67.20	87.75
23	104.30	108.35	84.85	102.25	69.85	91.15
24	108.40	112.45	88.00	105.95	72.45	94.60
25	112.50	116.55	91.15	109.60	75.10	98.00
26	116.65	120.70	94.35	113.30	77.75	101.45
27	120.75	124.80	97.50	117.00	80.35	104.85
28	124.85	128.90	100.65	120.70	83.00	108.30
29	128.95	133.00	103.80	124.35	85.65	111.70
30	133.05	137.15	107.00	128.05	88.25	115.15
31	137.20	141.25	110.15	131.75	90.90	118.60
32	141.30	145.35	113.30	135.45	93.55	122.00
33	145.40	149.45	116.45	139.15	96.20	125.45
34	149.50	153.55	119.65	142.80	98.80	128.85
35	153.60	157.70	122.80	146.50	101.45	132.30
36	157.75	161.80	125.95	150.20	104.10	135.70
37	161.85	165.90	129.10	153.90	106.70	139.15
38	165.95	170.00	132.30	157.55	109.35	142.55
39	170.05	174.10	135.45	161.25	112.00	146.00
40	174.15	178.25	138.60	164.95	114.60	149.40
41	178.30	182.35	141.75	168.65	117.25	152.85
42	182.40	186.45	144.95	172.35	119.90	156.25
43	186.50	190.55	148.10	176.00	122.55	159.70
44	190.60	194.65	151.25	179.70	125.15	163.10
45	194.75	198.80	154.40	183.40	127.80	166.55
46	198.85	202.90	157.55	187.10	130.45	169.95
47	202.95	207.00	160.75	190.75	133.05	173.40
48	207.05	211.10	163.90	194.45	135.70	176.80
49	211.15	215.25	167.05	198.15	138.35	180.25
50	215.30	219.35	170.20	201.85	140.95	183.65
51	219.40	223.45	173.40	205.55	143.60	187.10
52	223.50	227.55	176.55	209.20	146.25	190.50
53	227.60	231.65	179.70	212.90	148.90	193.95
54	231.70	235.80	182.85	216.60	151.50	197.35
55	235.85	239.90	186.05	220.30	154.15	200.80
56	239.95	244.00	189.20	224.00	156.80	204.20
57	244.05	248.10	192.35	227.65	159.40	207.65
58	248.15	252.20	195.50	231.35	162.05	211.05
59	252.25	256.35	198.70	235.05	164.70	214.50
60	256.40	260.45	201.85	238.75	167.30	217.90
61	260.50	264.55	205.00	242.40	169.95	221.35
62	264.60	268.65	208.15	246.10	172.60	224.75
63	268.70	272.80	211.35	249.80	175.25	228.20
64	272.85	276.90	214.50	253.50	177.85	231.60
65	276.95	281.00	217.65	257.20	180.50	235.05
66	281.05	285.10	220.80	260.85	183.15	238.45
67	285.15	289.20	224.00	264.55	185.75	241.90
68	289.25	293.35	227.15	268.25	188.40	245.30
69	293.40	297.45	230.30	271.95	191.05	248.75
70	297.50	301.55	233.45	275.60	193.65	252.15

INTERNATIONAL PRIORITY AIRMAIL

Rate group	Per piece	Drop shipment per pound	Full service per pound
1 (Canada)	$0.30	$2.75	$3.75
2 (Mexico)	0.13	4.85	5.85
3	0.27	4.35	5.35
4	0.26	5.80	6.80
5	0.13	5.10	6.10

INTERNATIONAL PRIORITY AIRMAIL—Continued

Rate group	Per piece	Drop shipment per pound	Full service per pound
6	0.13	5.00	6.00
7	0.13	6.60	7.60
8	0.13	7.65	8.65
Worldwide	0.21	7.40	8.40

AIRMAIL M-BAGS

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5
11	$17.60	$22.55	$29.15	$40.70	$40.70
Each Additional Pound or Fraction of a Pound	1.60	2.05	2.65	3.70	3.70

ECONOMY LETTER-POST

Weight not over (ozs.)	Group 1	Group 2	Group 3	Group 4	Group 5
16	$2.85	$5.15	$4.10	4.25	$6.00
20	4.25	6.10	4.85	4.95	6.90
24	4.80	7.00	5.55	5.65	7.85
28	5.30	7.90	6.20	6.30	8.85
32	5.90	8.85	6.85	7.00	9.80
36	6.30	9.60	7.50	7.65	10.60
40	6.75	10.40	8.15	8.25	11.35
44	7.15	11.15	8.80	8.90	12.15
48	7.60	11.90	9.45	9.55	12.95
52	8.00	12.70	10.10	10.15	13.75
56	8.45	13.45	10.75	10.80	14.50
60	8.85	14.20	11.40	11.45	15.30
64	9.30	15.00	12.05	12.05	15.75

INTERNATIONAL SURFACE AIR LIFT

Rate group	Per piece	Full service per pound	M-bag full service	Direct ship per pound	M-bag direct ship	Drop ship per pound	M-bag drop ship
1 (Canada)	$0.30	$3.15	$1.60	$2.65	$1.60	$2.15	$1.50
2 (Mexico)	0.13	4.55	1.70	4.05	1.70	3.55	1.60
3	0.26	3.55	1.85	3.05	1.85	2.55	1.60
4	0.26	3.90	2.65	3.40	2.65	2.90	2.65
5	0.13	4.85	2.35	4.35	2.35	3.85	2.10
6	0.13	4.75	2.35	4.25	2.35	3.75	2.10
7	0.13	4.85	2.60	4.35	2.60	3.85	2.35
8	0.13	6.80	3.40	6.30	3.40	5.80	3.15

PUBLISHERS' PERIODICALS

Weight not over (ozs.)	Group 1	Group 2	Group 3	Group 4	Group 5
1	$0.61	$0.80	$0.70	$0.68	$0.81
2	0.69	1.01	0.82	0.81	1.00
3	0.77	1.21	0.95	0.93	1.19
4	0.85	1.41	1.08	1.06	1.38
5	0.93	1.61	1.21	1.19	1.57
6	1.01	1.81	1.33	1.31	1.76
7	1.09	2.01	1.46	1.44	1.94
8	1.17	2.21	1.59	1.56	2.13
12	1.55	2.85	2.10	2.06	2.73
16	1.93	3.50	2.61	2.57	3.32
20	2.15	4.14	3.12	3.07	3.92
24	2.36	4.78	3.63	3.57	4.51
28	2.58	5.43	4.14	4.07	5.10
32	2.79	6.07	4.65	4.57	5.70
36	5.22	6.71	5.16	5.07	6.29
40	5.39	7.36	5.67	5.57	6.89
44	5.55	8.00	6.18	6.08	7.48
48	5.71	8.64	6.69	6.58	8.07
52	5.93	9.29	7.20	7.08	8.67
56	6.14	9.93	7.71	7.58	9.26

PUBLISHERS' PERIODICALS—Continued

Weight not over (ozs.)	Group 1	Group 2	Group 3	Group 4	Group 5
60	6.36	10.57	8.22	8.08	9.86
64	6.57	11.22	8.73	8.58	10.45

BOOKS AND SHEET MUSIC

Weight not over (ozs.)	Group 1	Group 2	Group 3	Group 4	Group 5
0.5	$2.30	$3.00	$2.80	$2.75	$3.35
1	2.30	3.00	2.80	2.75	3.35
2	2.30	3.00	2.80	2.75	3.35
3	2.30	3.00	2.80	2.75	3.35
4	2.30	3.00	2.80	2.75	3.35
5	2.30	3.00	2.80	2.75	3.35
6	2.30	3.00	2.80	2.75	3.35
7	2.30	3.00	2.80	2.75	3.35
8	2.30	3.00	2.80	2.75	3.35
12	2.30	3.00	2.80	2.75	3.35
16	2.30	3.00	2.80	2.75	3.35
20	2.50	3.60	3.35	3.25	4.00
24	2.70	4.15	3.95	3.80	4.65
28	2.90	4.75	4.50	4.30	5.30
32	3.10	5.25	5.00	4.85	5.95
36	4.05	5.75	5.40	5.25	6.45
40	4.95	6.20	5.80	5.65	7.00
44	5.85	6.70	6.20	6.05	7.55
48	6.75	7.10	6.55	6.45	7.95
52	7.00	8.05	6.95	6.85	8.50
56	7.30	9.00	7.40	7.25	9.05
60	7.55	9.95	7.80	7.75	9.55
64	7.85	10.85	8.20	8.15	10.00

ECONOMY PARCEL POST

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7
5	$16.00	$20.50	$24.25	$24.50	$22.50	$19.25	$23.25
6	16.60	21.85	26.35	26.35	24.00	20.40	25.30
7	17.40	23.20	28.45	27.65	25.55	21.55	27.40
8	18.20	24.25	30.55	29.25	27.15	22.70	29.50
9	18.70	25.30	32.65	30.55	28.70	23.85	31.60
10	19.25	26.10	34.50	31.90	30.30	25.05	33.75
11	19.70	26.90	36.30	33.00	31.60	26.05	35.40
12	20.20	27.65	38.10	34.10	32.95	27.05	37.10
13	20.65	28.45	39.90	35.20	34.25	28.05	38.80
14	21.15	29.25	41.70	36.30	35.55	29.05	40.45
15	21.60	30.05	43.50	37.40	36.90	30.05	42.15
16	22.10	30.85	45.25	38.50	38.20	31.05	43.85
17	22.55	31.60	47.05	39.65	39.50	32.05	45.55
18	23.05	32.40	48.85	40.75	40.85	33.05	47.20
19	23.50	33.20	50.65	41.85	42.15	34.05	48.90
20	24.00	34.00	52.45	42.95	43.50	35.05	50.60
21	24.55	34.75	54.10	43.95	44.70	36.00	52.30
22	25.15	35.45	55.80	44.95	45.90	36.95	53.95
23	25.70	36.20	57.50	45.95	47.10	37.90	55.65
24	26.30	36.95	59.20	46.95	48.35	38.85	57.35
25	26.90	37.70	60.85	47.95	49.55	39.80	59.00
26	27.45	38.40	62.55	48.95	50.75	40.75	60.70
27	28.05	39.15	64.25	49.95	51.95	41.70	62.40
28	28.60	39.90	65.95	50.95	53.15	42.65	64.10
29	29.20	40.65	67.60	51.95	54.40	43.60	65.75
30	29.80	41.35	69.30	52.95	55.60	44.55	67.45
31	30.35	42.10	70.90	53.90	56.75	45.45	69.05
32	30.95	42.85	72.45	54.85	57.90	46.30	70.60
33	31.50	43.60	74.05	55.80	59.10	47.20	72.20
34	32.10	44.30	75.60	56.75	60.25	48.10	73.80
35	32.65	45.05	77.20	57.70	61.40	49.00	75.35
36	33.25	45.80	78.80	58.65	62.55	49.90	76.95
37	33.85	46.55	80.35	59.60	63.70	50.80	78.50
38	34.40	47.25	81.95	60.55	64.85	51.70	80.10
39	35.00	48.00	83.55	61.50	66.05	52.60	81.70

ECONOMY PARCEL POST—Continued

Weight not over (lbs.)	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7
40	35.55	48.75	85.10	62.45	67.20	53.50	83.25
41	36.15	49.50	86.70	63.40	68.35	54.40	84.85
42	36.75	50.20	88.25	64.35	69.50	55.30	86.45
43	37.30	50.95	89.85	65.30	70.65	56.20	88.00
44	37.90	51.70	91.45	66.25	71.85	57.05	89.60
45	38.45	N/A	93.00	67.20	73.00	57.95	91.15
46	39.05	N/A	94.60	68.15	74.15	58.85	92.75
47	39.65	N/A	96.20	69.10	75.30	59.75	94.35
48	40.20	N/A	97.75	70.05	76.45	60.65	95.90
49	40.80	N/A	99.35	71.00	77.65	61.55	97.50
50	41.35	N/A	100.90	71.95	78.80	62.45	99.10
51	41.95	N/A	102.50	72.90	79.95	63.35	100.65
52	42.55	N/A	104.10	73.85	81.10	64.25	102.25
53	43.10	N/A	105.65	74.80	82.25	65.15	103.80
54	43.70	N/A	107.25	75.75	83.40	66.05	105.40
55	44.25	N/A	108.85	76.70	84.60	66.95	107.00
56	44.85	N/A	110.40	77.65	85.75	67.80	108.55
57	45.45	N/A	112.00	78.60	86.90	68.70	110.15
58	46.00	N/A	113.55	79.50	88.05	69.60	111.70
59	46.60	N/A	115.15	80.45	89.20	70.50	113.30
60	47.15	N/A	116.75	81.40	90.40	71.40	114.90
61	47.75	N/A	118.30	82.35	91.55	72.30	116.45
62	48.35	N/A	119.90	83.30	92.70	73.20	118.05
63	48.90	N/A	121.45	84.25	93.85	74.10	119.65
64	49.50	N/A	123.05	85.20	95.00	75.00	121.20
65	50.05	N/A	124.65	86.15	96.20	75.90	122.80
66	50.65	N/A	126.20	87.10	97.35	76.80	124.35
67	N/A	N/A	N/A	N/A	98.50	77.70	125.95
68	N/A	N/A	N/A	N/A	99.65	78.60	127.55
69	N/A	N/A	N/A	N/A	100.80	79.45	129.10
70	N/A	N/A	N/A	N/A	101.95	80.35	130.70

ECONOMY PARCEL POST

Weight not over (lbs.)	Group 8	Group 9	Group 10	Group 11	Group 12
5	$22.75	$30.25	$23.00	$27.75	$21.25
6	24.05	32.60	24.75	30.30	23.20
7	25.40	34.95	26.35	32.65	25.05
8	26.75	37.25	28.20	35.05	26.90
9	28.15	39.60	30.55	37.40	28.70
10	29.60	41.90	33.75	39.80	30.45
11	31.00	43.90	35.20	41.95	32.20
12	32.35	45.90	36.70	44.10	33.95
13	33.75	47.90	38.15	46.25	35.70
14	35.10	49.90	39.65	48.45	37.40
15	36.45	51.90	41.10	50.60	39.15
16	37.85	53.90	42.60	52.75	40.90
17	39.20	55.90	44.05	54.90	42.65
18	40.60	57.90	45.55	57.05	44.35
19	41.95	59.90	47.00	59.25	46.10
20	43.30	61.90	48.50	61.40	47.85
21	44.70	63.70	49.80	63.40	49.40
22	46.05	65.50	51.10	65.40	50.90
23	47.45	67.30	52.45	67.40	52.45
24	48.80	69.10	53.75	69.40	53.95
25	50.15	70.90	55.05	71.40	55.50
26	51.55	72.65	56.40	73.40	57.00
27	52.90	74.45	57.70	75.40	58.55
28	54.30	76.25	59.00	77.40	60.10
29	55.65	78.05	60.35	79.40	61.60
30	57.00	79.85	61.65	81.40	63.15
31	58.40	81.60	63.00	83.25	64.60
32	59.75	83.30	64.30	85.10	66.10
33	61.15	85.05	65.60	86.95	67.55
34	62.50	86.80	66.95	88.80	69.05
35	63.85	88.55	68.25	90.65	70.50
36	65.25	90.30	69.55	92.50	72.00
37	66.60	92.00	70.90	94.35	73.45
38	68.00	93.75	72.20	96.20	74.95
39	69.35	95.50	73.50	98.00	76.40

ECONOMY PARCEL POST—Continued

Weight not over (lbs.)	Group 8	Group 9	Group 10	Group 11	Group 12
40	70.70	97.25	74.85	99.85	77.90
41	72.10	98.65	76.15	101.70	79.35
42	73.45	100.10	77.45	103.55	80.85
43	74.85	101.50	78.80	105.40	82.30
44	76.20	102.90	80.10	107.25	83.80
45	77.55	104.35	81.40	109.10	85.25
46	78.95	105.75	82.75	110.95	86.75
47	80.30	107.20	84.05	112.80	88.20
48	81.70	108.60	85.35	114.60	89.70
49	83.05	110.05	86.70	116.45	91.15
50	84.45	111.45	88.00	118.30	92.65
51	85.80	112.90	89.35	120.15	94.10
52	87.15	114.30	90.65	122.00	95.60
53	88.55	115.75	91.95	123.85	97.05
54	89.90	117.15	93.30	125.70	98.55
55	91.30	118.60	94.60	127.55	100.00
56	92.65	120.00	95.90	129.40	101.50
57	94.00	121.40	97.25	131.20	103.00
58	95.40	122.85	98.55	133.05	104.45
59	96.75	124.25	99.85	134.90	105.95
60	98.15	125.70	101.20	136.75	107.40
61	99.50	127.10	102.50	138.60	108.90
62	100.85	128.55	103.80	140.45	110.35
63	102.25	129.95	105.15	142.30	111.85
64	103.60	131.40	106.45	144.15	113.30
65	105.00	132.80	107.75	146.00	114.80
66	106.35	134.25	109.10	147.80	116.25
67	107.70	135.65	110.40	149.65	117.75
68	109.10	137.05	111.70	151.50	119.20
69	110.45	138.50	113.05	153.35	120.70
70	111.85	139.90	114.35	155.20	122.15

ECONOMY (SURFACE) M-BAGSRUN

Type and weight of mailing	Group 1	Group 2	Group 3	Group 4	Group 5
Regular:					
Weight not over 11 lbs	$14.30	$14.85	$17.05	$17.60	$17.60
Each additional pound or fraction of a pound	1.30	1.35	1.55	1.60	1.60
Books and Sheet Music and Publishers' Periodicals:					
Weight not over 11 lbs	11.00	9.35	10.45	11.55	11.55
Each additional pound or fraction of a pound	1.00	0.85	0.95	1.05	1.05

COUNTRY RATE GROUP LIST

Country	EMS	Airmail parcel post	Economy parcel post	Letter-post	GXG	IPA & ISAL [1]
Afghanistan		7	7	5	7	8
Albania	6	7	7	5	8	5
Algeria	11	10	11	5		8
Andorra	7	7	6	3	6	3
Angola	11	10	11	5	8	8
Anguilla	12	12	12	5	3	6
Antigua & Barbuda		12	12	5	3	6
Argentina	12	13	12	5	5	6
Armenia	7	7	7	5	8	8
Aruba	12	12	12	5	3	6
Ascension			11	5		5
Australia	5	5	8	4	4	4
Austria	7	7	6	5	6	3
Azerbaijan	6	7	7	5	8	8
Bahamas	12	12	12	5	3	6
Bahrain	11	10		5	7	8
Bangladesh	9	8	8	5	7	8
Barbados	12	12	12	5	3	6
Belarus	6	6	7	5	8	5
Belgium	7	7	6	3	3	3
Belize	12	12	12	5	5	6
Benin	11	10	10	5	8	8

COUNTRY RATE GROUP LIST—Continued

Country	EMS	Airmail parcel post	Economy parcel post	Letter-post	GXG	IPA & ISAL [1]
Bermuda	12	13	12	5	3	6
Bhutan	8	9	9	5	5	8
Bolivia	12	13	12	5	5	6
Bosnia-Herzegovina	6	6	6	5	8	5
Botswana	10	11	11	5	8	8
Brazil	12	13	12	5	5	6
British Virgin Islands		12	12	5	3	6
Brunei Darussalam	8	8	8	5	8	7
Bulgaria	6	6	7	5	8	5
Burkina Faso	10	10	11	5	8	8
Burma (Myanmar)		6	6	5		8
Burundi	11	11	11	5	8	8
Cambodia	8	8		5	8	7
Cameroon	10	11	11	5	8	8
Canada	1	1	1	1	1	1
Cape Verde	11	10	11	5	8	8
Cayman Islands	12	12	12	5	3	6
Central African Republic	11	11	11	5		8
Chad	10	10		5	8	8
Chile	12	13	12	5	5	6
China	5	5	5	5	4	7
Colombia	12	12	12	5	5	6
Comoros		10	10	5		8
Congo, Democratic Republic of the	10	11	11	5	8	8
Congo, Republic of the	11	10	10	5	8	8
Costa Rica	12	12	12	5	5	6
Cote d'Ivoire (Ivory Coast)	10	11	11	5	8	8
Croatia	6	6	6	5	8	5
Cuba				5		6
Cyprus	6	6	6	5	7	8
Czech Republic	7	6	7	5	8	5
Denmark	7	7	6	3	6	3
Djibouti	11	10	10	5	8	8
Dominica	12	12	12	5	3	6
Dominican Republic	12	12	12	5	3	6
Ecuador	12	13	12	5	5	6
Egypt	11	11	11	5	7	8
El Salvador	12	12	12	5	5	6
Equatorial Guinea	10	10	10	5	8	8
Eritrea	10	11	11	5	8	8
Estonia	6	7	7	5	8	5
Ethiopia	10	10	10	5	8	8
Falkland Islands			12	5		6
Faroe Islands	7	6	6	3	6	5
Fiji	8	8	8	5	5	7
Finland	7	7	6	3	6	3
France	7	7	6	3	3	3
French Guiana	12	13	12	5	5	6
French Polynesia	9	9	9	5	8	7
Gabon	11	10	11	5	8	8
Gambia		11	11	5	8	8
Georgia, Republic of	7	7	7	5	8	8
Germany	7	7	6	3	3	3
Ghana	10	11	11	5	8	8
Gibraltar		7	6	3	6	3
Great Britain & Northern Ireland	3	3	3	3	3	3
Greece	7	7	6	3	6	3
Greenland		6	6	3	6	3
Grenada	12	12	12	5	3	6
Guadeloupe	12	13	12	5	3	6
Guatemala	12	12	12	5	5	6
Guinea	10	10	10	5	8	8
Guinea-Bissau	11	11		5		8
Guyana	12	12	12	5	5	6
Haiti	12	12	12	5	3	6
Honduras	12	13	12	5	5	6
Hong Kong	5	5	8	5	3	7
Hungary	7	6	6	5	8	5
Iceland	7	6	6	3	6	3
India	8	9	8	5	7	8
Indonesia	8	8	8	5	4	7

COUNTRY RATE GROUP LIST—Continued

Country	EMS	Airmail parcel post	Economy parcel post	Letter-post	GXG	IPA & ISAL [1]
Iran	.....	11	11	5	.....	8
Iraq	11	11	11	5	7	8
Ireland (Eire)	7	7	6	3	3	3
Israel	10	10	10	3	7	3
Italy	7	7	6	3	3	3
Jamaica	12	12	12	5	3	6
Japan	4	4	4	4	3	4
Jordan	10	10	10	5	7	8
Kazakhstan	6	6	7	5	8	8
Kenya	10	10	10	5	8	8
Kiribati	.....	8	8	5	.....	7
Korea, Democratic People's Republic of (North)	.....	.....	.....	5	.....	7
Korea, Republic of (South)	5	5	8	5	4	7
Kuwait	11	10	.....	5	7	8
Kyrgyzstan	6	6	7	5	8	5
Laos	9	9	9	5	8	7
Latvia	7	6	6	5	8	5
Lebanon	.....	10	.....	5	7	8
Lesotho	11	11	11	5	8	8
Liberia	10	10	.....	5	8	8
Libya	.....	7	7	5	.....	8
Liechtenstein	7	7	6	3	6	3
Lithuania	6	6	7	5	8	5
Luxembourg	7	7	6	3	3	3
Macao	8	9	9	5	3	5
Macedonia, Republic of	7	6	7	5	8	5
Madagascar	10	11	11	5	8	8
Malawi	10	11	11	5	8	8
Malaysia	8	8	8	5	4	7
Maldives	9	9	9	5	8	8
Mali	10	10	11	5	8	8
Malta	7	7	7	5	6	8
Marshall Islands	13	14	13	6	.....	3
Martinique	12	13	12	5	3	6
Mauritania	10	10	11	5	8	8
Mauritius	10	10	10	5	8	8
Mexico	2	2	2	2	2	2
Micronesia, Federated States of	13	14	13	6	.....	3
Moldova	6	7	7	5	8	8
Mongolia	9	9	9	5	8	7
Montserrat	.....	8	8	5	3	6
Morocco	11	10	11	5	8	8
Mozambique	10	11	11	5	8	8
Namibia	11	11	11	5	8	8
Nauru	8	8	8	5	.....	7
Nepal	8	9	9	5	8	7
Netherlands	7	7	6	3	3	3
Netherlands Antilles	12	12	12	5	3	6
New Caledonia	9	9	9	5	5	7
New Zealand	8	8	8	4	4	4
Nicaragua	12	12	12	5	5	6
Niger	10	10	10	5	8	8
Nigeria	11	10	10	5	8	8
Norway	7	7	6	3	6	3
Oman	11	10	.....	5	7	8
Pakistan	8	9	8	5	7	8
Panama	12	12	12	5	5	6
Papua New Guinea	8	9	9	5	5	7
Paraguay	12	13	12	5	5	6
Peru	12	13	12	5	5	6
Philippines	8	9	8	5	4	7
Pitcairn Island	.....	8	8	5	.....	7
Poland	6	6	6	5	8	5
Portugal	7	7	7	3	6	3
Qatar	11	10	.....	5	7	8
Reunion	.....	13	12	5	8	8
Romania	6	7	7	5	8	5
Russia	7	7	7	5	8	5
Rwanda	10	10	11	5	8	8
St. Christopher (St. Kitts) & Nevis	12	12	12	5	3	6

COUNTRY RATE GROUP LIST—Continued

Country	EMS	Airmail parcel post	Economy parcel post	Letter-post	GXG	IPA & ISAL [1]
Saint Helena		11	11	5		8
Saint Lucia	12	12	12	5	3	6
Saint Pierre & Miquelon		6	6	5		6
Saint Vincent & Grenadines	12	13	12	5	3	6
San Marino	7	7	8	3	3	3
Sao Tome & Principe		10	10	5		5
Saudi Arabia	10	10	10	5	7	8
Senegal	11	10	10	5	8	8
Serbia-Montenegro (Yugoslavia)	7	7	7	5	8	5
Seychelles	10	10	11	5	8	8
Sierra Leone	10	10		5		8
Singapore	8	8	8	5	3	7
Slovak Republic (Slovakia)	7	7	6	5	8	5
Slovenia	7	6	7	5	8	5
Solomon Islands	8	8	8	5		7
Somalia	10	10	10	5		8
South Africa	11	11	10	5	8	8
Spain	7	7	6	3	6	3
Sri Lanka	8	9	8	5	7	8
Sudan	10	11	11	5		8
Suriname		12	12	5	5	6
Swaziland	11	10	10	5	8	8
Sweden	7	7	7	3	6	3
Switzerland	7	7	6	3	6	3
Syrian Arab Republic (Syria)	10	10	10	5		8
Taiwan	8	9	8	5	3	7
Tajikistan	7	6	6	5		8
Tanzania	10	10	10	5	8	8
Thailand	9	8	8	5	4	7
Togo	11	10	10	5	8	8
Tonga		8	8	5		7
Trinidad & Tobago	12	12	12	5	3	6
Tristan da Cunha		10	11	5		8
Tunisia	11	10	10	5	8	8
Turkey	10	10	10	5	7	5
Turkmenistan	7	7	7	5	8	5
Turks & Caicos Islands		12	12	5	3	6
Tuvalu		8	8	5	8	7
Uganda	10	10	11	5	8	8
Ukraine	7	7	7	5	8	8
United Arab Emirates	10	10	10	5	7	8
Uruguay	12	13	12	5	5	6
Uzbekistan		7	7	5	8	8
Vanuatu	8	8	8	5	5	7
Vatican City	7	7	6	3	3	3
Venezuela	12	12	12	5	5	6
Vietnam	8	9	8	5	4	7
Wallis & Futuna Islands		9	9	5	4	7
Western Samoa	8	8	8	5		7
Yemen	10	10	11	5	7	8
Zambia	10	10	11	5	8	8
Zimbabwe	11	11	11	5	8	8

[1] ISAL service not available to all countries. See Individual Country Listings for availability.

INSURANCE

Parcel post indemnity not over	Canada	All other countries
$50	$1.35	$1.95
100	2.30	2.75
200	3.35	3.80
300	4.40	4.85
400	5.45	5.90
500	6.50	6.95
600	7.55	8.00
675	8.60	8.00
700		9.05
Add'l $100		1.05

Global express guaranteed indemnity not over	All countries
$100	No fee
Add'l $100 up to $2,499	0.75

SPECIAL SERVICES FEES [1]

Description	Fee
International Postal Money Orders	$3.45
International Reply Coupons	1.85
International Business Reply Card	0.85

SPECIAL SERVICES FEES [1]—Continued

Description	Fee
International Business Reply Envelope (up to 2 oz)	1.25
Customs Clearance and Delivery Fee	4.75

[1] Fees not tied to domestic fees.

* * * * *

We will publish an appropriate amendment to 39 CFR part 20 to reflect

these changes if our proposal is adopted.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 05–18260 Filed 9–14–05; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 20

International Mail: Republic of the Marshall Islands and Federated States of Micronesia

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Under an agreement negotiated by the United States government with the Republic of the Marshall Islands and the Federated States of Micronesia, mail destined to those two countries will now use the international rate schedules. This proposal would amend the *International Mail Manual* (IMM) to include the Republic of the Marshall Islands and the Federated States of Micronesia in all international products and services and add them to the individual country listings.

DATES: Submit comments on or before October 17, 2005.

ADDRESSES: Mail or deliver comments to the Manager, Mailing Standards, Attn: Obataiye Akinwole, U.S. Postal Service, 475 L'Enfant Plaza SW., RM 3436, Washington DC 20260–3436. You may also fax written comments to 202–268–4955. You may inspect and photocopy all written comments between 9 a.m. and 4 p.m., Monday through Friday, at USPS Headquarters Library, 11th Floor North, 475 L'Enfant Plaza SW., Washington DC.

FOR FURTHER INFORMATION CONTACT: Obataiye B. Akinwole at 202–268–7262, or Thomas P. Philson at 202–268–7355.

SUPPLEMENTARY INFORMATION: The United States government negotiated an agreement with two former United States Trust Territories, the Republic of the Marshall Islands and the Federated States of Micronesia. As a part of that agreement, mail destined to those two countries will now use the international rate schedules. As provided in the agreement, international rates will be phased in over a period of not less than five years, beginning no sooner than 2006.

For all international services with domestic equivalents, rates will be phased in using the difference between the domestic rates and the international rates. These services include Express Mail, Air Letters, Postcards, Publishers' Periodicals, Air Parcel Post, Economy Parcel Post, and Books and Sheet Music.

For international services without domestic equivalents, phased rates were derived by selecting a lower rate country group. After the phasing period, the Republic of the Marshall Islands and the Federated States of Micronesia will be in country group 5 for Economy Letter Post, Airmail M-Bags, and Economy M-Bags and country group 7 for International Priority Airmail (IPA). To phase in these rates over at least five years the Republic of the Marshall Islands and the Federated States of Micronesia have been assigned to country group 3 for those services during the first phase. Aerogramme service does not have a domestic equivalent; however, there is only one worldwide rate available.

Initially, three international services will not be offered for mail destined to the Republic of the Marshall Islands and the Federated States of Micronesia: Global Express Guaranteed® (GXG™), Global Priority Mail® (GPM), and International Surface Air Lift (ISAL). These services require special transportation arrangements and may be offered in the future.

The rates, fees, and conditions of mailing proposed in this notice, if adopted, would become effective concurrent with any domestic rates adopted as a result of the current proceedings before the Postal Rate Commission (Docket No. R2005–1). All regulatory changes necessary to implement this proposal are given below.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553 (b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to the *International Mail Manual* (IMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Amend the *International Mail Manual* (IMM) as follows.

COUNTRY RATE GROUP LIST

Country	EMS	Airmail parcel post	Economy parcel post rate	Letter-post rate	GXG rate	IPA [1] ISAL
Marshall Islands	13	14	13	6	.....	3
Micronesia, Federated States of	13	14	13	6	.....	3

[1] ISAL service not available to all countries. See Individual Country Listings for availability.

* * * * *

2 Conditions for Mailing

210 Global Express Guaranteed

* * * * *

213 Service Areas

* * * * *

213.2 Destinating Countries and Rate Groups

* * * * *

[Revise the Destinating Countries and Rate Groups table by adding "Marshall Islands, Republic of" and "Micronesia, Federated States of" as follows:]

Country	Document service rate group	Non-Document service rate group
Marshall Islands, Republic of	No Service	No Service.
Micronesia, Federated States of	No Service	No Service.

Country	Document service rate group	Non-Document service rate group
* * * * *	*	*

280 Parcel Post

* * * * *

283 Weight and Size Limits

* * * * *

283.23 Exceptional Size Limits

[Revise item b by adding the Republic of the Marshall Islands and the Federated States of Micronesia to read as follows:]

* * * * *

b. Maximum length: 60 inches
Maximum length and girth combined: 108 inches
Azerbaijan
Great Britain and Northern Ireland
Japan
Macao
Marshall Islands, Republic of
Micronesia, Federated States of

* * * * *

290 Commercial Services

* * * * *

292 International Priority Airmail Service

* * * * *

292.4 Preparation Requirements for Individual Items

* * * * *

292.44 Sortation Requirements for IPA

* * * * *

292.442 Presorted Mail

* * * * *

Exhibit 292.442 Foreign Exchange Office and Country Rate Groups

[Revise the Foreign Exchange Office and Country Rate Groups table by adding ''Marshall Islands, Republic of'' and ''Micronesia, Federated States of'' as follows:]

Rate group	Country	3-letter exchange office code	Exchange office
3	Marshall Islands, Republic of	MAJ	MAJURO.
3	Micronesia, Federated States of	PNI	POHNPEI.
*	* * * * *	*	*

294 Publishers' Periodicals

* * * * *

294.4 Makeup Requirements for Publishers' Periodicals

* * * * *

294.42 Sacking and Labeling

* * * * *

Exhibit 294.42 Publishers' Periodicals—All Countries (Except Canada) Labeling, Routing, and Rate Group Information

[Revise the Publishers' Periodicals labeling, routing, and rate group information table as follows:]

Destination exchange office code	Country	Routing code	Observations	Publishers' periodical rate group
MAJ	Marshall Islands, Republic of	945		6
PNI	Micronesia, Federated States of	945		6
*	* * * * *	*	*	*

World Map

[Insert the Republic of the Marshall Islands and the Federated States of Micronesia at map reference M5.]

* * * * *

World Map Index

[Add references for the Republic of the Marshall Islands and the Federated States of Micronesia to the world map index as follows:]

Micronesia, Federated States of—M5

Marshall Islands, Republic of—M5

* * * * *

Index of Countries and Localities

[Revise the references for the Republic of the Marshall Islands and the Federated States of Micronesia by removing the note ''See DMM 608'' and adding the appropriate IMM page number.]

* * * * *

Individual Country Listings

[Add an individual country listing for the Republic of the Marshall Islands.]

Country Conditions for Mailing—Marshall Islands, Republic of

Prohibitions (130)

None furnished.

Restrictions

None furnished.

Observations

None furnished.

Customs Forms Required (123)

Letter-post: PS Form 2976 or 2976–A (see 123.61)
Parcel Post: PS Form 2976–A inside 2976–E (envelope)

Size Limits

Letter-post: See 243.2
Parcel Post: Maximum length: 60 inches
Maximum length and girth combined: 108 inches

Postal/Post Cards (250) $0.34

Aerogrammes (250) $0.75 Enclosures NOT permitted

AIRMAIL LETTER-POST RATES

Weight not over (ozs.)	Letter-post rate
1	$0.48
2	0.85
3	1.20
4	1.55
5	1.90
6	2.25

AIRMAIL LETTER-POST RATES—Continued

Weight not over (ozs.)	Letter-post rate
7	2.60
8	2.95
12	4.25
16	5.35
20	6.45
24	7.55
28	8.65
32	9.75
36	10.90

AIRMAIL LETTER-POST RATES—Continued

Weight not over (ozs.)	Letter-post rate
40	12.00
44	13.15
48	14.25
52	15.40
56	16.55
60	17.65
64	18.80

Weight Limit: 64 ounces (4 lbs.)

AIRMAIL PARCEL POST RATES

Weight not over (lbs.)	Parcel post rate	Weight not over (lbs.)	Parcel post rate
1	$5.90	36	$50.30
2	6.75	37	51.55
3	8.20	38	52.85
4	9.60	39	54.05
5	11.00	40	55.25
6	12.20	41	56.50
7	13.40	42	57.70
8	14.75	43	58.95
9	16.05	44	60.15
10	17.25	45	61.40
11	18.55	46	62.60
12	19.80	47	63.85
13	21.10	48	65.05
14	22.35	49	66.25
15	23.60	50	67.45
16	24.90	51	68.70
17	26.15	52	69.90
18	27.45	53	71.15
19	28.70	54	72.35
20	30.00	55	73.60
21	31.20	56	74.80
22	32.50	57	76.05
23	33.80	58	77.25
24	35.05	59	78.50
25	36.35	60	79.70
26	37.55	61	80.95
27	38.85	62	82.10
28	40.15	63	83.40
29	41.40	64	84.55
30	42.70	65	85.85
31	43.90	66	87.00
32	45.20	67	88.25
33	46.50	68	89.45
34	47.75	69	90.70
35	49.00	70	91.95

Weight Limit: 70 lbs.

AIRMAIL DIRECT SACK TO ONE ADDRESSEE—M-BAGS (260)

Weight Not Over 11 lbs	$29.15
Each additional pound or fraction of a pound	2.65

Weight Limit: 4 pounds

Global Priority Mail (GPM) (230) Not Available

ECONOMY MAIL LETTER-POST RATES

Weight not over (ozs.)	Letter-post rate
16	$4.10
20	4.85
24	5.55
28	6.20

ECONOMY MAIL LETTER-POST RATES—Continued

Weight not over (ozs.)	Letter-post rate
32	6.85
36	7.50
40	8.15
44	8.80
48	9.45
52	10.10

ECONOMY MAIL LETTER-POST RATES—Continued

Weight not over (ozs.)	Letter-post rate
56	10.75
60	11.40
64	12.05

Weight Limit: 64 ounces (4 lbs.)

ECONOMY MAIL PARCEL POST RATES

Weight not over (lbs.)	Parcel post rates	Weight not over (lbs.)	Parcel post rate
5	$9.35	38	$23.40
6	9.85	39	23.70
7	10.40	40	24.10
8	10.85	41	24.45
9	11.35	42	24.80
10	12.30	43	25.15
11	12.80	44	25.45
12	13.20	45	25.80
13	13.65	46	26.15
14	14.10	47	26.50
15	14.55	48	26.85
16	15.00	49	27.20
17	15.40	50	27.50
18	15.80	51	27.85
19	16.20	52	28.20
20	16.60	53	28.55
21	17.05	54	28.90
22	17.40	55	29.20
23	17.85	56	29.55
24	18.30	57	29.90
25	18.70	58	30.20
26	19.10	59	30.55
27	19.45	60	30.90
28	19.85	61	31.25
29	20.20	62	31.55
30	20.55	63	31.90
31	20.95	64	32.20
32	21.30	65	32.55
33	21.65	66	32.85
34	22.05	67	33.20
35	22.40	68	33.50
36	22.65	69	33.85
37	23.00	70	34.20

Weight Limit: 70 lbs.

ECONOMY MAIL DIRECT SACK TO ONE ADDRESSEE—M-BAGS (260)

Regular:	
Weight Not Over 11 lbs	$17.05
Each additional pound or fraction of a pound	1.55
Books and Sheet Music:	
Weight Not Over 11 lbs	10.45
Each additional pound or fraction of a pound	0.95

Weight Limit: 66 lbs.

ECONOMY MAIL BOOKS AND SHEET MUSIC RATES (295)

Weight not over (ozs.)	Rate
16	$1.80
20	2.25
24	2.35
28	2.50
32	2.60
36	3.05
40	3.15
44	3.25
48	3.30
52	3.75
56	3.85
60	3.95
64	4.05

Weight Limit: 64 ounces (4 lbs.)

Note: This is a bulk mail service that is subject to a minimum entry requirement of 200 pieces or 50 pounds of qualifying contents. See 295.

Matter for the Blind (270)

Free when sent as Economy Mail. Weight Limit: 15 lbs.

ECONOMY MAIL PUBLISHER'S PERIODICALS RATES (294)

Weight not over (ozs.)	Rate
1	$0.60
2	0.63
3	0.66
4	0.69
5	0.72
6	0.75
7	0.78
8	0.81
12	0.90
16	0.99
20	1.25
24	1.34
28	1.44
32	1.53
36	1.78
40	1.88
44	1.97
48	2.06
52	2.32
56	2.41
60	2.50
64	2.60

ECONOMY MAIL PUBLISHER'S PERIODICALS RATES (294)—Continued

Weight not over (ozs.)	Rate

Weight Limit: 64 ounces (4 lbs.)

$.25 per pound discount for drop shipments tendered at the New Jersey International and Bulk Mail Center.

Special Services

Certificate of Mailing—See 313 for fees
COD and Certified—NOT for International Mail
Insurance (320)—NOT Available
International Business Reply Service (373)—NOT Available
International Money Order (371)—NOT Available
International Reply Coupons (372)—NOT Available
Recorded Delivery (360)—NOT Available
Registered Mail (330)—NOT Available
Restricted Delivery (350)—NOT Available
Return Receipt (340)—NOT Available
Global Express Guaranteed (210)—NOT Available

GLOBAL EXPRESS MAIL (EMS) (220)

Weight not over (lbs.)	Rate	Weight not over (lbs.)	Rate
0.5	$15.00	36	$99.70
1	19.35	37	102.00
2	20.10	38	104.40
3	23.65	39	106.75
4	27.15	40	109.15
5	30.60	41	111.55
6	34.10	42	114.00
7	37.55	43	116.30
8	39.55	44	118.70
9	41.65	45	120.90
10	43.60	46	122.95
11	45.95	47	125.20
12	49.05	48	127.35
13	51.55	49	129.40
14	53.30	50	131.55
15	55.30	51	133.75
16	57.50	52	135.85
17	59.65	53	138.05
18	61.75	54	140.15
19	63.80	55	142.30
20	65.95	56	144.50
21	68.05	57	146.60
22	70.15	58	148.80
23	72.30	59	151.00
24	74.35	60	153.35
25	76.45	61	155.85
26	78.60	62	158.20
27	80.65	63	160.55
28	82.80	64	163.05
29	84.90	65	165.40
30	87.00	66	167.90
31	89.15	67	170.30
32	91.30	68	172.90
33	93.30	69	175.40
34	95.50	70	177.90

GLOBAL EXPRESS MAIL (EMS) (220)—Continued

Weight not over (lbs.)	Rate	Weight not over (lbs.)	Rate
35	97.75		
Weight Limit: 70 lbs.			

Insurance (221.3)—NOT Available

Size Limits (223.2)

Maximum length: 36 inches.
Maximum length and girth combined: 79 inches.
Return Receipt Service (221.4): NOT Available.
Reciprocal Service Name: There is no reciprocal service.
Country Code: MH.
Areas Served: All.

* * * * *

[*Add an individual country listing for the Federated States of Micronesia.*]

Country Conditions for Mailing—Micronesia, Federated States of Prohibitions (130)

None furnished.

Restrictions

None furnished.

Observations

None furnished.

Customs Forms Required (123)

Letter-post: PS Form 2976 or 2976–A (see 123.61).
Parcel Post: PS Form 2976–A inside 2976–E (envelope).

Size Limits

Letter-post: See 243.2.
Parcel Post: Maximum length: 60 inches.
Maximum length and girth combined: 108 inches.
Postal/Post Cards (250) $0.34.
Aerogrammes (250) $0.75 Enclosures NOT permitted.

AIRMAIL LETTER-POST RATES

Weight not over (ozs.)	Letter-post rate
1	$0.48
2	0.85
3	1.20
4	1.55
5	1.90

AIRMAIL LETTER-POST RATES—Continued

Weight not over (ozs.)	Letter-post rate
6	2.25
7	2.60
8	2.95
12	4.25
16	5.35
20	6.45
24	7.55
28	8.65
32	9.75
36	10.90
40	12.00
44	13.15
48	14.25
52	15.40
56	16.55
60	17.65
64	18.80
Weight Limit: 64 ounces (4 lbs.)	

AIRMAIL PARCEL POST RATES

Weight not over (lbs.)	Parcel post rate	Weight not over (lbs.)	Parcel post rate
1	$5.90	36	$50.30
2	6.75	37	51.55
3	8.20	38	52.85
4	9.60	39	54.05
5	11.00	40	55.25
6	12.20	41	56.50
7	13.40	42	57.70
8	14.75	43	58.95
9	16.05	44	60.15
10	17.25	45	61.40
11	18.55	46	62.60
12	19.80	47	63.85
13	21.10	48	65.05
14	22.35	49	66.25
15	23.60	50	67.45
16	24.90	51	68.70
17	26.15	52	69.90
18	27.45	53	71.15
19	28.70	54	72.35
20	30.00	55	73.60
21	31.20	56	74.80
22	32.50	57	76.05
23	33.80	58	77.25
24	35.05	59	78.50
25	36.35	60	79.70
26	37.55	61	80.95
27	38.85	62	82.10
28	40.15	63	83.40
29	41.40	64	84.55
30	42.70	65	85.85

AIRMAIL PARCEL POST RATES—Continued

Weight not over (lbs.)	Parcel post rate	Weight not over (lbs.)	Parcel post rate
31	43.90	66	87.00
32	45.20	67	88.25
33	46.50	68	89.45
34	47.75	69	90.70
35	49.00	70	91.95

Weight Limit: 70 lbs.

AIRMAIL DIRECT SACK TO ONE ADDRESSEE—M–BAGS (260)

Weight Not Over 11 lbs	$29.15
Each additional pound or fraction of a pound	2.65

Weight Limit: 66 pounds

Global Priority Mail (GPM) (230) NOT Available

ECONOMY MAIL LETTER-POST RATES

Weight not over (ozs.)	Letter-post rate
16	$4.10
20	4.85
24	5.55
28	6.20

ECONOMY MAIL LETTER-POST RATES—Continued

Weight not over (ozs.)	Letter-post rate
32	6.85
36	7.50
40	8.15
44	8.80
48	9.45
52	10.10

ECONOMY MAIL LETTER-POST RATES—Continued

Weight not over (ozs.)	Letter-post rate
56	10.75
60	11.40
64	12.05

Weight Limit: 64 ounces (4 lbs.)

ECONOMY MAIL PARCEL POST RATES

Weight not over (lbs.)	Parcel post rate	Weight not over (lbs)	Parcel post rate
5	$9.35	38	$23.40
6	9.85	39	23.70
7	10.40	40	24.10
8	10.85	41	24.45
9	11.35	42	24.80
10	12.30	43	25.15
11	12.80	44	25.45
12	13.20	45	25.80
13	13.65	46	26.15
14	14.10	47	26.50
15	14.55	48	26.85
16	15.00	49	27.20
17	15.40	50	27.50
18	15.80	51	27.85
19	16.20	52	28.20
20	16.60	53	28.55
21	17.05	54	28.90
22	17.40	55	29.20
23	17.85	56	29.55
24	18.30	57	29.90
25	18.70	58	30.20
26	19.10	59	30.55
27	19.45	60	30.90
28	19.85	61	31.25
29	20.20	62	31.55
30	20.55	63	31.90
31	20.95	64	32.20
32	21.30	65	32.55
33	21.65	66	32.85
34	22.05	67	33.20
35	22.40	68	33.50
36	22.65	69	33.85

ECONOMY MAIL PARCEL POST RATES—Continued

Weight not over (lbs.)	Parcel post rate	Weight not over (lbs)	Parcel post rate
37	23.00	70	34.20

Weight Limit: 70 lbs.

ECONOMY MAIL DIRECT SACK TO ONE ADDRESSEE—M–BAGS (260)

Regular:	
Weight Not Over 11 lbs	$17.05
Each additional pound or fraction of a pound	$1.55
Books and Sheet Music:	
Weight Not Over 11 lbs	10.45
Each additional pound or fraction of a pound	0.95

Weight Limit: 66 lbs.

ECONOMY MAIL BOOKS AND SHEET MUSIC RATES (295)

Weight not over (ozs.)	Rate
16	$1.80
20	2.25
24	2.35
28	2.50
32	2.60
36	3.05
40	3.15
44	3.25
48	3.30
52	3.75
56	3.85
60	3.95
64	4.05

Weight Limit: 64 ounces (4 lbs.)

Note: This is a bulk mail service that is subject to a minimum entry requirement of 200 pieces or 50 pounds of qualifying contents. See 295.

Matter for the Blind (270)

Free when sent as Economy Mail. Weight limit: 15 lbs.

ECONOMY MAIL PUBLISHERS' PERIODICALS RATES (294)

Weight not over (ozs.)	Rate
1	$0.60
2	0.63
3	0.66
4	0.69
5	0.72
6	0.75
7	0.78
8	0.81
12	0.90
16	0.99
20	1.25
24	1.34
28	1.44
32	1.53
36	1.78
40	1.88
44	1.97
48	2.06
52	2.32
56	2.41
60	2.50
64	2.60

ECONOMY MAIL PUBLISHERS' PERIODICALS RATES (294)—Continued

Weight not over (ozs.)	Rate

Weight Limit: 64 ounces (4 lbs.)

$0.25 per pound discount for drop shipments tendered at the New Jersey International and Bulk Mail Center.

Special Services

Certificate of Mailing—See 313 for fees
COD and Certified—NOT for International Mail
Insurance (320)—NOT Available
International Business Reply Service (373)—NOT Available
International Money Order (371)—NOT Available
International Reply Coupons (372)—NOT Available
Recorded Delivery (360)—NOT Available
Registered Mail (330)—NOT Available
Restricted Delivery (350)—NOT Available
Return Receipt (340)—NOT Available
Global Express Guaranteed (210)—NOT Available

GLOBAL EXPRESS MAIL (EMS) (220)

Weight not over (lbs.)	Rate	Weight not over (lbs.)	Rate
0.5	$15.00	36	$99.70
1	19.35	37	102.00
2	20.10	38	104.40
3	23.65	39	106.75
4	27.15	40	109.15
5	30.60	41	111.55
6	34.10	42	114.00
7	37.55	43	116.30
8	39.55	44	118.70
9	41.65	45	120.90
10	43.60	46	122.95
11	45.95	47	125.20
12	49.05	48	127.35

GLOBAL EXPRESS MAIL (EMS) (220)—Continued

Weight not over (lbs.)	Rate	Weight not over (lbs.)	Rate
13	51.55	49	129.40
14	53.30	50	131.55
15	55.30	51	133.75
16	57.50	52	135.85
17	59.65	53	138.05
18	61.75	54	140.15
19	63.80	55	142.30
20	65.95	56	144.50
21	68.05	57	146.60
22	70.15	58	148.80
23	72.30	59	151.00
24	74.35	60	153.35
25	76.45	61	155.85
26	78.60	62	158.20
27	80.65	63	160.55
28	82.80	64	163.05
29	84.90	65	165.40
30	87.00	66	167.90
31	89.15	67	170.30
32	91.30	68	172.90
33	93.30	69	175.40
34	95.50	70	177.90

Weight Limit: 70 lbs.

Insurance (*221.3*) NOT Available
Size Limits (*223.2*)
Maximum length: 36 inches
Maximum length and girth combined: 79 inches
Return Receipt Service (*221.4*): NOT Available
Reciprocal Service Name: There is no reciprocal service.
Country Code: FM
Areas Served: All

* * * * *

We will publish an amendment to 39 CFR part 20 to reflect these changes if our proposal is adopted.

Neva R. Watson,
Attorney, Legislative.

[FR Doc. 05–18259 Filed 9–14–05; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 090905A]

RIN 0648–AS66

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Gulf of Mexico Essential Fish Habitat Amendment

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

ACTION: Availability of fishery management plan amendment; request for comments.

SUMMARY: NMFS announces the availability of Generic Amendment 3 to the Fishery Management Plans (FMP) of the Gulf of Mexico (EFH Amendment 3) prepared by the Gulf of Mexico Fishery Management Council (Council). EFH Amendment 3 would amend each of the seven Council FMPs -coral and coral reef resources, coastal migratory pelagics, red drum, reef fish, shrimp, spiny lobster, and stone crab- to describe and identify essential fish habitat (EFH); minimize to the extent practicable the adverse effects of fishing on EFH; and encourage conservation and management of EFH. This amendment would establish additional habitat areas of particular concern (HAPC), restrict fishing activities within HAPCs to protect EFH, and require a weak link in bottom trawl gear to protect EFH. The intended effect of EFH Amendment 3 is to facilitate long-term protection of EFH, and, thus, better conserve and manage fishery resources in the Gulf of Mexico.

DATES: Written comments must be received no later than 5 p.m., eastern time, on November 14, 2005.

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

• E-mail: *0648–AS66.NOA@noaa.gov*. Include in the subject line the following document identifier: 0648–AS66–NOA.

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

• Mail: Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

• Fax: 727–824–5308, Attention: Peter Hood.

Copies of the Environmental Impact Statement (EIS) and EFH Amendment 3, which includes a Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analyses (IRFA), may be obtained from the Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: 813–348–1630; fax: 813–348–1711; e-mail: *gulfcouncil@gulfcouncil.org*.

FOR FURTHER INFORMATION CONTACT: Peter Hood, 727–824–5305; fax 727–824–5308; e-mail: *peter.hood@noaa.gov*.

SUPPLEMENTARY INFORMATION: EFH Amendment 3 addresses fisheries under the FMPs for coral and coral reef resources, coastal migratory pelagics, red drum, reef fish, shrimp, spiny lobster, and stone crab. The FMPs were prepared by the Council, except for the FMPs for coastal migratory pelagics and spiny lobster, which were prepared jointly by the South Atlantic and Gulf of Mexico Fishery Management Councils. All of these FMPs, except the spiny lobster and stone crab FMPs, are implemented under the authority of the

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. The FMP for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic is implemented by regulations at 50 CFR part 640. The FMP for the Stone Crab Fishery of the Gulf of Mexico is implemented by regulations at 50 CFR part 654.

EFH Amendment 3 would define EFH for each FMP and identify the following HAPCs: the Florida Middle Grounds, Madison-Swanson Marine Reserve, Tortugas North and South Ecological Reserves, Pulley Ridge, and the individual reefs and banks of the Northwestern Gulf of Mexico (East and West Flower Garden Banks, Stetson Bank, Sonnier Bank, MacNeil Bank, 29 Fathom, Rankin Bright Bank, Geyer Bank, McGrail Bank, Bouma Bank, Rezak Sidner Bank, Alderice Bank, and Jakkula Bank). The amendment also contains proposed alternatives to establish the following fishing restrictions in the Gulf of Mexico: (1) Prohibit bottom anchoring over coral reefs in the East and West Flower Garden Banks, McGrail Bank, Pulley Ridge, and North and South Tortugas Ecological Reserves HAPCs, and on the significant coral resources on Stetson Bank; (2) prohibit the use of trawling gear, bottom longlines, buoy gear, and all traps/pots on coral reefs in the East and West Flower Garden Banks, McGrail Bank, Pulley Ridge, and North and South Tortugas Ecological Reserves HAPCs, and on the significant coral communities on Stetson Bank; and (3) require a weak link in the tickler chain of bottom trawls on all habitats throughout the Gulf of Mexico exclusive economic zone. A weak link is defined as a length or section of the tickler chain that has a breaking strength less than the chain itself and is easily seen as such when visually inspected.

A proposed rule that would implement the measure outlined in EFH Amendment 3 has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Comments received by November 14, 2005, whether specifically directed to the FMP or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: September 9, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–18357 Filed 9–14–05; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 70, No. 178

Thursday, September 15, 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

Farm Service Agency

Addition of Eligible States for Beginning Farmer and Rancher Land Contract Guarantee Pilot Program

AGENCY: Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: This notice announces that the Farm Service Agency (FSA) is adding California, Minnesota, and Nebraska as eligible states to its Beginning Farmer and Rancher Land Contract Guarantee Pilot Program. Expanding the Pilot Program is intended to facilitate land transfers to a greater number of beginning farmers and ranchers.

DATES: FSA will accept applications from the additional states beginning on September 15, 2005.

ADDRESSES: General information may be obtained from the FSA Web site at *http://www.fsa.usda.gov* or the USDA, FSA office listed in your local telephone directory.

FOR FURTHER INFORMATION CONTACT: Trent Rogers, Senior Loan Officer, USDA, FSA, Farm Loan Programs Loan Making Division, STOP 0522, 1400 Independence Avenue, SW., Washington, DC 20250–0522; telephone (202) 720–1657; Facsimile (202) 720–6797; e-mail: *trent.rogers@wdc.usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: On September 4, 2003, FSA published a notice in the **Federal Register** announcing that funds were available for the Beginning Farmer and Rancher Land Contract Guarantee Pilot Program (68 FR 52557–52562). The notice provided the policies and procedures under which the program would be administered, including application requirements, evaluation criteria, servicing requirements, and policies for payment of the guarantee in case of default.

The pilot program is mandated by Section 310 F of the Consolidated Farm and Rural Development Act (7 U.S.C. 1936). That section provides that if the Secretary determines that the risk of such a program is comparable with the risk presented in the case of guarantees to commercial lenders, then:

> ''* * * the Secretary shall carry out a pilot program in not fewer than 5 States, as determined by the Secretary, to guarantee up to 5 loans per State in each of fiscal years 2003 through 2007 made by a private seller of a farm or ranch to a qualified beginning farmer or rancher on a contract land sale basis, if the loan meets applicable underwriting criteria and a commercial lending institution agrees to serve as escrow agent.''

The pilot program was originally made available in Indiana, Iowa, North Dakota, Oregon, Pennsylvania, and Wisconsin. By this notice FSA announces that the program is expanded to California, Minnesota, and Nebraska. All requirements of the current pilot program were provided in the notice of September 4, 2003, and remain in effect, except the definition of ''Pilot State,'' is revised to add California, Minnesota and Nebraska. The policies, procedures, and forms used in administration of the program are available at *http://www.fsa.usda.gov* and are contained in FSA handbooks which may be obtained from the information contact listed above or any local FSA office. The additional information collection burden requirements of this program were approved by the Office of Management and Budget and assigned OMB Control No. 0560–0228.

Signed in Washington, DC on September 8, 2005.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 05–18333 Filed 9–14–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: An Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Stayton, Oregon on Wednesday, October 5, 2005. The meeting is scheduled to begin at 6:30 p.m., and will conclude at approximately 8:30 p.m. The meeting will be held in the South Room of the Stayton Community Center located on 400 West Virginia Street in Stayton, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (Pub. L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. Tentative agenda items include project updates and season end reporting, Pearl Creek Guard Station restoration strategy subcommittee report, and future council membership.

A direct public comment period is tentatively scheduled to begin at 8 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to October 5th by sending them to Designated Federal Official Paul Matter at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designed Federal Official Paul Matter; Williamette

National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: September 9, 2005.

Dallas J. Emch,

Forest Supervisor.

[FR Doc. 05–18315 Filed 9–14–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Sanders County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Lolo and Kootenai National Forests' Sanders County Resource Advisory Committee will meet on September 15 at 7 p.m. in Thompson Falls, Montana for a business meeting. The meeting is open to the public.

DATES: September 15, 2005.

ADDRESSES: The meeting will be held at the Thompson Falls Courthouse, 1111 Main Street, Thompson Falls, MT 59873.

FOR FURTHER INFORMATION CONTACT: Randy Hojem, Designated Federal Official (DFO), District Ranger, Plains Ranger District, Lolo National Forest at (406) 826–3821.

SUPPLEMENTARY INFORMATION: Agenda topics include reviewing and making recommendations on proposed RAC projects for 2006, and receiving public comment. If the meeting location is changed, notice will be posted in the local newspapers, including the Clark Fork Valley Press, and Sanders County Ledger.

Dated: September 2, 2005.

Randy Hojem,

DFO, Plains Ranger District, Lolo National Forest.

[FR Doc. 05–18291 Filed 9–14–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Southwest Idaho Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393), the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will conduct a business meeting, which is open to the public.

DATES: Wednesday, September 21, 2005, beginning at 11 a.m.

ADDRESSES: USDA Forest Service, Payette National Forest, Council Ranger District, 500 East Whitely Avenue, Council, Idaho.

SUPPLEMENTARY INFORMATION: Agenda topics will include review and approval of project proposals, and is an open public forum.

FOR FURTHER INFORMATION CONTACT: Doug Gochnour, Designated Federal Officer, at 208–392–6681 or e-mail *dgochnour@fs.fed.us.*

Dated: September 9, 2005.

Richard A. Smith,

Forest Supervisor, Boise National Forest.

[FR Doc. 05–18318 Filed 9–14–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 43–2005]

Review of Foreign–Trade Zone Activity, Foreign–Trade Subzone 43D, Perrigo Company, Battle Creek Michigan, (Ibuprofen–Pharmaceutical Products)

Pursuant to authority under the Foreign–Trade Zones (FTZ) Act, as amended (19 U.S.C. 81a–81u), including Section 81(o)(c), and the regulations of the FTZ Board (15 CFR part 400), to monitor, review, and restrict activity affecting foreign–trade zone merchandise, a review is being initiated of activity related to certain merchandise at Foreign–Trade Subzone 43D, at the pharmaceutical products manufacturing facilities of the Perrigo Company, in the Battle Creek, Michigan, area.

In May 2003, the FTZ Board filed an application from the City of Battle Creek, Michigan, grantee of FTZ 43, requesting special–purpose subzone status with certain manufacturing authority for Perrigo. Subzone 43D was approved by the Foreign–Trade Zones (FTZ) Board on April 13, 2004 (Board Order 1326, 69 FR 21498, 4/21/04). The activity authorized by the FTZ Board included manufacturing over–the-counter pharmaceutical products containing ibuprofen, aspirin and acetaminophen. Subsequent to the issuance of the Board Order, additional information emerged which raised potential issues with respect to some of the ibuprofen–related information presented in the Perrigo application; that application had been among the bases for the FTZ Board's approval of manufacturing at Subzone 43D. The FTZ staff then conducted a preliminary inquiry into the matter and found that the additional information appeared to raise questions that warranted consideration by the FTZ Board.

The FTZ Board's review in this matter will consider whether new information requires modification of the authority granted for Subzone 43D with respect to ibuprofen and products containing ibuprofen. The review will focus primarily on updated information regarding: Perrigo's ibuprofen sourcing patterns and plans, and industry–wide patterns; international competition in finished products containing ibuprofen; potential effects on domestic suppliers; the scope of FTZ benefits for Perrigo; and the net economic effect of Perrigo's use of FTZ procedures with respect to these products.

Public comment is invited from interested parties. Information submitted for the record generally should be in a non–proprietary format. If there is a need to submit business proprietary information, it should be appropriately marked and accompanied by a public version. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. *Submissions Via Express/Package Delivery Services*: Foreign–Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building - Suite 4100W, 1099 14th St. NW, Washington, D.C. 20005; or

2. *Submissions Via the U.S. Postal Service*: Foreign–Trade-Zones Board, U.S. Department of Commerce, FCB - Suite 4100W, 1401 Constitution Ave. NW, Washington, D.C. 20230.

The closing period for their receipt is November 14, 2005.

Dated: September 8, 2005.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–18353 Filed 9–14–05; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–007, A–427–078, A–428–082, C–408–046]

Revocation of Antidumping Duty Findings and Countervailing Duty Order: Sugar from Belgium, France, Germany and the European Community

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

SUMMARY: On September 1, 2004, the Department of Commerce (''the Department'') initiated its second sunset review of the antidumping (''AD'') findings on sugar from Belgium, France, Germany and the countervailing duty (''CVD'') order on sugar from the European Community. *See Notice of Initiation of Five-year (''Sunset'') Reviews*, 69 FR 53408 (September 1, 2004). Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the International Trade Commission (''the ITC''), in its sunset review, determined that revocation of the AD findings on sugar from Belgium, France, Germany and the CVD order on sugar from the European Community (''EC'') would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Sugar From the European Union; Sugar from Belgium, France, and Germany*, 70 FR 52446 (September 2, 2005). Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1)(iii), the Department is revoking the AD findings on sugar from Belgium, France, Germany, and the CVD order on sugar from the EC.

EFFECTIVE DATE: October 28, 2004.

FOR FURTHER INFORMATION CONTACT: David Goldberger, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136.

SUPPLEMENTARY INFORMATION:

Scope of the Findings and Order

Imports covered by these AD findings are shipments of sugar, both raw and refined, with the exception of specialty sugars, from Belgium, France, and Germany. The finding on sugar from France excludes homeopathic sugar pellets meeting the following criteria: (1) composed of 85 percent sucrose and 15 percent lactose; (2) have a polished, matte appearance, and more uniformly porous than domestic sugar cubes; (3) produced in two sizes of 2 mm and 3.8 mm in diameter. *See Sugar from France; Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Finding*, 61 FR 40609 (August 5, 1996). The merchandise subject to these AD findings is currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 1701.11.05, 1701.11.10, 1701.11.20, 1701.11.50, 1701.12.05, 1701.12.10, 1701.12.50, 1701.91.05, 1701.91.10, 1701.91.30, 1701.99.05, 1701.99.1000, 1701.99.1090, 1701.99.5000, 1701.99.5090, 1702.90.05, 1702.90.10, 1702.90.20, 2106.90.42, 2106.90.44, and 2106.90.46. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the findings is dispositive.

Imports covered by this CVD order are shipments of sugar from the EC. This merchandise is currently classifiable under item numbers 1701.11.05, 1701.11.10, 1701.11.20, 1701.11.50, 1701.12.05, 1701.12.10, 1701.12.50, 1701.91.05, 1701.91.10, 1701.91.30, 1701.99.05, 1701.99.1090, 1701.99.5090, 1702.90.05, 1702.90.10, 1702.90.20, 2106.90.42, 2106.90.44, 2106.90.46 of the HTSUS. Specialty sugars are exempt from the scope of this order. On December 7, 1987, two interested parties, the United States Beet Sugar Association and the United States Cane Sugar Refiners' Association, requested a scope review of blends of sugar and dextrose, a corn–derived sweetner, containing at least 65 percent sugar. The merchandise is currently imported under HTSUS item number 1701.99.00. On June 21, 1990, the Department issued a final scope clarification memorandum, which determined that such blends are within the scope of the order, and that imports of such blends from the EC are subject to the corresponding CVD.

Background

On June 13, 1979, following affirmative injury determinations by the ITC, the Department of the Treasury (''Treasury'') issued antidumping duty findings on imports of sugar from Belgium, France, and Germany with country–wide rates of 103 percent for Belgian sugar, 102 percent for French sugar, and 121 percent for German sugar. *See Sugar from Belgium, France, and the Republic of Germany, Treasury Decision 79–167*, 44 FR 33878 (June 13, 1979). On July 31, 1978, Treasury issued its final determination finding that exports from the EC of sugar benefitted from bounties or grants within the meaning of section 303 of the Tariff Act of 1930. *See Final Countervailing Duty Determination, T.D. 78–253*, 43 FR 33237 (July 31, 1978). On September 1, 2004, the Department initiated, and the ITC instituted, sunset reviews of the AD and CVD orders on sugar from Belgium, France, Germany, and the European Community. *See Notice of Initiation of Five-year (''Sunset'') Reviews*, 69 FR 53408 (September 1, 2004). As a result of its review, the Department found that revocation of the AD orders would likely lead to continuation or recurrence of dumping, and notified the ITC of the magnitude of the margin likely to prevail were the orders to be revoked. *See Final Results of Expedited Sunset Reviews of Antidumping Duty Findings*, 70 FR 17231 (April 5, 2005). On September 2, 2005, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the AD findings on sugar from Belgium, France, Germany, and the CVD order on sugar from the EC would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Sugar From the European Union; Sugar from Belgium, France, and Germany*, 70 FR 52446 (September 2, 2005) and USITC Publication 3793 (August 2005), entitled Sugar from the European Union, and Sugar from Belgium, France, and Germany: Investigation Nos. 104–TAA–7 (Second Review) and AA1921–198–200 (Second Review).

Determination

As a result of the determination by the ITC that revocation of these AD findings and CVD order is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d) of the Act, is revoking the AD findings on sugar from Belgium, France and Germany and the CVD order on sugar from the EC. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is October 28, 2004 (*i.e.*, the fifth anniversary of the date of publication in the **Federal Register** of the notice of continuation of the AD findings and the CVD order). The Department will notify U.S. Customs and Border Protection to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after October 28, 2004, the effective date of revocation of the AD findings and the CVD order. The Department will complete any pending administrative reviews of these findings or order and will conduct

administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

These five-year sunset reviews and notice are in accordance with section 751(d)(2) and published pursuant to section 777(i)(1) of the Act.

Dated: September 9, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–5029 Filed 9–14–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–851]

Dynamic Random Access Memory Semiconductors from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review

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

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on dynamic random access memory semiconductors from the Republic of Korea for the period April 7, 2003, through December 31, 2003. We preliminarily find that certain producers/exporters under review received countervailable subsidies during the period of review. If the final results remain the same as these preliminary results, we will instruct U.S. Customs and Border Protection (''CBP'') to assess countervailing duties as detailed in the ''Preliminary Results of Review'' section of this notice.

Interested parties are invited to comment on these preliminary results (see the ''Public Comment'' section of this notice, below).

EFFECTIVE DATE: September 15, 2005.

FOR FURTHER INFORMATION CONTACT: Daniel J. Alexy, Cole Kyle, Natalie Kempkey or Marc Rivitz, Office of Antidumping/Countervailing Duty Operations, Office 1, Import Administration, U.S. Department of Commerce, Room 3069, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1540, (202) 482–1503, (202) 482–1698 or (202) 482–1382, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On August 11, 2003, the Department of Commerce (''the Department'') published a countervailing duty order on dynamic random access memory semiconductors (''DRAMS'') from the Republic of Korea (''ROK''). *See Notice of Countervailing Duty Order: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 47546 (August 11, 2003) (''*CVD Order*''). On August 3, 2004, the Department published a notice of ''Opportunity to Request Administrative Review'' for this countervailing duty order. On August 31, 2004, we received requests for review from Hynix Semiconductor, Inc. (''Hynix''), Infineon Technologies North America Corp., and Micron Technology, Inc. (''Micron''). In accordance with 19 CFR 351.221(c)(1)(i) (2004), we published a notice of initiation of the review on September 22, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 56745 (September 22, 2004) (''Initiation Notice'').

On October 19, 2004, we issued countervailing duty questionnaires to the Government of the Republic of Korea (''GOK'') and Hynix (formerly, Hyundai Electronics Industries Co., Ltd. (''HEI''). We received responses to these questionnaires in December 2004.

On November 30, 2004, we initiated an investigation of new subsidy allegations within the context of the first administrative review of the countervailing duty order on DRAMS from Korea. *See New Subsidy Allegations Memorandum from Ryan Langan to Susan Kuhbach*, dated November 30, 2004, available at the Central Records Unit (''CRU''), Room B–099 of the main Department building.

On March 25, 2005, we published a postponement of the preliminary results in this review until August 31, 2005. *See Dynamic Random Access Memory Semiconductors from the Republic of Korea: Extension of Time Limit for Preliminary Results of Countervailing Duty Review*, 70 FR 15293 (March 25, 2005).

We issued supplemental questionnaires to the GOK and Hynix in May and June 2005, and received responses to these supplemental questionnaires in June and July 2005. Hynix and Micron submitted pre–preliminary results comments and rebuttal comments in July and August 2005.

Scope of the Order

The products covered by this order are DRAMS from the Republic of Korea, whether assembled or unassembled. Assembled DRAMS include all package types. Unassembled DRAMS include processed wafers, uncut die, and cut die. Processed wafers fabricated in the ROK, but assembled into finished semiconductors outside the ROK are also included in the scope. Processed wafers fabricated outside the ROK and assembled into finished semiconductors in the ROK are not included in the scope.

The scope of this order additionally includes memory modules containing DRAMS from the ROK. A memory module is a collection of DRAMS, the sole function of which is memory. Memory modules include single in–line processing modules, single in–line memory modules, dual in–line memory modules, small outline dual in–line memory modules, Rambus in–line memory modules, and memory cards or other collections of DRAMS, whether unmounted or mounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules that contain additional items which alter the function of the module to something other than memory, such as video graphics adapter boards and cards, are not included in the scope. This order also covers future DRAMS module types.

The scope of this order additionally includes, but is not limited to, video random access memory and synchronous graphics random access memory, as well as various types of DRAMS, including fast page–mode, extended data–out, burst extended data–out, synchronous dynamic RAM, Rambus DRAM, and Double Data Rate DRAM. The scope also includes any future density, packaging, or assembling of DRAMS. Also included in the scope of this order are removable memory modules placed on motherboards, with or without a central processing unit, unless the importer of the motherboards certifies with CBP that neither it, nor a party related to it or under contract to it, will remove the modules from the motherboards after importation. The scope of this order does not include DRAMS or memory modules that are re–imported for repair or replacement.

The DRAMS subject to this order are currently classifiable under subheadings 8542.21.8005 and 8542.21.8020 through 8542.21.8030 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The memory modules containing DRAMS from the ROK, described above, are currently classifiable under subheadings 8473.30.10.40 or 8473.30.10.80 of the HTSUS. Removable memory modules

placed on motherboards are classifiable under subheadings 8471.50.0085, 8517.30.5000, 8517.50.1000, 8517.50.5000, 8517.50.9000, 8517.90.3400, 8517.90.3600, 8517.90.3800, 8517.90.4400, and 8543.89.9600 of the HTSUS.

Scope Rulings

On December 29, 2004, the Department received a request from Cisco Systems, Inc. (''Cisco''), to determine whether removable memory modules placed on motherboards that are imported for repair or refurbishment are within the scope of the *CVD Order*. The Department initiated a scope inquiry pursuant to 19 CFR 351.225(e) on February 4, 2005. On June 16, 2005, the Department issued a preliminary scope ruling, finding that removable memory modules placed on motherboards that are imported for repair or refurbishment are within the scope of the *CVD Order. See Preliminary Scope Ruling Memorandum from Julie H. Santoboni to Barbara E. Tillman*, dated June 16, 2005. On July 5, 2005, and July 22, 2005, comments on the preliminary scope ruling were received from Cisco. On July 6, 2005, and July 15, 2005, comments were received from Micron. The final ruling is currently pending.

Period of Review

The period for which we are measuring subsidies, *i.e.*, the period of review (''POR''), is April 7, 2003, through December 31, 2003.

Changes in Ownership

Effective June 30, 2003, the Department adopted a new methodology for analyzing privatizations in the countervailing duty context. *See Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act*, 68 FR 37125 (June 23, 2003) (''*Modification Notice*''). The Department's new methodology is based on a rebuttable ''baseline'' presumption that non–recurring, allocable subsidies continue to benefit the subsidy recipient throughout the allocation period (which normally corresponds to the average useful life (''AUL'') of the recipient's assets). However, an interested party may rebut this baseline presumption by demonstrating that, during the allocation period, a change in ownership occurred in which the former owner sold all or substantially all of a company or its assets, retaining no control of the company or its assets, and that the sale was an arm's–length transaction for fair market value.

The *Modification Notice* explicitly addresses full privatizations, noting that the Department would not make a decision at that time as to whether the new methodology would also be applied to other types of ownership changes and factual scenarios, such as partial privatizations or private–to-private sales. 68 FR at 37136. However, starting with *Certain Pasta from Italy, Final Results of the Fifth Countervailing Duty Administrative Review*, 67 FR 52452 (August 6, 2002), we applied this methodology to a private–to-private sale of a company (or its assets) as well.

According to Hynix, in 2002, six different Hynix creditors that converted Hynix debt to equity as part of the October 2001 restructuring of the company, as well as Pusan Bank, sold all of that equity on the open market. Hynix reports that these shares accounted for 13.8 percent of Hynix outstanding shares as of the end of 2002, and 17.1 percent of the equity created as a result of Hynix's October 2001 restructuring plan. Hynix argues that the sale of this equity constitutes a change in ownership that rebuts the Department's baseline presumption that alleged non–recurring subsidies continue to benefit the recipient over the allocation period.

We preliminarily find that the percentage of ownership transferred as a result of the sale of these shares does not constitute a sale of all or ''substantially all'' of the company or its assets. Therefore, we find that Hynix has not rebutted the baseline presumption that the non–recurring, allocable subsidies received prior to the sale of the equity continue to benefit the company throughout the allocation period.

Subsidies Valuation Information

Allocation Period

Pursuant to 19 CFR 351.524(b), non–recurring subsidies are allocated over a period corresponding to the AUL of the renewable physical assets used to produce the subject merchandise. Section 351.524(d)(2) of the Department's regulations creates a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (the ''IRS Tables''). For DRAMS, the IRS Tables prescribe an AUL of five years. During this review, none of the of the interested parties disputed this allocation period. Therefore, we continue to allocate non–recurring benefits over the five–year AUL.

Discount Rates and Benchmarks for Loans

Long–Term Rates

For loans that were found countervailable in the investigation and which continued to be outstanding during the POR, we have used the same benchmarks that we used in the investigation.

For outstanding long–term loans that originated after the period of investigation, *i.e.*, since June 30, 2002, we have used an uncreditworthy benchmark calculated in accordance with 19 CFR 351.505(a)(3)(iii). *See* ''Creditworthiness'' *infra*. For the commercial interest rate charged to creditworthy borrowers required for the formula, we used the rate for AA-three–year won–denominated corporate bonds as reported by the Bank of Korea (''BOK''). For Hynix's foreign currency–dominated loans, we used lending rates as reported by the International Monetary Fund's (''IMF'') *International Financial Statistics Yearbook*. For the term of the debt, we used 5 years because all of the non–recurring subsidies examined were allocated over a 5–year period.

Short–Term Loans

For short–term loans, we utilized the money market rates reported in the IMF's International Financial Statistics Yearbook. However, for countries (or currencies) for which a money market rate was not reported, we utilized the lending rate.

Equityworthiness

As discussed below, some of Hynix's debt was converted to equity as part of the December 2002 restructuring. The petitioner alleged that Hynix was unequityworthy at the time of these debt/equity conversions and that the entire infusion should be treated as a countervailable grant.

Section 771(5)(E)(I) of the Tariff Act of 1930, as amended, effective January 1, 1995, by the Uruguay Round Agreements Act (''the Act''), and 19 CFR 351.507 state that, in the case of a government–provided equity infusion, a benefit is conferred if the investment decision is inconsistent with the usual investment practice of private investors. According to 19 CFR 351.507, the first step in determining whether an equity investment decision is inconsistent with the usual investment practice of private investors is examining whether, at the time of the infusion, there was a market price for similar, newly–issued equity. If so, the Department will consider an equity infusion to be inconsistent with the usual investment practice of private

investors if the price paid by the government for newly–issued shares is greater than the price paid by private investors for the same, or similar, newly–issued shares.

Where actual private investor prices are not available, pursuant to 19 CFR 351.507(a)(3)(i), the Department will determine whether the firm funded by the government–provided infusion was equityworthy or unequityworthy at the time of the equity infusion.

In making the equityworthiness determination, pursuant to 19 CFR 351.507(a)(4), the Department will normally determine that a firm is equityworthy if, from the perspective of a reasonable private investor examining the firm at the time the government–provided equity infusion was made, the firm showed an ability to generate a reasonable rate of return within a reasonable time. To do so, the Department normally examines the following factors:

(A) objective analyses of the future financial prospects of the recipient firm, (B) current and past indicators of the firm's financial health, (C) rates of return on equity in the three years prior to the government equity infusion, and (D) equity investment in the firm by private investors.

The Department's regulations further stipulate that the Department will ''normally require from the respondents the information and analysis completed prior to the infusion, upon which the government based its decision to provide the equity infusion.'' 19 CFR 351.507(a)(4)(ii). Absent an analysis containing information typically examined by potential private investors considering an equity investment, the Department will normally determine that the equity infusion provides a countervailable benefit. This is because, before making a significant equity infusion, it is the usual investment practice of private investors to evaluate the potential risk versus the expected return using the most objective criteria and information available.

The Department examined the circumstances leading up to Hynix's December 2002 restructuring. This restructuring resulted in the refinancing of some debt and the conversion of other debt to equity.

Shortly after Hynix's October 2001 restructuring package was adopted, Hynix's Corporate Restructuring Promotion Act Creditors' Council established a Special Committee for Corporate Restructuring (''Restructuring Committee'') that would more closely monitor Hynix' situation and fashion recommendations for enhancing the Council members' recovery of their investment. The Restructuring Committee was a sub–group of Hynix' principal creditors and outside consultants. The Restructuring Committee had explored the possibility of either securing a strategic alliance with other manufacturers in the DRAMS industry or selling Hynix.

On December 3, 2001, the Restructuring Committee initiated negotiations with Micron Technologies to sell Hynix's memory division and a stake in Hynix's non–memory operations. Although the Creditors' Council approved a Memorandum of Understanding (''MOU'') between the two companies, Hynix's Board of Directors ultimately rejected the MOU, largely due to concerns over the fate of Hynix's non–memory division. *See* Hynix's December 17, 2004, Questionnaire Response at III–14–15.

Following this decision by Hynix's Board, the Restructuring Committee continued its evaluation of Hynix's operations and the measures necessary to preserve the creditors' existing investment in the company and to position the company and/or its assets for future sale. *Id.* at III–15. Pursuant to this endeavor, the Korea Exchange Bank, Hynix's lead bank, retained Deutsche Bank (''DB'') and Morgan Stanley Dean Witter (''MSDW'') in May 2002 on behalf of the Creditors' Council.

Additionally, Arthur D. Little (''ADL'') was retained in May 2002 to assist DB in reviewing the outlook for the semiconductor market, Hynix's business portfolio, technical and marketing competitiveness, and Hynix's restructuring plan. Also, Deloitte and Touche (''DT'') was brought in as an independent accountant to perform a new appraisal of Hynix's liquidation value. In addition, De Dios & Associates provided DB with semiconductor market and price projections, and benchmarking. The final product of DB's analysis was the November 2002 report (''DB Report '') and recommendations. *Id.* at III–15–16.

The DB Report outlined three basic courses of: (1) liquidation, (2) sale of Hynix's memory operations, or (3) continued commitment to a turnaround of the company. Regardless of the option chosen, DB concluded that a financial restructuring in the immediate term was necessary to allow time for the exploration and pursuit of these three options because otherwise, Hynix would run out of cash in the first quarter of 2003 given its balance sheet and operating plan at that time. Ultimately, because of the uncertainty surrounding the timing and duration of a liquidation process or a sale of memory assets, which could affect actual recovery for the creditors, the DB Report recommended sequential action, focusing first on a new financial restructuring of the company, followed by parallel pursuits of a turnaround of the company and a sale of its memory operations. Liquidation was proposed only as a fall–back option. In addition to this basic recommendation, the DB Report provided a more detailed financial restructuring plan. *Id.* at III–16–17.

Based on the DB analysis and proposed restructuring plan, the Restructuring Committee requested the approval of the full Creditors' Council to move ahead with the DB Plan. *Id.* at III–17. According to Hynix, the plan was adopted by the Creditors' Council on December 30, 2002, as the best means of maximizing loan recovery and increasing shareholders' value. Under the terms of the restructuring, the Restructuring Committee would continue to search for prospective buyers of Hynix's noncompetitive and memory business units. Hynix would continue a self–rescue plan as outlined by DB, with regular reports provided to the creditors on the performance of that plan. Finally, the creditors would engage in a new round of debt restructuring, focusing on a new debt–to-equity conversion and the restructuring and rescheduling of interest payments on remaining debt. *Id.*

The debt/equity swap was effected as part of a restructuring plan by DB, and reflected in a November 2002 report by DB (''DB Report''), prepared at the behest of KEB and pursuant to the Restructuring Committee's goal of preserving existing investment in Hynix, and repositioning the company for possible future sale. Under the terms of the restructuring, half of the value of unsecured debt held by the creditors was converted to equity or to bonds convertible to equity. Specifically, 1,849,156 million won of the debt was converted to common stock and 12,393 million won was converted to convertible bonds. One creditor, C&H Capital, exercised its appraisal rights under the CRPA rather than sign on to the new restructuring. *Id.* at III–17–18.

On April 15, 2003, Hynix issued 193,904,000 common shares to those creditors who elected in the December 2002 restructuring to convert the debt owed to equity.

On August 8, 2003, certain of the bonds received with the December 2002 restructuring were converted to equity. For the remaining convertible bonds, the bondholders are required to exercise the conversion rights between July 15, 2003 and December 24, 2006. *Id.* at III–18.

The remaining debt was refinanced on December 30, 2002, extending its maturity until December 31, 2006. In addition, some prospective interest was scheduled to be converted into principal. Specifically, it was determined that interest would be paid at a rate of 3.5 percent, according to the existing (pre–restructuring) payment schedule of the debt instrument in question. Any interest owed in excess of 3.5 percent would convert into principal at the end of each semi–annual period. A maturity date of December 31, 2006, was set for this interest to be converted to principal, in line with the extended maturity on the refinanced debt. Interest on this new principal was set at 6 percent per annum, to be paid on a quarterly basis. *Id.*

The DB Report projected a favorable turnaround for Hynix following the proposed restructuring. However, that turnaround was predicated on optimistic assumptions about the market and the company, which were not shared by other independent analyses in the record. In addition, prior to and during the restructuring, independent analyses raised strong concerns about Hynix's viability and future survival. While the DB Report forecast Hynix to be nearly debt–free by 2006, it was predicated upon certain predictions regarding DRAM prices and capital expenditures, and it was not certain that these scenarios would come to pass.

The Petitioner provided additional analyst reports to bolster its claim that Hynix's stability and future were precarious.

• ''We do not foresee the company returning to profit within our forecast period (to 2004). Also, large net losses should continue to eat away at retained earnings, diminishing book value. Hynix is technically bankrupt, kept alive only through debt restructuring programs.'' Also, ''If Hynix obtains a significant bailout package and increases production, we believe that the market is likely to be oversupplied in 2003.'' Morgan Stanley Hynix Semiconductor Equity Research (September 25, 2002), at Petitioner's September 27, 2004, submission, at Exhibit 15.

• ''We are increasingly concerned about Hynix's dismal earnings prospects. We are cutting 02–03 estimates into deficit territory as cost improvements and supply growth is constrained by lack of investment in the process technology upgrade. Moreover, the sharp decline prices coupled with weakening demand for sync DRAM pose risk of amounting losses. We reiterate our sell rating on the stock.'' Merrill Lynch: Hynix Semiconductor, Inc: Comment (September 27, 2002), at Petitioner's April 25, 2005, Factual Information Submission (''FIS''), at Volume 44, Exhibit A–12.

•''Unfortunately, the bad news is that the company is over a generation behind in shrink technology compared to market leaders due to lack of capex in the past two years'' and ''...the risks of dilution from a debt–to-equity swap and write–down plans present a negative investment case. We maintain our sell recommendation.'' Merrill Lynch: Hynix Semiconductor, Inc: Comment (November 27, 2002), at Petitioner's April 25, 2005, FIS, at Volume 44, Exhibit A–13.

• ''Creditors cannot afford to nurse the company back to health. Hynix is technically bankrupt, kept alive only through debt restructuring programs. Whatever the outcome, the message is clear to investors: *Hynix is not an investment grade company.*'' Morgan Stanley Hynix Semiconductor Equity Research (February 13, 2003), at Petitioner's September 27, 2004, submission, at Exhibit 10.

As these statements indicate, the DB report ran counter to the prevailing wisdom at the time of the debt to equity conversions, namely that Hynix was not an investment grade company.

In addition, it is noteworthy that DB was retained by KEB, in its capacity as Hynix's lead bank. The Department has previously found that the KEB acted in accordance with the GOK's policy objectives and that the GOK has significant influence over the bank's lending decisions. *See Investigation Decision Memorandum* at 56. Our prior finding and the GOK's continued high level of ownership in the KEB call into question the independence of the bank from the GOK's policy regarding Hynix. During the POR, the GOK remained the bank's single largest shareholder. The Petitioner also claims that the GOK influenced the final conclusions that were presented to the Creditor's Council. According to Petitioner, ''the original restructuring plan endorsed by DB called for dividing and selling the company. Apparently, however, that was not the answer that the GOK was looking for...Another source reported that 'the government and the creditors group altered the original plan.' '' *See* Petitioners's Pre–Preliminary Comments on the Hynix Bailout, July 21, 2004, at 41. For these reasons, we do not find that the conclusions of the DB Report are completely independent, market–based assessments and, at the very least, should be scrutinized given the lack of outside investors or other corroborating projections from additional third–party financial analyst reports.

The Department has preliminarily determined that all but one of the creditors participating in the debt to equity conversions resulting from the December 2002 restructuring package were either government authorities or were entrusted or directed by the government to provide financial contributions to Hynix.

For the one creditor that we have preliminarily found was not directed by the GOK in connection with the Hynix restructuring during the POR, we must consider whether the price paid by this creditor for the equity constitutes a private investor price for the purposes of assessing whether the other creditors' decision to swap their debt for equity was consistent with the private investor standards in 19 CFR 351.507 and section 771(5)(E)(i) of the Act.

In the investigation, the Department looked at a similarly–situated creditor, Citibank. We found that the value of the equity acquired by Citibank in the October 2001 restructuring was insignificant within the meaning of 19 CFR351.507(a)(2)(iii). *See Investigation Decision Memorandum* at 90. *See, also, Preamble* at 65373 (citing to *Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Italy*, 60 FR 31992, 31994 (June 19, 1995)). Moreover, the Department also found that Citibank's participation was small relative to the total value of debt converted to equity by GOK–owned, controlled, or directed banks. *See Investigative Decision Memorandum* at 90.

In this review, we find that the value of the equity acquired by the creditor in question in connection with the December 2002 restructuring was similarly insignificant and small in comparison with that of the GOK–owned, controlled or directed banks combined. Consequently, the Department has preliminarily determined that the price paid by this creditor cannot serve as a benchmark for the purposes set forth under 19 CFR 351.507. Therefore, since there were no other private investor prices relevant to the December 2002 debt–for-equity swap, we next examined other indicators of Hynix's equityworthiness, pursuant to 19 CFR 351.507(a)(4).

As articulated further in the creditworthiness section below, current and past indicators showed the company to be in poor financial health. Hynix's profitability, solvency, liquidity and repayment capabilities were dire for the three years leading up to the December 2002 restructuring and continuing through the POR. Its net

profit margin, return on equity, and return on assets were all negative during this period. The debt–to-equity, current and quick ratios all demonstrate that Hynix was in danger of not being able to make all of its payments. This situation necessitated multiple debt restructurings. Given the overall economic situation of the firm and the DRAM industry, Hynix was hard pressed to find independent private investors. Moreover, the multiple debt restructurings resulted in Hynix being owned primarily by its creditor banks.

Based upon these factors, we preliminarily find that Hynix was unequityworthy at the time of the initiation and implementation of the December 2002 restructuring process through 2003.

Creditworthiness

The examination of creditworthiness is an attempt to determine if the company in question could obtain long–term financing from conventional commercial sources. *See* 19 CFR 351.505(a)(4). According to 19 CFR 351.505(a)(4)(I), the Department will generally consider a firm to be uncreditworthy if, based on information available at the time of the government–provided loan, the firm could not have obtained long–term loans from conventional commercial sources. In making this determination, according to 19 CFR 351.505(a)(4)(i), the Department normally examines the following four types of information: (1) the receipt by the firm of comparable commercial long–term loans, (2) present and past indicators of the firm's financial health, (3) present and past indicators of the firm's ability to meet its costs and fixed financial obligations with its cash flow, and (4) evidence of the firm's future financial position.

In the case of firms not owned by the government, the receipt by the firm of comparable long–term commercial loans, unaccompanied by a government–provided guarantee (either explicit or implicit), will normally constitute dispositive evidence that the firm is not uncreditworthy. *See* 19 CFR 351.505(a)(4)(ii). However, according to the *Preamble* to the Department's regulations, in situations where a company has taken out a single commercial bank loan for a relatively small amount, where a loan has unusual aspects, or where we consider a commercial loan to be covered by an implicit government guarantee, we may not view the commercial loan(s) in question to be dispositive of a firm's creditworthiness. *See Countervailing Duties: Final Rule*, 63 FR 65348, 65367 (November 28, 1998) (''*Preamble*'').

The Department examined Hynix's performance from January 1, 2000, to June 30, 2002, in the investigation and found the company to be uncreditworthy. According to record evidence, Hynix did not obtain any new medium–term or long–term credit during the period July 1, 2002, through December 31, 2003. *See* Hynix's June 1, 2005, Supplemental Questionnaire Response at 20, 51. The only ''fresh'' loans resulted from the conversion of excess interest amounts, above 3.5 percent, from prior loans. Thus, these loans would not be dispositive of Hynix's creditworthiness. *See* Hynix's December 17, 2004, Questionnaire Response at 18–20.

We note that a creditor found not to be entrusted or directed by the GOK participated in the December 2002 debt restructuring. Our preliminary finding that credit extended by this lender does not constitute a comparable commercial long–term loan within the meaning of 19 CFR 351.505(a)(4)(i)(A) is addressed in a separate memorandum because of the proprietary nature of the analysis.

Pursuant to 19 CFR 351.505(a)(4)(i), we next examined present and past indicators of Hynix's financial health, its ability to meet its costs and fixed financial obligations with its cash flow, and various projections of Hynix's future financial position. In accordance with the Department's usual practice, we conducted the examination on a year–by-year basis, for the years 2002 and 2003. *See Preamble*, 63 FR at 65367; *see also Calculation Memorandum*. We also reviewed, from information on the record, projections by market watchers of Hynix's future performance, contemporaneous with the December 2002 debt restructuring.

Hynix's financial record generally indicated poor financial performance and inadequate current assets to cover the company's current liabilities. Specifically, Hynix's current and quick ratios were both below 1.0 for each year under consideration for the review, indicating poor ability by the company to cover current liabilities with current assets. Hynix's times–interest-earned ratios—which show the extent to which pre–tax income covers interest expense, and which creditors closely monitor to gauge exposure to the risk of default—were negative in 2001, 2002 and 2003, due to pre–tax losses. Hynix's net profit margins, as well as its return on assets and return on equity ratios, showed progressive deterioration: barely positive in 1999 and turning negative from 2000 through 2003. Finally, Hynix's cash flow to current debt and cash flow to total liabilities ratios, which indicate a company's bankruptcy risk, were extremely weak during the same period. These ratios were actually negative in 2001, in the single digits in 2002, and only modestly improved in 2003. Hynix's prolonged inability to generate sufficient cash flow was problematic and not indicative of a creditworthy company. *See Calculation Memorandum*.

Next, we examined the record for independent expert analyses regarding Hynix's future financial prospects. MSDW analyst reports in 2002 and 2003 expressed doubt as to Hynix's prospects for independent survival without additional help from its creditors. In March 2002, MSDW cautioned that the then current rebound in DRAMS prices was not enough for Hynix to compete globally on a stand–alone basis without the support of creditors. *See* Morgan Stanley Hynix Semiconductor Equity Research (March 7, 2002), at Petitioner's April 25, 2005, FIS, at Volume 46, Exhibit 274.

In September 2002, MSDW stated that, ''Hynix's chances of independent survival appear limited without more help from creditors'' and ''whatever the outcome, the message is clear to investors: Hynix is not an investment grade company.'' Morgan Stanley Hynix Semiconductor Equity Research (September 25, 2002), at Petitioner's September 27, 2004, submission, at Exhibit 9. MSDW postulated three possible outcomes for Hynix: (1) liquidation at a rock–bottom price, (2) continued operation with a deterioration of Hynix's market position, and (3) another bailout with partial debt forgiveness, debt restructuring, and a debt–to-equity swap. Another concern was Hynix's lack of investment in technology and other capital expenditures during the POR, which MSDW projected could erode its future competitiveness. *See* Morgan Stanley Hynix Semiconductor Equity Research (February 13, 2003), at Petitioner's September 27, 2004, submission, at Exhibit 10.

We note that DB's November 2002 Report, as discussed more fully in the equityworthiness section above, presented a more positive outlook for Hynix's future financial performance. According to the DB Report, Hynix would be debt–free by 2006, assuming that the company successfully implemented its technology roadmap, capital expenditure plan, and that DRAMS prices recovered by 2005/2006. *See* Hynix's July 11, 2005, Questionnaire Response, Exhibit 23; *see also* Hynix's December 17, 2004 Questionnaire Response, Exhibit 14, 18. However, as also noted in the equityworthiness section above, these

assumptions were not shared by other independent analyses on the record and not consistent with the indications from Hynix's past performance.

On the basis of these considerations, we preliminarily find that Hynix was uncreditworthy in 2002 and 2003. Consequently, we have used an uncreditworthy benchmark rate in calculating the benefit from loans received during this time period, and we have used an uncreditworthy discount rate in calculating any non–recurring benefits received by Hynix that were allocable to the POR.

Analysis of Programs

I. Programs Preliminarily Determined to Confer Subsidies During the POR

Entrustment or Direction and Other Financial Assistance

In the investigation, the Department determined that Hynix received financial contributions from Korean banks that had been entrusted or directed by the GOK. We reached this determination on the basis of a two–part test: First, we determined that the GOK had in place a governmental policy to support Hynix's financial restructuring to prevent to the company's failure. Second, we found that the GOK acted upon that policy through a pattern of practices to entrust or direct Hynix's creditors to provide financial contributions to Hynix. *See Investigation Decision Memorandum* at 47–61. We also found that ''this policy and pattern of practices continued throughout the entire restructuring process through its logical conclusion.'' *Id.*

The petitioner has alleged that an additional financial restructuring in December 2002 reflects a continuation of the government's policy to prevent Hynix's failure and that the GOK again entrusted or directed Hynix's creditors. For that restructuring, Hynix's creditors converted 1,856,771 million won of outstanding debt into equity, extended the maturities on 3,293.2 billion won of debt, and converted interest due into new long–term loans. *See* ''Hynix Semiconductors Inc.: Notes To Non–Consolidated Financial Statements,'' at numbered paragraph 14, *available at* Micron's ''Submission Of Rebuttal Factual Information,'' June 20, 2005, Volume 1, Tab 13, at 39–40.

As in the investigation, the question in this proceeding is whether the GOK entrusted or directed Hynix's creditors to provide financial contributions to Hynix, within the meaning of section 771(5)(B)(iii) of the Act.[1] Government entrustment or direction to provide a financial contribution constitutes a subsidy when providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments. *See* section 771(5)(B)(iii) of the Act.

The contributions in this case are loans and equity infusions. The provision of such contributions falls within section 771(5)(D) of the Act and therefore would normally be vested in the government, and the practice does not differ in substance from practices normally followed by governments. Entrustment or direction occurs when a government gives responsibility to, commits the execution of a task to, or exercises authority over, a private entity. Government actions which entail pressuring, exerting influence, guiding, ordering, regulating, or delegating *vis–a–vis* a private entity are indicative of entrustment or direction. Moreover, these actions need not be explicit. Rather, the government entrustment or direction can also be implicit or informal. Additionally, when a government executes its policy by operating through a private entity, or when a government causes a private entity to act consistently with that policy, there is entrustment or direction by the government. Evidence of entrustment or direction need not be explicit but, rather, entrustment or direction can be inferred from circumstantial evidence.

In examining the evidence on the record, we are mindful that we must evaluate carefully all possible explanations for the actions taken by Hynix's creditors, and that our conclusions must be made on the basis of the totality of the record facts. As we have noted, above, it is appropriate in cases involving government entrustment or direction to reach conclusions based on inferences from circumstantial evidence. Indeed, as in the investigation, much of the information regarding the GOK's involvement in the December 2002 Hynix restructuring is circumstantial in nature. Moreover, the probative value of such circumstantial evidence can be enhanced where the parties are found to be secretive or evasive with respect to information that is relevant and responsive to the investigating authority's analysis. This has been the case in this administrative review. Specifically, record evidence indicates that the GOK and Hynix's creditors were overly careful not to discuss publically their communications regarding Hynix because they feared potential trade remedy cases. Additionally, as discussed more fully, below, we are troubled by numerous instances during the course of this review, in which the GOK did not provide all of the information requested by the Department , including information that was later revealed in submissions by the petitioner. Such instances hinder our ability to fairly conduct a complete and accurate analysis of all of the evidence relevant for reaching a decision. Nonetheless, we preliminarily find on the basis of substantial record evidence that the GOK entrusted or directed Hynix's creditors to provide financial contributions to Hynix. We also find that it is appropriate to treat the circumstantial evidence in support of this conclusion as highly probative in light of the GOK's inadequate responses and the secretiveness under which the GOK and Hynix's creditors were operating at the time of the restructuring.

Hynix and the GOK claim that Hynix's creditors acted independently of the government and on a commercial basis when they provided new financial contributions to Hynix in connection with the December 2002 restructuring. We disagree. As we explain in detail, below, record evidence demonstrates that the GOK's policy to prevent Hynix's failure continued after the period of investigation. Record evidence also shows incontrovertibly that at the time of the December 2002 restructuring, Hynix was once again in dire financial straits and that the company desperately needed new financial assistance from its creditors in order to survive as a viable entity. Direct and indirect record evidence further demonstrates that the GOK entrusted or directed Hynix's creditors to provide that assistance.[2] At

[1] In evaluating the petitioner's allegation regarding the December 2002 restructuring, we continued to distinguish between those banks found to be ''government authorities'' within the meaning of section 771(5)(B) the Act, and banks found to be ''entrusted or directed'' by the GOK, within the meaning of section 771(5)(B)(iii) of the Act. *See Investigation Decision Memorandum* at 13–17. No new evidence or changed circumstances exist that would lead us to revisit our prior determination that the Korean Development Bank (''KDB'') and other ''specialized'' banks are government authorities and that the financial contributions made by these entities fall within section 771(5)(B)(i) of the Act. For all other financial institutions, we continued to evaluate whether the financial contributions they made to Hynix as part of the December 2002 restructuring were entrusted or directed by the GOK in accordance with section 771(5)(B)(iii) of the Act.

[2] This finding does not apply to Creditor X, a foreign-owned creditor holding a small amount of Hynix's debt. For further discussion on the role of this bank in the restructuring, *see* the ''Equityworthiness'' and ''Creditworthiness'' sections of this notice.

the time of the December 2002 restructuring, GOK–owned or controlled banks dominated the Creditor's Council, giving the GOK the means to effectuate its policy toward Hynix and allowing it to set the terms of the restructuring. Although Hynix and the GOK argue that the creditors were merely acting upon the plan devised by its financial advisors, record evidence shows that independent financial analysts not associated with Hynix or its creditors reached very different conclusions and issued consistent warnings about the company's viability. This evidence demonstrates that Hynix's condition was so dire that no commercially motivated actor would have invested in or made loans to Hynix at the time of the December 2002 restructuring. The absence of a compelling commercial rationale to provide more financial assistance to Hynix provides further evidence that the role of the GOK was critical in bringing about the December 2002 bailout.

The evidence on the record demonstrates that the GOK continued to worry that Hynix's collapse could have a damaging effect on the Korean economy, even after the last major bailout was completed in October 2001, and that the GOK was taking steps to deal with the company. In early 2002, after the company's merger negotiations with Micron, the U.S. DRAMS producer and petitioner in this case, ended in failure, the government again expressed its concern about the fate of Hynix. For example, after the merger talks with Micron ended, the Deputy Prime Minister stated that the government would soon reveal its position on how to handle Hynix. *See* ''Government Started to Establish a Counter Plan for the Handling of Hynix,'' Maeil Business Newspaper (May 1, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 45–189. Shortly thereafter, the Deputy Prime Minister stated in a radio program interview that ''the government is encouraging creditors group to swiftly handle Hynix.'' ''Encouraging Swift Handling Of Hynix' Deputy Prime Minister Yoonchol Chon,'' *HANKOOK Economy* (May 5, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 45–182. On the same day, the Deputy Prime Minister was quoted as saying that ''{w}riting off Hynix's debt would also be considered as fresh financial assistance'' and that Hynix's creditors and the FSC should come up with a speedy resolution to the breakdown of the Hynix–Micron deal to *minimize any negative impact on the economy*. *See* ''Creditors won't offer new loans to Hynix: Jeon,'' *Korea Herald* (May 5, 2002), Petitioner's April 25, 2005, FIS at 45–187. The article added that the government was planning a ''Financial Policy Coordination Meeting'' to discuss Hynix's fate, which would be attended by Finance and Economy Vice Minister Yoon Jin–shik, FSC Vice–Chairman Yoo Ji chang and Bank of Korea Deputy Governor Park chul. *Id.*

The government's ability to control the fate of Hynix became apparent in additional press reports from that time which noted that the head of the United Liberal Democratic Party, Kim Jong–pil, while visiting a Hynix plant in Cheongju, told Hynix labor union leaders they had ''. . .earned the promise from Vice Prime Minister and Minister of Finance and Economy that the government will not sell Hynix within the next six months.'' ''Hynix, cannot sell within the year after all,'' *Financial News* (June 12, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 45–163; *see also* ''Hynix Not To Be Sold Within 6 Months,'' Maeil Business Newspaper (May 29, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 45–172 (''. . . secured a promise that Hynix will not be sold in the next six months.'').

In its July 25, 2002, report to the National Assembly, the Ministry of Finance and Economy stated that it would prepare a structural adjustment plan for Hynix around the end of July based on due diligence underway at the time. *See* Report Materials for the Committee of Finance and Economy: Current Economic Situations and Pending Issues, (July 25, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 44–B–9. In September 2002, Vice Finance Minister Yoon Jin–Shik ''called on creditor banks of the cash–strapped Hynix Semiconductor to swiftly decide on the fate of the world's third largest chipmaker.'' The Vice Finance Minister was quoted as saying that ''{c}reditors will have to find a solution to Hynix as soon as possible to minimize an adverse impact (of the collapse of a proposed [sic] deal with Mircon Technology) on the economy.'' ''Creditors Urged to Swiftly Decide on Hynix's Future,'' *Korea Times* (September 19, 2002), Petitioner's April 25, 2005, FIS at 45–134.

In November 2002, on the eve of the presidential election and just before the December 2002 restructuring, the GOK was severely criticized by Korea's Grand National Party (''GNP'') which had completed a report in the National Assembly regarding the GOK's mismanagement of public funds in recent years. *See* Special Committee on Parliamentary Inspection of Public Fund Administration: Public Fund Mismanagement Investigation Report (November 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 54–100. A section of this report, entitled ''Why is the Dae–Jung Kim Administration so Preoccupied With the Bailout of Hyundai?,'' addressed the restructuring of Hynix, stating that the Dae–jung Kim Administration:

{F}orced financial institutions to extend 24.4 trillion {won} in loans to the Hyundai Group, and mobilized government–invested banks and other government–funded or invested institutions which are run with taxpayers' money, to extend 11.5 trillion won to the Hyundai Group. This resulted in the injection of the astronomical amount of 33.6 trillion won in total thus far, since the Hyundai Group's liquidity crisis in May 2000 (excluding the matching portion from the Korea Development Bank).

Id. at 100. This report further notes that, by saving the failing company, the GOK was ''injecting money into bottomless pits'' and should account for the total amount of public funds being provided to the Hyundai Group. Indeed, the GNP concluded that the government was wasting astronomical sums of money on failed companies, including Hynix, and that the Korean taxpayers had suffered the consequences. *Id.* at 104.

Immediately following the GNP report, the Financial Times reported in December 2002, that ''{w}ith 13,000 people directly employed by Hynix and a further 600,000 suppliers and family members dependent on the company, bankruptcy would have been politically damaging to the government ahead of this month's presidential election.'' *See* ''Pressure builds on Seoul over Hynix: Creditors are contemplating a third multi–billion dollar bail–out of the troubled chip maker amid mounting protest, says Andrew Ward,'' *Financial Times* (December 9, 2002), Petitioner's April 25, 2005, FIS at 45–93. Only one week after the December 2002 restructuring had been finalized, another report noted that an economic ministers' meeting, attended by President Dae–Jung Kim and Deputy Prime Minister Yoon Cheol Jeon, was held at the Blue House to set out ''plans for the year 2003 economy.'' At this meeting, GOK officials stated that they would ''try to conclude dealing with insolvent companies including Hanbo Steel and Hynix Semiconductor as soon as possible.'' ''2 or 3 New Urban Areas to be Developed in the Capital City Area ... Potential Locations to be Selected in the 1st Half of the Year,'' *Donga Daily* (January 9, 2003), *available* at Micron's

''Submission of Rebuttal Factual Information, July 21, 2005, at Tab 31.

These reports evidence undiminished support by the GOK for Hynix, motivated by its concern about the effect that the company's failure would have on the Korean economy. These reports also attest to the high–level involvement of GOK officials in the process leading up to the December 2002 restructuring. We also note that there is no evidence on the record that suggests the GOK's policies with respect to Hynix came to an abrupt end after the October 2001 restructuring. Rather, as we noted during the investigation, the government's goal was to ensure Hynix's viability as an ongoing concern. The October 2001 restructuring did not bring about this goal. Rather, as became apparent during 2002, especially after the merger negotiations with Micron ended, Hynix again found itself in dire need of additional financial assistance from its creditors, without which the company would have failed.[3]

By December 2002, Hynix once again faced the prospect of financial collapse. The GOK, however, had little difficulty effectuating its goal of preventing the company's failure, in part because the GOK–owned or controlled banks dominated the company's Creditors' Council. At the time of the December 2002 restructuring, the creditors which were either government entities or in which the GOK held the largest or a majority share accounted for over 80 percent of the voting rights in the Creditors' Council, measured by a banks' exposure to Hynix. Although government ownership by itself is not sufficient to result in a finding that a financial institution is a government entity, the high level of ownership by the government in Hynix's creditors gave it the ability to exercise substantial influence over the activities of these entities, including their lending decisions with regard to Hynix.

The GOK claims in its questionnaire responses that it does not intervene in the internal management and decision–making processes of financial institutions. *See* GOK's June 1, 2005, Questionnaire Response at 5. The GOK also reported, however, that, in ''important instances,'' it exercised its shareholder voting rights through its government entity banks (*e.g.*, KDIC). *Id.* at 31–33. Such ''important instances'' included, appointment and dismissal of directors or auditors, alteration of the ceiling of directors' remuneration, appointment of senior officers, exemption of directors' and auditors' indemnity responsibility to the shareholders, disposal of all assets of the bank, application for bankruptcy and liquidation by the bank, capital reductions, issuance of new shares, and mergers with related companies. *See* GOK's July 11, 2005, Questionnaire Response at 12–15. Given the significance of these ''instances,'' the Department finds that the GOK exercised substantial influence over those banks in which it retained ownership during the POR.

Furthermore, the record evidence from secondary sources contradicts the GOK's claim that it did not interfere in internal bank affairs. For instance, one report noted that if ''some argue that there are government–directed banking practice and parachute appointments, a counter argument that {sic} 'Why are you against the exercise of stockholder's right?' is presented.'' However, the report continues, the problem is that ''the government's exercise of shareholder's rights is politically motivated rather than by business considerations.'' ''{Government–Directed Banking Practices} Do Bank Officers {Belong to} the Government?,'' *Maeil Business Newspaper* (May 21, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 45–175. The article also reports that ''7 out of 10 commercial banks are essentially under government management'' and that it became ''reasonable for the government, as the majority shareholder, to sway the appointment of the Chairman of the bank.'' *Id.* Further, the article explained that ''strong influence of former officials appointed {as bank officials} after serving in the Ministry of Finance and Economy, and the Financial Supervisory Committee, {is} enabling the connection for the government–directed banking practices. . . .'' *Id.*

Another report cited the observations of Lee Phil–sang, the Dean of the Korea University's Business School, who noted that by ''. . .injecting large sums of public funds, the government nationalized banks and kept a firm grip on financial institutions via the Financial Supervisor Commission,'' and that ''{o}ut of ten existing commercial banks, the government is the major shareholder of seven banks. . .'' ''Soundness of Financial Sector Still Remains Remote,'' *The Korea Times* (September 2, 2002), Petitioner's April 25, 2005, FIS at 54–117. The article goes on to say that the ''government has publicly declared it will not intervene in bank management, even when it is the major shareholder, but whenever there is a major shakeup, such as the election of a CEO, the government has been known to exert pressure.'' Id. This observation is corroborated by reports from various other sources that the EXIM Bank and the BOK, which are shareholders in Korean Exchange Bank (''KEB''),[4] influenced the Presidential Candidate Recommendation Committee's recommendation of Kang Won Lee as KEB president, that the FSC's decision to remove the president of Kookmin was likely due to his opposition to Hynix's restructurings, and that officials at the KEB and Chohung Bank (''CHB'') resigned following a dispute with the GOK over the appointment of bank officers.[5]

Further corroboration of similar significant interference by the GOK is provided in another news article, which reported that any GOK denials regarding its involvement in Hynix's restructurings ''is merely a rhetorical remark for public consumption,'' and that whenever banks ''. . .shy away from providing support, the government has talked to them, or even twisted their arms, to bring support for Hynix.'' ''Hynix, will it really survive?,'' www.kyunghyang.com (February 18, 2003) {English Translation}, Petitioner's April 25, 2005, FIS at 21–B–51.

In a separate article, *Maeil Business Newspaper* quoted a current officer of a city bank as saying that ''the government always made a telephone call when the bank tried to process an insolvent corporation through bankruptcy, asking {the} bank's cooperation in consideration of employment issues and bankruptcy of subcontractors,'' and that ''the most typical of such a case would be the new financial support extended to Hynix Semiconductors.'' ''Revival of the new government–controlled finance? Giving oral instruction without written document to dodge responsibilities,'' *Maeil Business Newspaper* (March 31, 2003) {English Translation}, Petitioner's April 25, 2005, FIS at 47–B–23. The article further reported that, according to bank officers, such telephone calls were not mere suggestions, explaining that once ''they receive oral instructions

[3] For further discussion of Hynix's financial condition during the period leading up to the December 2002 restructuring, see the ''Equityworthiness'' and ''Creditworthiness'' sections of this notice, above.

[4] As discussed in more detail below, the KEB was the lead creditor in the Hynix Creditors' Council.

[5] *See* ''About the Case of Korea Exchange Bank,'' *Money Today* (May 13, 2002) ''English Translation'', Petitioner's April 25, 2005, FIS at 48–50; ''Revival of Government-Directed Banking'' *Munwha Ilbo* (September 13, 2004) {English Translation}, Petitioner's April 25, 2005, FIS at 44-B–15; ''Analysis: S. Korea's battle with bank,'' *United Press International* (January 3, 2005), Petitioner's April 25, 2005, FIS at 54–111; ''{Government-Directed Banking Practices} Do Bank Officers {Belong to} the Government?,'' *Maeil Business Newspaper* (May 21, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 45–175.

from the government agencies, banks have no choice but to comply.'' *Id.* One bank officer reportedly stated that ''banks cannot decline the government's instructions because not complying with the government's orders can lead to many disadvantages under the situation.'' *Id.*

As may be expected, evidence of the government's influence in the lending decisions of banks tends to come from indirect sources. This is especially the case where, as here, the government is concerned about potential trade actions taken against the subsidized company. However, in this case, the record also contains direct evidence of government involvement in the lending decisions of Hynix's creditors. For instance, in order to gain listing in the U.S. stock market, Woori Bank (''Woori''),[6] a GOK–owned or controlled bank, filed a disclosure with the U.S. Securities and Exchange Commission (''SEC'') that very frankly describes the GOK's practices with respect to the banking sector. *See* Form 20–F: Registration Statement: Woori Finance Holdings Co., Ltd. (September 25, 2003), *available at* Micron's ''Submission of Rebuttal Factual Information, July 21, 2005, at Tab 46 at 26–27. Such filings are subject to stringent transparency rules designed to protect investors, and the veracity of the accompanying statements entails serious litigation and liability risk for the company. Therefore, we consider these SEC filings to be highly probative evidence.

Woori's Form 20–F explains the risks related to GOK ownership and control of the bank, particularly the risks involved in governmental pressure to lend to certain industries. The filing states: **RISKS RELATING TO GOVERNMENT CONTROL**. The KDIC,[7] which is our controlling shareholder, is controlled by the Korean government and could cause us to take actions or pursue policy objectives that may be against your interests. The Korean government, through the KDIC, currently owns 86.8% of our outstanding common stock. So long as the Korean government remains our controlling stockholder, it will have the ability to cause us to take actions or pursue policy objectives that may conflict with the interests of our other stockholders. For example, in order to further its public policy goals, the Korean government could request that we participate with respect to a takeover of a troubled financial institution or encourage us to provide financial support to particular entities or sectors. Such actions or others that are not consistent with maximizing our profits or the value of our common stock may have an adverse impact on our results of operations and financial condition and may cause the price of our common stock and ADSs to decline. . . .

RISKS RELATING TO GOVERNMENT REGULATION. The Korean government promotes lending and financial support by the Korean financial industry to certain types of borrowers as a matter of policy, which financial institutions, including us, may decide to follow. Through its policy guidelines and recommendations, the Korean government has promoted and, as a matter of policy, may continue to attempt to promote lending by the Korean financial industry to particular types of borrowers. For example, the Korean government has in the past announced policy guidelines requesting financial institutions to participate in remedial programs for troubled corporate borrowers, as well as policies identifying sectors of the economy it wishes to promote and making low interest funding available to financial institutions that lend to these sectors. The government has in this manner encouraged low–income mortgage lending and lending to small- and medium–sized enterprises and technology companies. We expect that all loans or credits made pursuant to these government policies will be reviewed in accordance with our credit approval procedures. However, these or any future government policies may influence us to lend to certain sectors or in a manner in which we otherwise would not in the absence of that policy. *Id.*

Given the timing of these statements (shortly after the December 2002 restructuring and during its implementation), we find that the references to ''troubled corporate borrowers'' and ''technology companies'' strongly indicate that the risks discussed pertained at least in large part to the December 2002 restructuring of Hynix. As of December 31, 2002, Hynix represented Woori's largest exposure; the bulk of this exposure was ''classified as substandard or below;'' and Hynix was Woori's only substandard exposure that was also a technology company. *See id.* at 26–27, 75, 85. The Department finds the nexus of these facts to be highly probative. Thus, Woori's SEC disclosure provides crucial direct evidence of GOK interference in the lending decisions of GOK–owned or controlled banks with respect to Hynix.

The evidence on the record also demonstrates that Hynix's Creditor's Council was dominated by GOK-owned or controlled banks, which, as we already explained, were subject to significant government influence. This dominant position allowed the GOK to maintain a veto–proof margin in the Creditors' Council, which was governed by the Corporate Restructuring Promotion Act (''CRPA''). Under the CRPA, the decisions made by creditors holding 75 percent of a company's debt, and a corresponding 75 percent of the voting rights, are binding upon all the members. *See Investigation Decision Memorandum* at 54. In the investigation, the GOK–owned or controlled banks held a ''blocking majority'' in the Creditors' Council. At that time, the Department found that these banks ''had significant control over the plans that were approved by the councils, and could derail any plans with which they did not approve'' and that ''these banks were thus in a position to set the terms of the financial restructuring via their control of votes in the Hynix Creditors' Council.'' *Id.* at 51, 53. By comparison, at the time of the December 2002 restructuring, the GOK–owned or controlled banks and GOK entities accounted for greater than 75 percent voting rights in the Creditors' Council. *See* Hynix's June 1, 2005, Questionnaire Response at Exhibit S–38. As we explained in the investigation, the government's ability to dominate the Creditors' Council allowed it to determine the outcome of the Council meetings and entrust the continuation of its policy regarding Hynix to the Council. *See Investigation Decision Memorandum* at 54. The evidence on the record of this administrative review demonstrates that the government's ability to effectuate its policies through the Council was substantially enhanced by the dominant position held by GOK–owned or controlled banks, as described above.

As in the investigation, KEB continued to be the lead creditor bank in the Creditors' Council. In the investigation, the Department had found that the ''record evidence illustrates that the KEB acted in accordance with the GOK's policy objectives.'' See *Investigation Decision Memorandum* at 18. Specifically, the Department found that the KEB justified its participation in the various Hynix restructurings not on the basis of commercial considerations but for reasons that were aligned with

[6] As of December 2002, Woori Bank was a wholly-owned subsidiary of Woori Financial Group. *See* GOK's June 1, 2005 Supplemental Questionnaire Response at 29. Woori Financial Group is registered with the U.S. SEC as ''Woori Finance Holdings Co., Ltd.'' Woori Bank's financial disclosures are consolidated within the filing by Woori Finance Holdings Co., Ltd. Hereafter, the entities may be referred to interchangeably as ''Woori.''

[7] Korea Deposit Insurance Corporation.

the government's social and economic concern regarding the impact of Hynix's potential collapse. We find no evidence in this review that the KEB's motivations have changed since the investigation, especially given that the GOK remained the KEB's largest shareholder. As in the investigation, the GOK–owned or controlled KEB was the lead creditor at the time of the December 2002 restructuring and, thus, continued to play a pivotal role.

The KDB also played a very prominent role in the December 2002 restructuring and further consolidated the GOK's control over the Creditors' Council. As stated above, the Department considers the KDB to be a government authority. The KDB held a significant share of the voting rights on the Creditors' Council. *See* Hynix's June 1, 2005, Questionnaire Response at Exhibit S–38. In the investigation, the Department found that participation of the policy lending banks, such as the KDB, sent a clear signal of GOK support for the restructurings. *See Investigation Decision Memorandum at 57–58. Based on the record in this review, the Department* finds no evidence that this legitimizing role of the KDB did not continue with regard to the December 2002 restructuring. In this role, the record shows, the KDB pushed for decisions that became elemental to the restructuring plan. For instance, the *Hankook Economy* reported that the KDB discouraged the notion of selling Hynix and, instead, recommended its further restructuring. See '' 'HYNIX's sale is impossible at this point' Development Bank's Response to the National Assembly's Inspection,'' *Hankook Economy* (October 3, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 45–131. Further, another new article stated that the KDB and Hynix requested that bond maturities be extended on the grounds that Hynix was in financial distress and ''additional funding for facility investment is needed.'' '' 'Matured corporate bonds of 82.4 billion won must be redeemed' Korea Development Bank's request To Hynix,'' www.hankyung.com, (June 20, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 45–162. The KDB agreed to extend the maturities of 56 billion won of bonds. *Hankooki.com* quoted a source at the KDB as saying that ''{i}n principle, the 56 billion won maturing on {July 27, 2002} should be redeemed, but if that's difficult, we could first extend the deadline and handle that portion by including it in the restructuring plan slated to be established in the beginning of August.'' ''Korea Development Bank extends maturity on Hynix corporate bonds of 56 billion won,'' *Hankooki.com* (July 25, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 45–156. Hynix immediately announced that the KDB decided to extend maturities of Hynix's corporate bonds worth 56 billion won. *Id.* Thus, we find that KDB played a prominent role in the December 2002 restructuring and provided a clear signal to other creditors of GOK support for saving Hynix.

In addition, the evidence on the record demonstrates that other GOK–owned or controlled banks with substantial control over the Creditors' Council were significantly influenced by the GOK. As discussed above, Woori's SEC disclosure acknowledges government influence over its activities. During the POR, Woori was a wholly–owned subsidiary of Woori Financial Group, which in turn was 88.21 percent owned by the KDIC (a government entity), and had a significant share of voting rights on the Creditors' Council. *See* GOK's June 1, 2005, Questionnaire Response at 29; *see also* Hynix's June 1, 2005, Questionnaire Response at Exhibit S–38. Similarly, CHB was 80.05 percent directly owned by the KDIC, and also had a significant share of voting rights on the Creditors' Council. *Id.* By June 2003, the KDIC had injected 2.7 trillion won of public funds into CHB, a stake further solidified with an MOU between the two entities. *See* Board of Audit and Inspection: Current Government Funding & Management Conditions: Audit Report: May 2004 {English Translation}, Petitioner's April 25, 2005, FIS at 47–A–1 at 93; *see also* Ministry of Finance and Economy: Public Fund Oversight Commission: Public Fund Oversight White Paper: August 2003 {English Translation}, Petitioner's April 25, 2005, FIS at 47–A–2 at 293. Further, as indicated on CHB's website, CHB disburses GOK policy fund loans under various GOK industrial development programs. *See* ''Strategic Fund Loan: What is Strategic Fund Loan?,'' *Website of Chohung Bank* (January 24, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 48–C–7.

Additional record evidence demonstrates that the GOK exerted its control over other Hynix creditors and that it was able to enlist the cooperation of these commercial banks in pursuit of its policy to save Hynix.

For instance, Kookmin Bank (''Kookmin'') is a commercial bank with relatively small GOK ownership. In the investigation, the Department found that Kookmin's September 2001 SEC disclosure ''is direct evidence that such direction occurred and provides crucial evidence of the government's role in directing lending decisions.'' *Investigation Decision Memorandum* at 59. In June 2002, Kookmin filed another disclosure with the SEC which contained language that is identical to that found in its September 2001 filing. *See* Kookmin Bank Prospectus (June 18, 2002) at 22, Petitioner's April 25, 2005, FIS at 33–11 (''The Korean government promotes lending to certain types of borrowers as a matter of policy, which we may feel compelled to follow.''). Even though Kookmin itself was not a member of Hynix's Creditors' Council in December 2002, it controlled several affiliates who were on the Council. *See e.g.*, Hynix's December 17, 2004, Questionnaire Response at Exhibit 20. Because this new SEC disclosure occurred during the planning stages of the December 2002 restructuring, our previous findings concerning GOK interference in Kookim's lending practices with respect to the October 2001 restructuring remain equally applicable to the bank's practices and, by extension, to those of its affiliates on the Creditors' Council, in the context of the December 2002 restructuring.

Moreover, both the Kookmin and Woori disclosures, as discussed above, provide crucial direct evidence of GOK interference in the lending decisions of Hynix's *other* creditors. The disclosures state that the ''Korean government promotes lending and financial support by the Korean financial industry to certain types of borrowers as a matter of policy, which *financial institutions, including us, may decide to follow*'' {emphasis added}. Additionally, these disclosures contain a highly telling caveat, stating that, although ''. . .credits made pursuant to these government policies will be reviewed in accordance with our credit approval procedures,'' nevertheless, ''these or *any future government policies may influence us to lend to certain sectors or in a manner in which we otherwise would not in the absence of that policy''* {emphasis added}. *See* Form 20–F: Registration Statement: Woori Finance Holdings Co., Ltd. (September 25, 2003), *available at* Micron's ''Submission of Rebuttal Factual Information, July 21, 2005, at Tab 46 at 26–27; *Investigation Decision Memorandum* at 59 (quoting the September 2001 Kookmin disclosure). Both Woori and Kookmin had to disclose these potential risks because, in order to be listed on a U.S. stock exchange, companies must comply with stringent transparency rules. These rules are designed to protect investors, and companies cannot afford to hide certain

risks from their investors. To do so would create a serious litigation and liability risk for the company. *See Investigation Decision Memorandum* at 55. In this instance, Woori and Kookmin were signaling to investors that they must assume risks in making lending decisions not based on commercial considerations but, rather, on direction by the GOK and reflective of the GOK's economic and social policy objectives.

Given that Woori is a GOK–owned or controlled bank and Kookmin is mostly a private bank, the Department finds these two disclosures highly indicative of the general exposure by both GOK–owned or controlled banks and private banks toGOK influence. Indeed, the Hynix creditors that did not seek listing on a U.S. stock exchange were not legally required to make similar disclosures as Woori and Kookimn. Nevertheless, *both* disclosures state that the government promotes lending to certain types of borrowers which ''financial institutions'' may follow. *Id.* Thus, these statements strongly suggest that other financial institutions were subject to similar governmental pressures as Woori and Kookmin.

As discussed above, the GOK wielded substantial influence over Korean banks and had the means to pressure those financial institutions through its veto–proof control of the Creditors' Council. The GOK reported that, under the CRPA, a Mediation Committee may be formed to resolve disputes among the various creditors. *See* GOK's June 1, 2005, Questionnaire Response at 84. Hynix filed comments before the Department in which it claimed that new factual information regarding the Mediation Committee casts doubt on a previously considered financial contribution (*i.e.*, October 2001 restructuring). Hynix argues that the record evidence demonstrates that those institutions that opted for mediation received a better outcome than they did under the options provided by the Council. Hence, Hynix argues that these lenders could not possibly have been entrusted or directed. We are not persuaded.[8] The presence of the mediation committee does not negate the fact that the GOK controlled a large majority of the voting rights on the Creditor's Council, as discussed earlier. Additionally, the record shows that only one Hynix creditor, CNH Capital, requested mediation in connection with the December 2002 restructuring. *See* GOK's July 11, 2005, Questionnaire Response at 50. CNH Capital, however, held only a negligible percentage of Hynix's debt throughout the entire restructuring program, including the December 2002 restructuring. *See* Hynix's June 1, 2005, Questionnaire Response at Exhibit S–4. In our view, this one instance where a relatively insignificant member opted for mediation is insufficient to support Hynix's contention. Thus, although mediation may have been officially provided for under the CRPA, we do not believe it was a realistic option for the overwhelming majority of creditors. As explained above, ''not complying with the government's orders can lead to many disadvantages under the situation.'' ''Revival of the new government–controlled finance? Giving oral instruction without written document to dodge responsibilities,'' *Maeil Business Newspaper* (March 31, 2003) {English Translation}, Petitioner's April 25, 2005, FIS at 47–B–23. Consequently, we find that the option of mediation under the CRPA does not contradict our finding that the GOK exercised its influence and control over the Creditors' Council in pursuit of its goal to save Hynix.

Our finding that Hynix's creditors were entrusted or directed by the GOK to provide financial contributions to Hynix is further supported by record evidence demonstrating that at the time of the December 2002 restructuring, no commercially motivated lender would have invested in or provided loans to Hynix.

As discussed in greater detail under the ''Equityworthiness'' and ''Creditworthiness'' sections of this notice, we find that Hynix was both unequityworthy and uncreditworthy during the POR and preceding three years. By all indications, both the financial condition of the company and its future prospects were extremely poor and getting worse throughout that period, and would clearly have dissuaded commercial lenders from lending to, or otherwise investing in, the company. For instance, in September 2002, Morgan Stanley Dean Witter reported that ''Hynix is technically bankrupt'' and concluded that *''{w}hatever the outcome {of the potential restructuring} the message is clear to investors: Hynix is not an investment grade company''* {emphasis in original}. Morgan Stanley Hynix Semiconductor Equity Research: The Gridlock (September 25, 2002), Petitioner's April 25, 2005, FIS at 44–A–15. In November 2002, Merrill Lynch echoed these assessments, explaining that ''the risks of dilution from a debt–to-equity swap and equity write–down plans present a negative investment case'', and concluding that ''{w}e maintain our sell recommendation.'' Merrill Lynch: Hynix Semiconductor, Inc: Comment: Round 3 of Refinancing (November 27, 2002, at Petitioner's April 25, 2005, FIS at 44–A–13. In February 2003, Morgan Stanley Dean Witter issued another analyst report, saying, ''we see no real chance of independent survival without generous levels of debt forgiveness and large injections of capital.'' *See* Morgan Stanley Hynix Semiconductor Equity Research (February 13, 2003), at Petitioner's September 27, 2004, submission, at Exhibit 10. Morgan Stanley also noted at the time that the DB proposal to restructure the company would ''be seen as another Korean government bailout given that most of the creditor banks are still government controlled.'' Morgan Stanley Hynix Semiconductor Equity Research (September 25, 2002), at Petitioner's September 27, 2004, submission, at Exhibit 15. Hence, it is our view that any lender who did provide credit or equity capital to Hynix during that time could not have been acting in accordance with normal commercial considerations. Consequently, such a lender, in the context of the totality of the record evidence, was instead entrusted or directed by the government in pursuit of its policy to save Hynix.

The Department finds this evidence persuasive, considering that these analyst reports are independent projections of the future prospects of Hynix. The objective assessments on the record are clear: No commercially motivated investor would invest in this company; no commercially motivated lender would provide credit to this company. Thus, as noted above, the Department finds that this evidence further supports the conclusion stated above that the GOK pressured Hynix creditors to lend to the failing company because the creditors would not have engaged in the December 2002 restructuring had they not been pressured to do so by the GOK.

Given the totality of the evidence discussed above, the Department finds that the GOK entrusted or directed ROK lenders to provide a financial contribution to Hynix. The record shows that many leading GOK officials made statements which reveal the GOK's policy goals. These statements were reported at length by independent media reports, as discussed above.

As we noted above, it is also important to note that Hynix's creditors adopted a policy of secretiveness regarding Hynix and the GOK has been less than completely forthcoming with

[8] The Department has addressed Hynix's claim with regard to the October 2001 restructuring below.

regard to our requests for information and documentation related to Hynix.

On June 5, 2002, Infineon filed a countervailing duty petition against DRAMS from Korea with the European Communities. *See* Commission Regulation (EC) No 708/2003, Official Journal of the European Union, April 23, 2003, Petitioner's April 25, 2005, FIS at 50–16. A petition was filed in the United States on November 1, 2002. In addition, throughout many of the articles on the record, including those cited above, these impending trade disputes were mentioned, and it was becoming clear that the Hynix restructurings would be subject to trade remedy actions. As such, it is not surprising that reports at the time indicated that the creditors and the government would not discuss the issue publically, but would only do so informally. Therefore, as would be expected, a ''silence'' policy was adopted. For instance, according to the *Maeil Business Newspaper*, KEB Chairman Kangwon Lee stated that ''{f}rom now on, regarding items related to the process of Hynix's normalization, all will keep silence consistently . . . When having discussions with the government in the future, it will be conducted orally, instead of in writing, whenever possible. *See* ''Kangwon Lee Bank CEO '{I} Will Not Tell,' '' *Maeil Business Newspaper* (August 23, 2002) {English Translation}, Petitioner's April 25, 2005, FIS at 45–148. In another *Maeil Business Newspaper* article, a bank official is quoted as saying that ''the government tends to make all communications via telephone when it needs something done in order to avoid leaving any evidence.'' ''Revival of the new government–controlled finance? Giving oral instruction without written document to dodge responsibilities,'' Maeil Business Newspaper (March 31, 2003) {English Translation}, Petitioner's April 25, 2005, FIS at 47–B–23.

The Department finds that the GOK's reluctance to reveal information is also reflected in the GOK's questionnaire responses. For example, the Department asked the GOK to identify each meeting held during the period January 1, 2000, through the end of the POR by any GOK agency or official, at which the subject of Hynix's financial restructuring or financial condition was discussed. *See e.g.*, GOK's June, 22, 2005, Questionnaire Response at 8. The GOK responded that ''{g}iven the lack of official records detailing 'all' kinds of meetings taking place inside the GOK apparatus and the 'broad and general' nature of the question, it is impossible to provide a meaningful response to this question.'' *See* GOK's July 11, 2005, Questionnaire Response at 41. The GOK promised to collect relevant information only if the Department provided ''the specific title of the meeting and hosting agency, preferably with the exact date of such alleged meetings.'' *Id.* We note that prior to a preliminary finding in these proceedings, the Department's primary role is that of fact–finder. To this end, the Department often asks numerous and detailed questions in order to reach informed decisions based on the facts of a case. However, the parties involved in these proceedings control the facts. Hence, the Department could not possibly know ''the specific title of the meeting and hosting agency'' or the ''exact date'' of such meetings unless the GOK first provided a sufficient survey of those meetings.[9] *Id.* The GOK states that ''it is impossible to provide a meaningful response to this question.'' *Id.* If a request from the Department is unclear, needs to be clarified, or the respondent would like to consult with the Department about, for instance, limiting its response to information reasonablely available, it is incumbent upon the party, not the Department, to assist the administrative process and clarify the precise information sought. *See Carpenter Technology Corp. v. United States*, Consol. Court No. 00–09–00447, Slip Op. 02–77 (CIT July 30, 2002) at 10, citing *Atlantic Sugar, Ltd. v. United States*, 744 F.2d 1556, 1560; *Persico Pizzamiglio, S.A. v. United States*, 18 CIT 299, 304 (1994).[10] The GOK requested no consultation with the Department to clarify any questionnaire it may have found unclear.

Another example relates to the Creditors' Council meetings. In the investigation, Hynix and the GOK stated that ''summaries'' are the only documentation of the Creditors' Council meetings, which the Department verified. *See e.g.*, GOK Investigation Verification Report at 15, Petitioner's April 25, 2005, FIS at 41–59 (''We asked KDB officials to provide meeting transcripts instead of just summaries'', but that ''KDB officials indicated that no such minutes were kept. . .''). However, in its first supplemental questionnaire response in this administrative review, Hynix reported that there were full Korean texts of documents relating to the meetings of the Hynix CRA and CRPA Creditors' Councils, stating, that ''. . . *consistent with practice* in the original investigation, we provide only these summaries, though we are informed that the *full Korean texts to which these summaries relate* will be available for review during verification'' {emphasis added}.'' *See* Hynix's June 1, 2005, Questionnaire Response at 34.

Further, Hynix stated that the KEB would only allow ''on site disclosure'' of the creditor meeting documents at verification, because KEB considered these documents highly sensitive. *See* Hynix's July 11, 2005, Questionnaire Response at 1–2. However, a review of the information at verification, as the respondents have offered, is both insufficient and inappropriate. The Department collects relevant information in making its findings. Hence, verification is designed to confirm the accuracy of the factual information already submitted on the record. It is not an opportunity for parties to submit new information, especially information the parties knowingly possess and which would otherwise be responsive to the Department's questionnaire. Otherwise, the Department and other interested parties to not have adequate opportunity to review the factual information, and, if necessary, ask additional questions. Thus, by continuing to withhold information, the respondents have impeded the administrative process of this administrative review. Moreover, given that the KEB is the GOK–designated lead bank in the Hynix restructurings, with considerable ownership equity in Hynix and that the GOK is KEB's largest shareholder, the Department is highly doubtful of the claim that the KEB could not be persuaded to provide the information. *Id.* (''KEB will simply not release control of these documents'').

In indirect subsidy cases, the most direct evidence of entrustment or direction usually will be held by governments and foreign interested parties, who may wish to conceal their actions. Such evidence therefore is often very difficult for outside parties to obtain. A ''silence'' policy, such as the one adopted by the GOK, enhances the difficulty of obtaining direct evidence. Accordingly, a finding of entrustment or direction must be based in large part on circumstantial evidence. When the respondent government strives to keep its actions off the written record, and when the respondents evade their responsibility to provide all requested information, the inferential value of the circumstantial and other evidence on the record increases. Therefore, the

[9] Indeed, the GOK did not offer to continue to make every effort to uncover the information requested by the Department. Rather, the GOK qualified its response by placing the burden on the Department to point to the ''hosting agency,'' ''specific title,'' and the ''exact date'' of the meeting before it would provide an answer to the question.

[10] The Department acknowledges that these cases specifically dealt with antidumping duty proceedings. However, the Department believes that this does not vitiate the essential administrative principle at issue.

GOK's secretive practices and evasive questionnaire responses, when coupled with the substantial evidence on the record, are further indicia of entrustment or direction in this case.

In summary, given all the totality of the evidence discussed above, the Department finds that the GOK provided a financial contribution to Hynix through banks found to be ''government authorities'' within the meaning of section 771(5)(B)(i) the Act and through its entrustment or direction of Hynix's creditors, within the meaning of section 771(5)(B)(iii) of the Act, with respect to the December 2002 restructuring.

Specificity

In the investigation, the Department determined that the GOK entrusted or directed credit to the semiconductor industry through 1998. *See Investigation Decision Memorandum* at 12–21. For the period 1999 through June 30, 2002, the Department determined that the GOK directed or provided loans and other benefits specifically to the Hyundai Group within the meaning of section 771(5A)(D)(iii)(I) of the Act. *Id.*

In this review, we have found no information which would indicate that the GOK abandoned its commitment to preventing the collapse of the Hyundai Group, and Hynix in particular. Indeed, as evidenced by many of the articles placed on the record of this segment of the proceeding, the vast majority of statements relating to governmental pressure on banks specifically identify the Hyundai Group or Hynix.

In considering whether the December 2002 phase of restructuring was *de facto* specific, there are additional indicators of GOK activity specifically focused on aiding Hynix and the Hyundai Group. During the investigation, we considered information regarding the magnitude of monies involved with corporate debt restructurings under ROK corporate laws, and examined CRPA restructuring data through the end of March 2003. Specifically, our analysis of ROK companies undergoing debt restructurings under the CRPA indicated that the Hyundai Group accounted for a disproportionately large share of the debt restructured. *See Investigation BPI Memo*. Because the December 2002 phase of the Hynix restructuring occurred within this time frame, the data provide meaningful evidence of *de facto* specificity for this review.

On this basis, we preliminarily determine that the Hynix restructuring continued to be specific to Hynix through the POR.

Contributions Made Pursuant to the GOK's Direction of Credit

In the investigation, the Department determined that the GOK entrusted or directed creditor banks to participate in financial restructuring programs, and to provide credit and other funds to Hynix, in order to assist it through its financial difficulties. The financial assistance provided to Hynix by its creditors took various forms, including: loans, convertible bonds, extensions of maturities (which we treated as new loans), Documents Against Acceptance Line of Credit (''D/A'') financing, usance financing, overdraft lines, debt forgiveness, and debt–for-equity swaps. The Department determined that these were financial contributions which conferred a countervailable subsidy during the POI.

In an administrative review, we do not revisit the validity of past findings unless new factual information or evidence of changed circumstances has been placed on the record of the proceeding that would case us to deviate from past practice. *See e.g.*, Certain Pasta from Italy: Preliminary Results and Partial Rescission of Seventh Countervailing Duty Administrative Review, 69 FR 45676 (July 30, 2004), *affirmed in Certain Pasta From Italy: Final Results of Seventh Countervailing Duty Administrative Review*, 68 FR 70657 (December 7, 2004). In comments filed before the Department, Hynix makes several claims regarding the Department's investigation findings with respect to the October 2001 restructuring.

Hynix has set forth new methodological arguments concerning the October 2001 restructuring. For instance, Hynix argues that ''the Department *never* established that GOK–owned or allegedly controlled creditors held 75 percent of Hynix's debt as of the October 2001 restructuring plan sufficient to sustain a resolution of Hynix's CRPA Creditors' Council'' {emphasis in original}. *See* Hynix's August 2, 2005, Pre–Preliminary Comments at 21. However, the Department based its finding in the investigation on the fact that these creditors held a ''blocking majority'' in the Creditors' Council not that they held more than 75 percent of Hynix's debt. *See Investigation Decision Memorandum at 51*.

Hynix also claims that ''new information'' on the record concerning the October 2001 debt–to-equity swaps calls into question the Department's investigation equity analysis. However, Hynix points to its 2001 audited financial statements and makes a methodological argument. *See* Hynix's August 2, 2005, pre–preliminary comments at 23. Hynix's arguments regarding the determination made in the investigation were based on its 2001 audited statements, which were on the record in the investigation. Thus, the Department preliminarily finds that Hynix's arguments with regard to the October 2001 restructuring are beyond the scope of this administrative review as they are not based on new factual information.

Hynix also argues that new information is on the record regarding the Mediation Committee that was formed under the CRPA. *See* GOK's June 1, 2005, Supplemental Response at 84. Hynix contends that new information on the record demonstrates that creditors who chose appraisal rights but refused the terms settled on by the Creditors' Council secured better terms through mediation and could have disputed those terms even further within the Korean courts. *See* Hynix's July 11, 2005, Supplemental Response at Exhibit 3S–13. However, based on the information on the record, only a few creditors actually went through the mediation process. *See* GOK's July 11, 2005, Supplemental Response at 50. Further, the percentage of Hynix's debt held by these creditors was negligible. *See* Hynix's June 1, 2005, Supplemental Response at Exhibit S–4. Although mediation was a ''legal'' option under the CRPA, it was not a practical choice for the overwhelming majority of creditors, which, as the Department found in the investigation, were under continual pressure by the GOK to lend to Hynix. Therefore, the Department preliminarily finds that this new information is not persuasive enough to warrant a re–examination of its findings in the investigation with respect to the October 2001 restructuring.

Therefore, we are including in our benefit calculation the financial contributions countervailed in the investigation: bonds, debt–to-equity swaps, debt forgiveness, interest–free debentures, overdraft financing, usance financing, and D/A financing. In calculating the benefit, we have followed the same methodology used in the investigation. For the short–term debt instruments, we have used the benchmarks described above in the ''Subsides Valuation Information'' section.

In addition, as discussed above, the December 2002 restructuring involved a restructuring of Hynix's debt and a conversion of debt to equity. We preliminarily determine that these debt–equity swaps and loans confer a benefit

to within the meaning of section 771(5)(E)(i) and (ii) of the Act, respectively. Because we have preliminarily found Hynix to be unequityworthy at the time of the investment, we have treated the full amount swapped as a grant and allocated the benefit over the five–year AUL. *See* 19 CFR 351.507(a)(6) and (c). We have used a discount rate that reflects our preliminary finding that Hynix was uncreditworthy at the time of the debt–to-equity conversions. For the loans, we have followed the methodology described at 19 CFR 351.505(c) using the benchmarks described in the ''Subsidies Valuation Information'' section of this notice.

We have divided benefits from the various financial contributions by CY2003 or POR sales, as appropriate, to calculate a countervailable subsidy rate of 60.61 percent *ad valorem* for the POR.

II. Programs Previously Found to Confer Subsidies

We examined the following programs determined to confer subsidies in the investigation and preliminarily find that Hynix continued to receive benefits under these programs during the POR.

A. Operation G–7/HAN Program–2

Implemented under the Framework on Science and Technology Act, the Operation G–7/HAN program (''G–7/HAN program'') began in 1992 and ended in 2001. See ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Dynamic Random Access Memory Semiconductors from the Republic of Korea,'' dated June 16, 2003, at 25 (''*Final Decision Memorandum*''), GOK's Verification Report at 29; Hynix's Verification Report at 35; *see also* the GOK's December 17, 2004, Questionnaire Response at 9. The purpose of this program was to raise the GOK's technology standards to the level of the G–7 countries. There were 18 different project areas, including semiconductors, environment, and energy. Eight ministries participated in various projects, with the Ministry of Science and Technology (''MOST'') acting as the funding authority.

For the project area entitled ''Next Generation Semiconductors'' (''NGS''), MOST assigned the administrative function to the Korean Semiconductor Research Association, an industry research and development (''R&D'') association. This association was renamed in 1998 as the Consortium of Semiconductor Advanced Research (''COSAR''), and it acted as the intermediary between the MOST and participating companies. Applications were submitted to COSAR, which passed them on to a committee at MOST for evaluation. Under the NGS project, the GOK, through MOST, made interest–free loans to participating companies. These loans were provided as matching funds; in general, participating companies contributed at least 50 percent of the total R&D funding, while the government contribution was capped at 50 percent.

Hynix notes that, although the G7/HAN program ended in 2001, the company had outstanding loans under this program during the POR. *See* Hynix' December 17, 2004, Questionnaire Response at 24, Exhibit 12.2; *see also*, Hynix's June 1, 2005, Supplemental Response at Exhibit 33.2.

The Operation G–7/Han Program was found to provide countervailable subsidies in the investigation. No new evidence has been provided that would lead us to reconsider our earlier finding.

To calculate the benefit of these loans during the POR, we compared the interest actually paid on the loans during the POR to what Hynix would have paid under the benchmark described in the ''Subsidy Valuation Information'' section of this notice. We then divided the total benefit by Hynix's total sales in the POR to calculate the countervailable subsidy. On this basis, we preliminarily determine that countervailable benefits of 0.18 percent *ad valorem* existed for Hynix.

The petitioner alleged that there is a link between the G–7/HAN program and the System IC 2010 Project (''System IC project''). In response to our questions, the GOK and Hynix responded that there is no connection between the two programs. The System IC Project is discussed below.

B. 21st Century Frontier R&D Program

The 21st Century Frontier R&D program (''21st Century program'') was established in 1999 with a structure and governing regulatory framework similar to those of the G–7/HAN program, and for a similar purpose, *i.e.*, to promote greater competitiveness in science and technology. *See Investigation Decision Memorandum* at 26; GOK's Verification Report at 30. Altogether, the program is composed of 19 project areas, each typically having a 10–year time horizon. The 21st Century program provides long–term interest–free loans in the form of matching funds. Repayment of program funds is made in the form of ''technology usance fees'' upon completion of the project, pursuant to a schedule established under a technology execution, or implementation contract.

Hynix stated that it had loans outstanding under this program during the POR. *See* Hynix' December 17, 2004, Questionnaire Response at III–24.

In the investigation, we determined that this program conferred a countervailable benefit on Hynix. No new evidence has been provided that would lead us to reconsider our earlier finding.

To calculate the benefit of these loans during the POR, we compared the interest actually paid on the loans during the POR to what Hynix would have paid under the benchmark described in the ''Subsidy Valuation Information'' section of this notice. We then divided the total benefit by Hynix's total sales in the POR to calculate the countervailable subsidy. On this basis, we preliminarily determine that POR countervailable benefits of 0.00 percent *ad valorem* exist for Hynix.

III. Programs Previously Found Not to Have Been Used or Provided Benefits

We preliminarily determine that the following programs continue to not be used during the POR: *See* Hynix's December 17, 2004, Questionnaire Response at III–25; GOK's December 17, 2004, Questionnaire Response at 11; Hynix's June 1, 2005, Supplemental Response at 56.

A. Tax Programs Under the TERCL and/or the RSTAP–2≤*1. Reserve for Overseas Market Development (formerly, Article 17 of TERCL)–2≤2. Reserve for Export Loss (formerly, Article 16 of TERCL)–2≤3. Tax Exemption for Foreign Technicians (Article 18 of RSTA)–2≤4. Reduction of Tax Regarding the Movement of a Factory That Has Been Operated for More Than Five Years (Article 71 of RSTA)–2≤B. Tax Reductions or Exemption on Foreign Investments under Article 9 of the Foreign Investment Promotion Act (''FIPA'')/FIPA (Formerly Foreign Capital Inducement Law)–2≤C. Duty Drawback on Non–Physically Incorporated Items and Excessive Loss Rates–2≤D. Export Insurance–2≤E. Electricity Discounts Under the RLA Program–2≤*

IV. Program Preliminarily Found to Not Confer Countervailable Subsidies

Based on the information provided in the responses, we preliminarily determine that the following program did not confer countervailable subsidies during the POR:

System IC 2010 Project–2≤

The System IC 2010 Project was established by the Government of Korea's MOST and the Ministry of Industry and Resources in 1998 as a joint research and development project.

The goal of this project is to make Korea the 3rd largest producer of semiconductors by 2012. The project is structured in three stages to be implemented over the period 1998–2011. Phase One of the project targets development of core technology research. Phase Two concentrates on intellectual property integration, high speed performance, and leading chipsets. Phase Three will develop new core technology.

The System IC project is applicable only to semiconductor development. Participants must contribute 50 percent of the total budget, and matching funds are provided through COSAR. The amount contributed by COSAR is repaid by the applicant once the research is successfully completed. *See* GOK's June 8, 2005, Supplemental Response at 4–6, 8; *see also* Hynix's June 1, 2005 Supplemental Response at Exhibit 50.

Hynix submitted a research plan to COSAR in September 2003 regarding ferroelectric random access memory semiconductors (''FeRAMs''). This project is set to end in August 2007. Hynix has received funds under the System IC Project to support its research. These funds have not been repaid because Hynix's project is still ongoing. *See* Hynix's June 1, 2005, Supplemental Response at Exhibit 50

Hynix states that FeRAM are non–subject merchandise. Hynix explains, moreover, that FeRAMs are produced in its ''System IC'' segment, whereas DRAMS are produced in the company's ''memory'' segment. The former segment produces applied products that are unrelated to memory semiconductors such as DRAMS and SRAMS. According to the response, the production processes for the memory products and the applied (non–memory) products are completely different. Hynix further argues that the nature and goals of the project, as evidenced by Hynix's research/business plan submitted to COSAR, are solely for the development of FeRAMs, *i.e.*, non–subject merchandise. *See* Hynix's July 12, 2005, Supplemental Response at Exhibit 16.1. In addition, the contract between Hynix and COSAR clearly limits governmental support to development of FeRAMs.

Based on the information provided, we preliminarily determine that any benefits provided to Hynix under the System IC 2010 Project are tied to non–subject merchandise in accordance with 19 CFR 351.525(b)(5). Therefore, we preliminarily determine that Hynix did not receive any countervailing benefits under this program during the POR.

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for Hynix Semiconductor, Inc., the producer/exporter covered by this administrative review. We preliminarily determine that the total estimated net countervailable subsidy rate for Hynix Semiconductors for calendar year 2003 is 60.74 percent *ad valorem*.

If the final results of this review remain the same as these preliminary results, the Department intends to instruct CBP, within 15 days of publication of the final results of this review, to liquidate shipments of DRAMS by Hynix entered or withdrawn from warehouse, for consumption from April 7, 2003, through December 31, 2003, at 60.74 percent *ad valorem* of the F.O.B. invoice price. We will instruct CPB to take into account the ''provisional measures cap'' in accordance with 19 CFR 351.212(d). In addition, for April 7, 2003, through December 31, 2003, the assessment rates applicable to all non–reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

The Department also intends to instruct the CBP to collect cash deposits of estimated countervailing duties at 60.74 percent *ad valorem* of the F.O.B. invoice price on all shipments of the subject merchandise from Hynix, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

We will instruct CBP to continue to collect cash deposits for non–reviewed companies covered by this order at the most recent company–specific rate applicable to the company. Accordingly, the cash deposit rate that will be applied to non–reviewed companies covered by this order will be the rate for that company established in the investigation. *See Notice of Amended Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 44290 (July 28, 2003). The ''all others'' rate shall apply to all non–reviewed companies until a review of a company assigned this rate is requested. The Department has previously excluded Samsung Electronics Co., Ltd. from this order. *Id.*

Public Comment

Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this Notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than five days after the date of filing the case briefs. Parties who submit briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Interested parties may request a hearing within 30 days after the date of publication of this notice. Unless otherwise specified, the hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs.

The Department will publish a notice of the final results of this administrative review within 120 days from the publication of these preliminary results.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2005.

Barbara E. Tillman,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–4891 Filed 9–14–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090205B]

Large Coastal Shark 2005/2006 Stock Assessment Data Workshop

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

ACTION: Notification of workshop.

SUMMARY: NMFS announces the time and location for the large coastal shark (LCS) stock assessment data workshop, the first of three workshops for the LCS stock assessment to be conducted in 2005/2006.

DATES: The data workshop will start at 1 p.m. on Monday, October 31, 2005, and will conclude at 1 p.m. on Friday, November 4, 2005.

ADDRESSES: The Data workshop will be held at the Bay Point Marriott Resort, 4200 Marriott Drive, Bay Point, FL 32408.

FOR FURTHER INFORMATION CONTACT: Julie Neer at (850) 234–6541; or Karyl Brewster-Geisz at (301) 713–2347, fax (301) 713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and

Management Act. The Fishery Management Plan for Atlantic HMS (HMS FMP) is implemented by regulations at 50 CFR part 635.

Stock assessments are periodically conducted to determine stock status relative to current management criteria. Collection of the best available scientific data and conducting stock assessments are critical to determine appropriate management measures for rebuilding stocks. Based on the last LCS stock assessment in 2002, NMFS determined that the LCS complex is overfished and overfishing is occurring. LCS are currently under a 26-year rebuilding plan. Potential changes to existing management measures will be based, in large part, on the results of this 2005/2006 stock assessment.

This assessment will be conducted in a manner similar to the Southeast Data, Assessment, and Review (SEDAR) process. SEDAR is a cooperative process initiated in 2002 to improve the quality and reliability of fishery stock assessments in the South Atlantic, Gulf of Mexico, and U.S. Caribbean. SEDAR emphasizes constituent and stakeholder participation in assessment development, transparency in the assessment process, and a rigorous and independent scientific review of completed stock assessments. SEDAR is organized around three workshops. The first is a data workshop where datasets are documented, analyzed, and reviewed, and data for conducting assessment analyses are compiled. The second is an assessment workshop where quantitative population analyses are developed and refined and population parameters are estimated. The third and final is a review workshop where a panel of independent experts reviews the data and assessment and recommends the most appropriate values of critical population and management quantities. All workshops are open to the public. More information on the SEDAR process can be found at *http://www.sefsc.noaa.gov/sedar/*.

NMFS announces the data workshop, the first of three workshops for the LCS 2005/2006 stock assessment, which will be held from October 31 - November 4, 2005, at the Bay Point Marriott Resort in Panama City, FL (see **DATES** and **ADDRESSES**). Prospective participants and observers will be contacted with the data workshop details. This workshop is open to the public. Persons interested in participating or observing the Data workshop should contact Julie Neer (see **FOR FURTHER INFORMATION CONTACT**). The next two workshops will be held at a later date. The time and locations of these workshops will be announced in a **Federal Register** notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Neer at (850) 234–6541, at least 7 days prior to the Data workshop.

Authority: 16 U.S.C. 971 *et seq.*

Dated: September 9, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–18355 Filed 9–14–05; 8:45 am]

BILLING CODE 3510–22–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meeting

The Board of Directors of the Corporation for National and Community Service gives notice of the following meeting:

DATE AND TIME: Wednesday, September 21, 2005, 9:30 a.m.–11:30 a.m.

PLACE: Wyndham Washington DC; Monticello West Room; 1400 M Street, NW., Washington, DC 20005.

STATUS: Open.

MATTERS TO BE CONSIDERED:

I. Chair's Opening Remarks

II. Consideration of Prior Meeting's Minutes

III. Committee Reports

IV. CEO Report

V. Public Comment

ACCOMMODATIONS: Anyone who needs an interpreter or other accommodation should notify the Corporation's contact person by 5 p.m. Monday, September 19, 2005.

FOR FURTHER INFORMATION CONTACT: David Premo, Public Affairs Associate, Public Affairs, Corporation for National and Community Service, 10th Floor, Room 10302E, 1201 New York Avenue, NW., Washington, DC 20525. Phone (202) 606–6717. Fax (202) 606–3460. TDD: (202) 606–3472. E-mail: *dpremo@cns.gov.*

Dated: September 13, 2005.

Frank R. Trinity,

General Counsel.

[FR Doc. 05–18494 Filed 9–13–05; 3:03 pm]

BILLING CODE 6050–$$–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2004–0012, FRL–7969–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Data Reporting Requirements For State and Local Vehicle Emission Inspection and Maintenance (I/M) Programs (Reinstatement), EPA ICR Number 1613.02, OMB Control Number 2060–0252

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to reinstate a previously approved collection, which expired on February 28, 1996. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 17, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OAR–2004–0012, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *a-and-r-Docket@epa.gov*, or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, Mail code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Dave Sosnowski, Transportation and Regional Programs Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI, 48105; telephone number: (734) 214–4823; fax number: (734) 214–4050; e-mail address: *sosnowski.dave@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On April 2, 2004 (69 FR 17402), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OAR–

2004–0012, which is available for public viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as confidential business information (CBI), or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *www.epa.gov/edocket*.

Title: Data Reporting Requirements For State and Local Vehicle Emission Inspection and Maintenance (I/M) Programs (Reinstatement).

Abstract: To provide general oversight and support to state and local I/M programs, the Transportation and Regional Programs Division (TRPD), Office of Transportation and Air Quality, Office of Air and Radiation, U.S. Environmental Protection Agency, requires that state or local program management for both basic and enhanced I/M programs submit two varieties of reports to EPA. The first reporting requirement is the submittal of an annual report providing general program operating data and summary statistics, addressing the program's current design and coverage, a summary of testing data, enforcement program efforts, quality assurance and quality control efforts, and other miscellaneous information allowing for an assessment of the program's relative effectiveness; the second is a biennial report on any changes to the program over the previous two-year period and the impact of such changes, including any weaknesses discovered and corrections made or planned.

General program effectiveness is determined by the degree to which a program misses, meets, or exceeds the emission reductions committed to in the state's approved SIP, which, in turn, must meet or exceed the minimum emission reductions expected from the relevant performance standard, as promulgated under EPA's revisions to 40 CFR part 51, in response to requirements established in section 182 of the Clean Air Act Amendments of 1990 (Act). This information will be used by EPA to determine a program's progress toward meeting requirements under 40 CFR part 51, as well as to assess national trends in the area of basic and enhanced I/M programs and to provide background information in support of periodic site visits and audits.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: EPA estimates the annual burden per respondent is approximately 85 hours and the total annual respondent burden imposed by these collections is estimated to be 2,890 hours (34 respondents). These estimates include time for summarizing data as well as reporting summaries. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State or local government, Federal government.

Estimated Number of Respondents: 34.

Frequency of Response: Annually or biannually.

Estimated Total Annual Hour Burden: 2,890.

Estimated Total Annual Costs: $152,252, which includes $0 annualized capital/startup costs, $0 O&M costs, and $152,252 annual labor costs.

Changes in the Estimates: There is an increase of 2,890 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is not due the reinstatement of the ICR; the previous approved ICR has expired.

Dated: September 6, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–18348 Filed 9–14–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[RCRA–2005–0003; FRL–7969–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; 2005 Hazardous Waste Report (Renewal), EPA ICR Number 0976.12, OMB Control Number 2050–0024

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on October 31, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 17, 2005.

ADDRESSES: Submit your comments, referencing docket ID number RCRA–2005–0003, to (1) EPA online using EDOCKET (our preferred method), by e-mail to *RCRA-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Resource Conservation and Recovery Docket and Information Center, mail code 5305T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Dave Levy, Office of Solid Waste, Office of Solid Waste and Emergency Response, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–8479; fax number: 703–308–8433; e-mail address: *levy.dave@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2005 (70 FR 11628), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one comment, and it is addressed in the Supporting Statement to this ICR in section 3(b).

EPA has established a public docket for this ICR under Docket ID No. RCRA–2005–0003, which is available for public viewing at the Resource Conservation and Recovery Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Resource Conservation and Recovery Docket and Information Center is (202) 566–0270. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: 2005 Hazardous Waste Report (Renewal).

Abstract: This ICR renews an ongoing information collection from hazardous waste generators and hazardous waste treatment, storage, or disposal facilities. This collection is done on a two-year cycle as required by sections 3002 and 3004 of RCRA. The information is collected via a mechanism known as the Hazardous Waste Report for the required reporting year (EPA Form 8700–13 A/B) (also known as the Biennial Report). Both RCRA sections 3002 and 3004 require EPA to establish standards for recordkeeping and reporting of hazardous waste generation and management. Section 3002 applies to hazardous waste generators and Section 3004 applies to hazardous waste treatment, storage, and disposal facilities. The implementing regulations are found at 40 CFR 262.40(b) and (d); 262.41(a)(1)–(5), (a)(8), and (b); 264.75(a)–(e) and (j); 265.75(a)–(e) and (j); and 270.30(l)(9). This is mandatory reporting by the respondents.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 18.26 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: RCRA Subtitle C sites that generate, treat, store, recycle, or dispose of hazardous waste.

Estimated Number of Respondents: 9,106.

Frequency of Response: Biennially.

Estimated Total Annual Hour Burden: 166,297.

Estimated Total Annual Cost: $10,042,978, includes $0 Capital Expense, $29,597 O&M costs, and $10,013,381 Respondent Labor Costs.

Changes in the Estimates: There is a decrease of 30,679 hours in the total annual estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This change in burden has occurred for several reasons. Based on reported data for the 2003 Hazardous Waste Report, EPA estimates an 11 percent annual decrease of 1,072 in the total number of respondents (9,106) from the estimated annual number of respondents for the 2003 Hazardous Waste Report (10,178). EPA also believes the burden is decreased because more respondents are using electronic reporting methods, especially those submitting several forms. This decrease is expected to occur even though this smaller universe of respondents is estimated to submit 65,022 more forms annually, a 13 percent increase, than the estimated number of forms submitted for the 2003 Hazardous Waste Report (504,251). The respondents' use of electronic reporting also decreases the burden and cost of recordkeeping.

Dated: September 6, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–18349 Filed 9–14–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7969–5]

Notice of Charter Renewals of the Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of charter renewal.

SUMMARY: The charter for the Environmental Protection Agency's Children's Health Protection Advisory Committee (CHPAC) will be renewed for an additional two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App 2 Section 9(c). The purpose of the CHPAC is to provide advice and recommendations to the Administrator of EPA on issues associated with development of regulations, guidance, and policies to address children's environmental health risks.

It is determined that the CHPAC is in the public interest in connection with the performance of duties imposed on the Agency by law.

FOR FURTHER INFORMATION CONTACT: Inquiries may be directed to Joanne Rodman, Designated Federal Officer, CHPAC, U.S. EPA, Office of Children's Health Protection, Mail Code 1107A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Dated: September 8, 2005.

William Sanders,

Acting Director, Office of Children's Health Protection.

[FR Doc. 05–18347 Filed 9–14–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Accounting and Auditing Policy Committee Meetings for 2006

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in April, 2004, notice is hereby given that the Accounting and Auditing Policy (AAPC), a permanent committee established by the Federal Accounting Standards Advisory Board (FASAB) will meet on the following dates in room 6N30 of the GAO Building unless otherwise noted:

—Tuesday, January 24, 2006
—Tuesday, March 14, 2006
—Tuesday, May 9, 2006
—Tuesday, July 18, 2006
—Tuesday, September 12, 2006
—Tuesday, October 31, 2006

The purposes of the meetings are to discuss issues related to:

—Heritage Assets and Stewardship Land Implementation,
—Inter-Entity Cost Implementation, and
—Any other topics as needed.

A more detailed agenda can be obtained from the Web site (*http://fasab.gov/aapc/aapc.html*) one week prior to each meeting.

Any interested person may attend the meetings as an observer. Board discussion and reviews are open to the public. GAO Building security requires advance notice of your attendance. Please notify FASAB of your planned attendance by calling 202–512–7350 at least one day prior to the respective meeting.

For Further Information, Contact: Wendy M. Comes, Executive Director, 441 G St., NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463.

Dated: September 9, 2005.

Charles W. Jackson,

Federal Register Liaison Officer.

[FR Doc. 05–18304 Filed 9–14–05; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Accounting and Auditing Policy Committee Meeting on September 16, 2005

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in April, 2004, notice is hereby given that the Accounting and Auditing Policy Committee (AAPC), a permanent committee established by the Federal Accounting Standards Advisory Board (FASAB) will meet on September 16, 2005 at 10 am in room 6N30 of the US Government Accountability Office (GAO) Building (441 G Street NW).

The purpose of the meeting is to discuss issues related to:

—Heritage Assets and Stewardship Land Implementation,
—Inter-Entity Cost Implementation, and
—Administrative Matters (Closed Session)

A more detailed agenda can be obtained from the AAPC website (*http://fasab.gov/aapc/aapc.html*).

Any interested person may attend the meeting as an observer. Board discussion and reviews are open to the public. GAO Building security requires advance notice of your attendance. Please notify FASAB of your planned attendance by calling 202–512–7350 at least one day prior to the respective meeting.

For Further Information Contact: Wendy M. Comes, Executive Director, 441 G St., NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No 92–463.

Dated: September 9, 2005.

Charles W. Jackson,

Federal Register Liaison Officer.

[FR Doc. 05–18305 Filed 9–14–05; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–63–C (Auction No. 63); DA 05–2188]

Auction of Multichannel Video Distribution and Data Service Licenses Schedule for December 7, 2005—Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 63

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the procedures and minimum opening bids for the upcoming auction of licenses in the Multichannel Video Distribution and Data Service (MVDDS). This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

DATES: Auction No. 63 is scheduled to begin on December 7, 2005.

FOR FURTHER INFORMATION CONTACT: For legal questions: Brian Carter at (202) 418–0660. For general auction questions: Debbie Smith, Roy Knowles or Barbara Sibert at (717) 338–2888. For service rules questions, contact the Broadband Division, Wireless Telecommunications Bureau as follows: Mindy Littell or Michael Pollack at (202) 418–2487.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 63 Procedures Public Notice* released on August 9, 2005. The complete text of the *Auction No. 63 Procedures Public Notice*, including attachments and

related Commission documents is available for public inspection and copying from 8 a.m. to 4:30 p.m. Monday through Thursday or from 8 a.m. to 11:30 a.m. on Friday at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Auction No. 63 Procedures Public Notice* and related Commission documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (''BCPI''), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone (202) 488–5300, facsimile (202) 488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI, please provide the appropriate FCC document number (for example, FCC 00–313 for the C/F Block Sixth Report and Order). The *Auction No. 63 Procedures Public Notice* and related documents are also available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/63/.*

I. General Information

A. Introduction

1. The Wireless Telecommunications Bureau (Bureau) announces the procedures and minimum opening bid amounts for the upcoming auction of Multichannel Video Distribution and Data Service (MVDDS) licenses scheduled for December 7, 2005 (Auction No. 63). On June 9, 2005, in accordance with Section 309(j)(3) of the Communications Act of 1934, as amended, the Bureau released a public notice seeking comment on reserve prices or minimum opening bid amounts and the procedures to be used in *Auction No. 63. The Bureau received no comments in response to the Auction No. 63 Comment Public Notice*, 70 FR 36169, June 22, 2005.

i. Background of Proceeding

2. On December 8, 2000, the Commission released the *First Report and Order and Further Notice of Proposed Rule Making* in ET Docket No. 98–206, 66 FR 7607, January, 24, 2001, which authorized MVDDS as a new service under the existing primary status fixed service allocation in the 12.2–12.7 GHz band. On May 23, 2002, the Commission released the *Second Report and Order*, 67 FR 43031, June 26, 2002, which adopted technical and service rules, including competitive bidding rules, for MVDDS. On April 15, 2003, the Commission released the *Second Further Notice of Proposed Rule Making*, 68 FR 19486, April 21, 2003, which sought further comment on the appropriate service area definition for MVDDS and on whether the build out requirement for this service should be modified.

3. On July 7, 2003, the Commission released the *Third Report and Order*, 68 FR 42610, July 18, 2003, in which it decided to license MVDDS using service areas based on the Designated Market Areas (DMAs) delineated by Nielsen Media Research, Inc. (Nielsen Media), in its publication entitled *U.S. Television Household Estimates* dated September 2002, rather than Component Economic Areas (CEAs). In the *Third Report and Order* the Commission also adopted a five-year build out requirement.

4. MVDDS licensees may provide any digital fixed one-way non-broadcast service including direct-to-home/office wireless service. Mobile and aeronautical services are not authorized. Two-way services may be provided by using other spectrum or media for the return or upstream path. MVDDS providers will share the 12.2–12.7 GHz band on a co-primary basis with non-geostationary satellite orbit (NGSO) fixed-satellite services (FSS) and on a non-harmful interference basis with incumbent Direct Broadcast Satellite (DBS) providers. The technical criteria for sharing established in the *Second Report and Order* are designed to protect NGSO FSS and DBS operations from harmful interference.

ii. Licenses To Be Auctioned

5. Auction No. 63 will offer 22 MVDDS licenses in the 12 GHz band. These licenses remained unsold in Auction No. 53, which closed on January 27, 2004. Each license will authorize the use of one block of unpaired spectrum in the 12.2–12.7 GHz band. For Auction No. 63, licenses are not available in every market. A complete list of the licenses available in Auction No. 63 and their descriptions is included in Attachment A of the *Auction No. 63 Procedures Public Notice.*

6. The following table contains the characteristics of the licenses that will be offered in Auction No. 63:

Frequency band (GHz)	Total bandwidth	Pairing	Geographic area type	Number of licenses
12.2–12.7	500 MHz	Unpaired	MVDDS service areas	22

B. Rules and Disclaimers

i. Relevant Authority

7. Prospective applicants must familiarize themselves thoroughly with the Commission's general competitive bidding rules, including recent amendments and clarifications; rules relating to MVDDS contained in Title 47, part 101, of the Code of Federal Regulations; and those relating to application and auction procedures, contained in Title 47, part 1, of the Code of Federal Regulations. Prospective applicants must also be thoroughly familiar with the procedures, terms and conditions (collectively, terms) contained in this public notice; the Commission's decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees.

8. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction.

ii. Prohibition of Collusion

9. To ensure the competitiveness of the auction process, the Commission's part 1 rules prohibits applicants for any of the same geographic license areas from communicating with each other during the auction about bids, bidding strategies, or settlements unless such applicants have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under § 1.2105(a)(2)(viii). Thus, applicants for any of the same geographic license areas must affirmatively avoid all discussions with each other that affect, or in their reasonable assessment have the potential to affect, bids or bidding strategy. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. This prohibition applies to all applicants regardless of whether such applicants become

qualified bidders or actually bid. For purposes of this prohibition, § 1.2105(c)(7)(i) defines applicant as including all controlling interests in the entity submitting a short-form application to participate in the auction, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of that entity.

10. Applicants competing for licenses in any of the same geographic license areas must not communicate indirectly about bids or bidding strategy and are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the applicants he or she is authorized to represent in the auction. A violation could similarly occur if the authorized bidders are different individuals employed by the same organization (*e.g.*, law firm or consulting firm). In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule. However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.

11. The Commission's anti-collusion rule allows applicants to form certain agreements during the auction, provided the applicants have not applied for licenses covering any of the same geographic areas. In addition, applicants that apply to bid for all markets will be precluded from communicating with all other applicants until after the down payment deadline. However, all applicants may enter into bidding agreements *before* filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their FCC Form 175. If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to § 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations. By signing their FCC Form 175 short-form applications, applicants are certifying their compliance with § 1.2105(c).

12. Section 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, § 1.65 requires auction applicants that engage in communications of bids or bidding strategies that result in a bidding agreement, arrangement or understanding not already identified on their short-form applications to promptly disclose any such agreement, arrangement or understanding to the Commission by amending their pending applications. In addition, § 1.2105(c)(6) requires all auction applicants to report prohibited discussions or disclosures regarding bids or bidding strategy to the Commission in writing immediately but in no case later than five business days after the communication occurs, even if the communication does not result in an agreement or understanding regarding bids or bidding strategy that must be reported under Section 1.65.

13. Applicants that are winning bidders will be required to disclose in their long-form applications the specific terms, conditions, and parties involved in all bidding consortia, joint ventures, partnerships, and other arrangements entered into relating to the competitive bidding process. Any applicant found to have violated the anti-collusion rule may be subject to sanctions, including forfeiture of its upfront payment, down payment or full bid amount, and may be prohibited from participating in future auctions. In addition, applicants are reminded that they are subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. If an applicant is found to have violated the antitrust laws in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount and may be prohibited from participating in future auctions.

14. A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rule may be found in Attachment E of the *Auction No. 63 Procedures Public Notice.*

iii. Interference Protection

15. Among other licensing and technical rules, MVDDS licensees must comply with the interference protection and coordination requirements set forth in §§ 101.103, 101.105, 101.109, 101.129, 101.1421, and 101.1440 of the Commission's rules. Generally, §§ 101.103, 101.105, 101.109, 101.129, 101.1421, and 101.1440 establish standards for protection of co-primary NGSO FSS earth stations, incumbent and adjacent area licensees and co-primary DBS earth stations. MVDDS shall be licensed on a non-harmful interference co-primary basis to existing DBS operations and on a co-primary basis with NGSO FSS stations in this band. MVDDS licensees must also protect and/or develop sharing agreements with neighboring licensees.

a. Incumbent Licensees

16. Terrestrial private operational fixed point-to-point stations in the 12.2–12.7 GHz band which were licensed prior to MVDDS are incumbent point-to-point stations. However, only those stations licensed as public safety must be protected from harmful interference caused by later MVDDS entrants in the 12.2–12.7 GHz band. MVDDS operators have the responsibility of resolving any harmful interference problems that their operations may cause to these public safety incumbent point-to-point operations in the 12.2–12.7 GHz band.

b. Canadian and Mexican Border Regions

17. MVDDS systems in the United States within 56 km (35 miles) of the Canadian and Mexican border will be granted conditional licenses, until final international agreements are approved. MVDDS systems may not cause harmful interference to stations in Canada or Mexico. No stations are allowed within 5 miles of the borders.

c. Quiet Zone

18. MVDDS stations must protect the radio quiet zones set forth in the Commission's rules. Stations are cautioned that they must receive the appropriate approvals directly from the relevant quiet zone entity prior to operating within the areas described in the Commission's rules.

iv. Due Diligence

19. Potential applicants are reminded that there are a number of incumbent terrestrial private operational fixed point-to-point licensees in the 12.2–12.7 GHz band which were licensed prior to MVDDS and are not entitled to protection from harmful interference caused by later MVDDS entrants in the 12.2–12.7 GHz band, except for public safety stations, which must be protected. MVDDS has the

responsibility of resolving any harmful interference problems that their operations may cause to these public safety incumbent point-to-point operations in the 12.2–12.7 GHz band. To aid potential bidders, a list of public safety incumbents in this band is attached as Appendix I to the Second Report and Order, ET Docket No. 98–206, released May 23, 2002. These limitations may restrict the ability of such MVDDS geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas. The Bureau therefore cautions potential applicants in formulating their bidding strategies to investigate and consider the extent to which MVDDS frequencies are occupied by incumbents.

20. Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 63.

21. Applicants should also be aware that certain pending and future applications (including those for modification), petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal oppositions, and applications for review before the Commission may relate to particular applicants or incumbent licensees or the licenses available in Auction No. 63. In addition, pending and future judicial proceedings may relate to particular applicants or incumbent licensees, or the licenses available in Auction No. 63. Prospective bidders are responsible for assessing the likelihood of the various possible outcomes, and considering their potential impact on spectrum licenses available in this auction.

22. Applicants should perform due diligence to identify and consider all proceedings that may affect the spectrum licenses being auctioned. The Bureau notes that resolution of such matters could have an impact on the availability of spectrum for Auction No. 63. In addition, although the Commission may continue to act on various pending applications, informal objections, petitions, and other requests for Commission relief, some of these matters may not be resolved by the time of the auction.

23. Applicants may obtain information about incumbent licenses that may have an effect on availability of licenses in Auction No. 63 through the Bureau's licensing databases on the World Wide Web at *http://wireless.fcc.gov/uls*. Applicants should direct questions regarding the ULS search capabilities to the FCC ULS Technical Support hotline at (877) 480–3201, option two. The hotline is available to assist with questions Monday through Friday, from 8 a.m. to 7 p.m. et.

24. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, applicants may obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database.

25. Potential applicants are strongly encouraged to physically inspect any sites located in, or near, the service area for which they plan to bid, and also to familiarize themselves with the environmental assessment obligations.

v. Bidder Alerts

26. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants and interested parties should perform their own due diligence before proceeding, as they would with any new business venture.

27. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 63 to deceive and defraud unsuspecting investors. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific proposals regarding Auction No. 63 may also call the FCC Consumer Center at (888) CALL–FCC ((888) 225–5322).

vi. National Environmental Policy Act Requirements

28. Licensees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a wireless antenna facility is a Federal action and the licensee must comply with the Commission's NEPA rules for each such facility. The Commission's NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corps of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains).

C. Auction Specifics

i. Auction Date

29. Bidding in Auction No. 63 will begin on Wednesday, December 7, 2005, as announced in the *Auction No. 63 Comment Public Notice*. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

ii. Auction Title

30. Auction No. 63–MVDDS.

iii. Bidding Methodology

31. The bidding methodology for Auction No. 63 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet using the FCC's Integrated Spectrum Auction System (ISAS or FCC Auction System), and telephonic bidding will be available as well. Qualified bidders are permitted to bid electronically via the Internet or by telephone.

iv. Pre-Auction Dates and Deadlines

Auction Seminar: September 28, 2005.
Short-Form Application (FCC Form 175) Filing Window Opens: September 28, 2005; 12 p.m. e.t.
Short-Form Application (FCC Form 175) Filing Window Deadline: October 7, 2005; 6 p.m. e.t.
Upfront Payments (via wire transfer): November 7, 2005; 6 p.m. e.t.
Mock Auction: December 5, 2005.
Auction Begins: December 7, 2005.

32. Requirements for Participation.

Those wishing to participate in the auction must:

• Submit a short-form application (FCC Form 175) electronically prior to 6 p.m. eastern time (e.t.), October 7, 2005, following the electronic filing procedures set forth in Attachment C to this public notice.

• Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6 p.m. e.t., November 7, 2005.

• Comply with all provisions outlined in this public notice.

GENERAL CONTACT INFORMATION

General Auction Information: General Auction Questions, Seminar Registration.	FCC Auctions Hotline, (888) 225–5322, option two; or (717) 338–2888. Hours of service: 8 a.m. – 5:30 p.m. ET, Monday through Friday.
Auction Legal Information: Auction Rules, Policies, Regulations	Auctions and Spectrum Access Division, (202) 418–0660.
Licensing Information: Rules, Policies, Regulations, Licensing Issues, Due Diligence, Incumbency Issues.	Broadband Division, (202) 418–2487.
Technical Support: Electronic Filing, FCC Auction System	FCC Auctions Technical Support, (877) 480–3201, option nine; or (202) 414–1250, (202) 414–1255 (TTY). Hours of service: 8 a.m. – 6 p.m. ET, Monday through Friday.
Payment Information: Wire Transfers, Refunds	FCC Auctions Accounting Branch, (202) 418–0578, (202) 418–2843 (Fax).
Auction Bidder Line	Will be furnished only to qualified bidders.
FCC Copy Contractor: Additional Copies of Commission Documents	Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, *http://www.bcpiweb.com*.
Press Information	Chelsea Fallon (202) 418–7991.
FCC Forms	(800) 418–3676 (outside Washington, DC), (202) 418–3676 (in the Washington area), *http://www.fcc.gov/formpage.html*.
FCC Internet Sites	*http://www.fcc.gov*, *http://wireless.fcc.gov/auctions*, *http://wireless.fcc.gov/uls*.

II. Short-Form (FCC Form 175) Filing Requirements

33. A party's application to participate in an FCC auction, referred to as a short-form application or FCC Form 175, provides information used in determining whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for licenses or permits.

34. The short-form application is the first part of the Commission's two-phased auction application process which contemplates that potential licensees file streamlined, short-form applications in which applicants certify under penalty of perjury as to their qualifications. Eligibility to participate in bidding is based on the applicants' short-form applications and certifications. In the second phase, winning bidders file a more comprehensive long-form application.

35. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license. Applicants should note that submission of an FCC Form 175 application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, has read the form's instructions and certifications, and that the contents of the application, its certifications and any attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

36. Applicants bear full responsibility for submission of timely and complete FCC Form 175 applications. Applicants to participate in Auction No. 63 must file FCC Form 175 electronically prior to 6 p.m. ET on October 7, 2005, following the procedures set forth in Attachment C of the *Auction No. 63 Procedures Public Notice*. Applicants should read the instructions set forth in Attachment C of the *Auction No. 63 Procedures Public Notice* carefully and should consult the Commission's rules to ensure that, in addition to the materials described below, all the information that is required under the Commission's rules is included with their FCC Form 175 applications.

37. An entity may not submit more than one short-form application in a single auction. In the event that a party submits multiple FCC Forms 175, such additional applications will be dismissed.

38. For Auction No. 63, if an applicant claims eligibility for a bidding credit, the information provided in its FCC Form 175 will be used in determining whether the applicant is eligible for the claimed bidding credit. Applicants should further note that they must fulfill the certification requirements of § 101.1412(g)(2) of the Commission's rules relating to complying with the eligibility restrictions for cable operators. Specifically, applicants must certify as an attachment to their short-form application that they, and all parties to the application, will come into compliance with § 101.1412(a) of the Commission's rules.

A. Preferences for Small Businesses and Others

i. Size Standards for Bidding Credits

39. In the Second Report and Order, the Commission determined that three levels of bidding credits are appropriate for MVDDS. A bidding credit represents the amount by which a bidder's winning bids are discounted. The size of the bidding credit depends on the average of the aggregated annual gross revenues for each of the preceding three years of the bidder, its affiliates, its controlling interests, and the affiliates of its controlling interests.

40. For Auction No. 63 bidding credits will be available to very small businesses, small businesses, and entrepreneurs, or consortia thereof, as follows:

• A bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (very small business) will receive a 35 percent discount on its winning bids.

• A bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (small business) will receive a 25 percent discount on its winning bids.

• A bidder with attributed average annual gross revenues that exceed 15 million and do not exceed $40 million for the preceding three years (entrepreneur) will receive a 15 percent discount on its winning bids.

41. Bidding credits are not cumulative; a qualifying applicant receives the 35 percent, 25 percent, or

15 percent bidding credit on its winning bid, but only one credit per license.

42. Applicants should note that they will be required to provide information regarding revenues attributable to the applicant and related parties on their FCC Form 175 short-form applications to establish that they satisfy the eligibility requirements to qualify as a very small business, small business, or an entrepreneur (or consortia of a very small business, small business or entrepreneur) for this auction.

ii. Tribal Lands Bidding Credit

43. To encourage the growth of wireless services in federally recognized tribal lands the Commission has implemented a tribal land bidding credit.

iii. Installment Payments

44. Installment payment plans will not be available in Auction No. 63.

B. License Selection

45. In Auction No. 63, applicants must select the licenses on which they want to bid from the Eligible Licenses list. The applicant may select all the licenses in the list (by using the SELECT ALL option) or select and add individual licenses from the list. Be advised that there is no opportunity to change license selection after the short-form filing deadline. It is critically important that you confirm your license selection because the FCC Auction System will not accept bids on licenses that an applicant has not selected on its FCC Form 175.

C. Consortia and Joint Bidding Arrangements

46. Applicants will be required to indicate on their applications whether they have entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid. Applicants will also be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings that relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. If an applicant has had discussions, but has not reached a joint bidding agreement by the short-form deadline, it would not include the names of parties to the discussions on its applications and may not continue such discussions with applicants for any of the same geographic license areas after the deadline.

47. A party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants for licenses in the same geographic license area provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants. While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, applicants are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

D. Ownership Disclosure Requirements

48. All applicants must comply with the uniform part 1 ownership disclosure standards and provide information required by § § 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing FCC Form 175, applicants will be required to fully disclose information on the real party or parties-in-interest and ownership structure of the bidding entity. The ownership disclosure standards for the short form are set forth in § 1.2112 of the Commission's rules. To simplify filling out Form 175, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with Form 175, such as information submitted in an on-line Form 602, will automatically be entered into Form 175. Applicants are responsible for information submitted in Form 175 being complete and accurate. Accordingly, applicants should carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for filing Form 175. Applicants can update any information that needs to be changed directly in the Form 175.

49. To simplify filling out FCC Form 175, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with FCC Form 175, such as information submitted in an on-line FCC Form 602 in connection with wireless services, will automatically be entered into FCC Form 175.

E. Bidding Credit Revenue Disclosures

50. Entities applying to bid as very small businesses, small businesses, or entrepreneurs (or consortia of very small businesses, small businesses, or entrepreneurs) will be required to disclose on their FCC Form 175 short-form applications the gross revenues for the preceding three years of each of the following: (1) the applicant, (2) its affiliates, (3) its controlling interests, and (4) the affiliates of its controlling interests. Certification that the average annual gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. In order to comply with disclosure requirements for bidding credit eligibility, an applicant must provide separately for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, the gross revenues for each of the preceding three years. If the applicant is applying as a consortium of very small businesses, small businesses, or entrepreneurs, this information must be provided for each consortium member.

51. Controlling interest standard. The Commission uses a controlling interest standard for attributing to auction applicants the gross revenues of their investors and affiliates in determining small business eligibility for future auctions. The Commission has modified its rules governing the attribution of gross revenues for purposes of determining small business eligibility. These changes included exempting the gross revenues of the affiliates of a rural telephone cooperative's officers and directors from attribution to the applicant if certain specified conditions are met. The Commission also clarified that in calculating an applicant's gross revenues under the controlling interest standard, the personal net worth, including personal income, of its officers and directors will not be attributed to the applicant.

52. Control. The term control includes both *de facto* and *de jure* control of the applicant. Typically, ownership of at least 50.1 percent of an entity's voting stock evidences *de jure* control. *De facto* control is determined on a case-by-case basis. The following are some common indicia of *de facto* control:

- The entity constitutes or appoints more than 50 percent of the board of directors or management committee
- The entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; or
- The entity plays an integral role in management decisions.

53. Attribution for very small business, small business, and entrepreneur eligibility. In determining which entities qualify as very small businesses, small businesses, or entrepreneurs, the Commission will consider the gross revenues of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. The Commission does not impose specific equity requirements on controlling interest holders. Once the principals or entities with a controlling interest are determined, only the revenues of those principals or entities, the affiliates of those principals or entities, and the applicant and its affiliates will be counted in determining small business eligibility.

54. A consortium of very small businesses, small businesses, or entrepreneurs is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually must satisfy one of the definitions of very small business, small business, or entrepreneur in § § 1.2110(f), 101.1429. Thus, each consortium member must disclose its gross revenues along with those of its affiliates, its controlling interests, and the affiliates of its controlling interests. The Bureau notes that although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for very small business, small business, or entrepreneur, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

F. Provisions Regarding Former and Current Defaulters

55. Each applicant must state under penalty of perjury on its FCC Form 175 application whether or not the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by § 1.2110, have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency. In addition, each applicant must certify under penalty of perjury on its FCC Form 175 application that the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by § 1.2110, are not in default on any payment for Commission licenses (including down payments) and that they are not delinquent on any non-tax debt owed to any Federal agency. Prospective applicants are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

56. Former defaulters—*i.e.*, applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 63, provided that they are otherwise qualified. However, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.

57. Current defaulters—*i.e.*, applicants, including their attributable interest holders, that are in default on any payment for Commission licenses (including down payments) or are delinquent on any non-tax debt owed to any Federal agency—are not eligible to bid in Auction No. 63.

58. Applicants are encouraged to review the Bureau's previous guidance on default and delinquency disclosure requirements in the context of our short-form application process. Applicants are reminded that the Commission's Red Light Display System, which provides information regarding debts owed to the Commission, may not be determinative of an applicant's ability to comply with the default and delinquency disclosure requirements.

G. Eligibility Restrictions for Cable Operators

59. Applicants should note that § 101.1412 of the Commission's rules provides certain eligibility restrictions for cable operators. Specifically, no cable operator, nor any entity owning an attributable interest in a cable operator, shall have an attributable interest in an MVDDS license if such cable operator's service area significantly overlaps the MVDDS license area. Applicants must certify as an attachment to their short-form application that they, and all parties to the application, will come into compliance with § 101.1412(a) regarding eligibility restrictions for cable operators. This certification should be included as an attachment named Eligibility Certification.

H. Other Information

60. Applicants owned by minorities or women, as defined in § 1.2110(c)(2), may identify themselves in filling out their FCC Form 175 short-form application regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of designated entities in its auctions.

I. Minor Modifications to Short-Form Applications (FCC Form 175)

61. After the short-form filing deadline (6 p.m. ET October 7, 2005), applicants may make only minor changes to their applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change control of the applicant, or increase a previously claimed bidding credit eligibility). Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and addresses and phone numbers of the applicants and their contact persons. Applicants must click on the SUBMIT button in the FCC Auction System for the changes to be submitted and considered by the Commission. After the revised application has been submitted, a confirmation page will be displayed that states the submission time and date, along with a unique file number. In addition, applicants should submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: *auction63@fcc.gov.*

J. Maintaining Current Information in Short-Form Applications (FCC Form 175)

62. Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

III. Pre-Auction Procedures

A. Auction Seminar—September 28, 2005

63. On Wednesday, September 28, 2005, the FCC will sponsor a seminar for parties interested in participating in Auction No. 63 at the Federal Communications Commission headquarters, located at 445 12th Street,

SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, completing FCC Form 175, auction conduct, the FCC Auction System, auction rules, and the MVDDS service rules. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff.

64. To register, complete the registration form in Attachment B of the *Auction No. 63 Procedures Public Notice* and submit it by Monday, September 26, 2005. Registrations are accepted on a first-come, first-served basis. The seminar is free of charge.

65. For individuals who are unable to attend, an Audio/Video webcast of this seminar will be available from the FCC's Auction 63 web page at *http://wireless.fcc.gov/auctions/63/.*

B. Short-Form Application (FCC Form 175)—Due October 7, 2005

66. In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be submitted electronically and be received at the Commission prior to 6 p.m. ET on October 7, 2005. Late applications will not be accepted. There is no application fee required when filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment.

67. Applications may generally be filed at any time beginning at noon ET on September 28, 2005, until 6 p.m. ET on October 7, 2005. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on October 7, 2005.

68. Applicants must always click on the SUBMIT button on the Certify & Submit screen of the electronic form to successfully submit their FCC Form 175s or modifications. Any form that is not submitted will not be reviewed by the FCC. Information about accessing, completing, and viewing the FCC Form 175 is included in Attachment C of the *Auction No. 63 Procedures Public Notice.* FCC Auctions Technical Support is available at (877) 480–3201, option nine; (202) 414–1250; or (202) 414–1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8 a.m. to 6 p.m. ET.

C. Application Processing and Minor Corrections

69. After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (1) Those applications accepted for filing; (2) those applications rejected; and (3) those applications which have minor defects that may be corrected, and the deadline for resubmitting such corrected applications.

70. As described more fully in the Commission's rules, after the October 7, 2005, short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change control of the applicant, or increase a previously claimed bidding credit eligibility).

D. Upfront Payments—Due November 7, 2005

71. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received in the proper account at Mellon Bank by 6 p.m. ET on November 7, 2005.

i. Making Auction Payments by Wire Transfer

72. Wire transfer payments must be received by 6 p.m. ET on November 7, 2005. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline.

73. Applicants must fax a completed FCC Form 159 (Revised 2/03) to Mellon Bank at (412) 209–6045 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write Wire Transfer—Auction Payment for Auction No. 63. In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account by the deadline. Applicants are responsible for obtaining confirmation from their financial institution that Mellon Bank has timely received their upfront payment and deposited it in the proper account.

ii. FCC Form 159

74. A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/03) must be faxed to Mellon Bank to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/03) is critical to ensuring correct crediting of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment D of the *Auction No. 63 Procedures Public Notice.* An electronic pre-filled version of the FCC Form 159 is available after submitting the FCC Form 175. Payors using a pre-filled FCC Form 159 are responsible for ensuring that all of the information on the form, including payment amounts, is accurate. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

iii. Amount of Upfront Payment

75. In the *Part 1 Order,* 62 FR 13540 (March 21, 1997), the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Part 1 Fifth Report and Order,* 65 FR 52323 (August 29, 2000), the Commission ordered that former defaulters, *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, be required to pay upfront payments 50 percent greater than non-former defaulters. For purposes of this calculation, the *applicant* includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by § 1.2110 of the Commission's rules.

76. In the *Auction No. 63 Comment Public Notice,* the Bureau proposed that the amount of the upfront payment would determine a bidder's initial bidding eligibility, the maximum number of bidding units on which a bidder may place bids. In order to bid on a license, otherwise qualified bidders that applied for that license on Form 175 must have a current eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, therefore, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all licenses for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold provisionally winning bids at any given time.

77. In the *Auction No. 63 Comment Public Notice,* the Bureau proposed

upfront payments on a license-by-license basis as follows:

• The upfront payment for each license in Auction No. 63 is based on 50 percent of the corresponding minimum opening bid amount from Auction No. 53, with a minimum of $1,000 per license.

78. The specific upfront payments and bidding units for each license are set forth in Attachment A of the *Auction No. 63 Procedures Public Notice.*

79. In calculating its upfront payment amount, an applicant should determine the *maximum* number of bidding units on which it may wish to be active on (bid on or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it seeks to be active in any given round. Applicants should check their calculations carefully, as there is no provision for increasing a bidder's eligibility after the upfront payment deadline.

EXAMPLE: UPFRONT PAYMENTS AND BIDDING FLEXIBILITY

Market No.	Market name	Bidding units	Upfront payment
MVD038	Grand Rapids-Kalamazoo-B.Crk	47,000	$47,000
MVD207	Helena	1,600	1,600

80. Former defaulters should calculate their upfront payment for all licenses by multiplying the number of bidding units on which they wish to be active by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit. If a former defaulter fails to submit a sufficient upfront payment to establish eligibility to bid on at least one of the licenses applied for on its Form 175, the applicant will not be eligible to participate in the auction.

iv. Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments

81. The Commission will use wire transfers for all Auction No. 63 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed in the *Auction No. 63 Procedures Public Notice* be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Gail Glasser, at (202) 418–2843. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call Gail Glasser at (202) 418–0578.

E. Auction Registration

82. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the licenses for which they applied.

83. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight mail. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 and will include the SecurID cards that will be required to place bids, the Integrated Spectrum Auction System (ISAS) Bidder's Guide, and the Auction Bidder Line phone number.

84. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, any qualified bidder that has not received this mailing by noon on Thursday, December 1, 2005, should call (717) 338–2888. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

85. In the event that SecurID cards are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacement registration material. Qualified bidders requiring the replacement of these items must call Technical Support at (877) 480–3201, option nine; (202) 414–1250; or (202) 414–1255 (TTY).

F. Remote Electronic Bidding

86. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. Qualified bidders are permitted to bid electronically and telephonically. Each applicant should indicate its bidding preference—electronic or telephonic—on the FCC Form 175. In either case, each authorized bidder must have its own SecurID card, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID cards, while applicants with two or three authorized bidders will be issued three cards. For security purposes, the SecurID cards, the telephonic bidding phone number, and the Integrated Spectrum Auction System (ISAS) Bidder's Guide are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction; therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 63.

87. Please note that the SecurID cards can be recycled, and the Bureau encourages bidders to return the cards to the FCC. The Bureau will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

G. Mock Auction—December 5, 2005

88. All qualified bidders will be eligible to participate in a mock auction on Monday, December 5, 2005. The mock auction will enable applicants to become familiar with the FCC Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. Auction Event

89. The first round of bidding for Auction No. 63 will begin on Wednesday, December 7, 2005. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

i. Simultaneous Multiple Round Auction

90. In the *Auction No. 63 Comment Public Notice,* the Bureau proposed to award all licenses in Auction No. 63 in a simultaneous multiple round auction. In a simultaneous multiple round auction, all licenses are available during the entire auction, and bids are accepted on any license until the auction concludes. The Bureau concludes that it is operationally feasible and appropriate to auction the MVDDS licenses through a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, the Bureau believes, allows bidders to take advantage of synergies that exist among licenses and is administratively efficient.

ii. Eligibility and Activity Rules

91. The amount of the upfront payment submitted by a bidder determines initial bidding eligibility, the maximum number of bidding units on which a bidder may be active. Note again that each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction No. 63 Procedures Public Notice* on a bidding unit per dollar basis. Bidding units for a given license do not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any of the licenses selected on its FCC Form 175 as long as the total number of bidding units associated with those licenses does not exceed its current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units it may wish to bid on or hold provisionally winning bids on in any single round, and submit an upfront payment amount covering that total number of bidding units. The total upfront payment does not affect the total dollar amount a bidder may bid on any given license.

92. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction.

93. A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. A bidder is considered active on a license in the current round if it is either the provisionally winning bidder at the end of the previous bidding round and does not withdraw the provisionally winning bid in the current round, or if it submits a bid in the current round. The minimum required activity is expressed as a percentage of the bidder's current eligibility, and increases by stage as the auction progresses. Because these procedures have proven successful in maintaining the pace of previous auctions, the Bureau adopts them for Auction No. 63.

iii. Auction Stages

94. In the *Auction No. 63 Comment Public Notice,* the Bureau proposed to conduct the auction in two stages and employ an activity rule. The Bureau further proposed that, in each round of Stage One, a bidder desiring to maintain its current bidding eligibility would be required to be active on licenses representing at least 80 percent of its current bidding eligibility. Finally, the Bureau proposed that in each round of Stage Two, a bidder desiring to maintain its current bidding eligibility would be required to be active on at least 95 percent of its current bidding eligibility. The Bureau received no comments on this proposal.

95. The Bureau adopts the following activity levels for each stage of the auction. The Bureau reserves the discretion to further alter the activity percentages before and/or during the auction.

Stage One: During the first stage of the auction, a bidder desiring to maintain its current bidding eligibility will be required to be active on licenses representing at least 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding unless an activity rule waiver is used. During Stage One, reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity (the sum of bidding units of the bidder's provisionally winning bids and bids during the current round) by five-fourths (5/4).

Stage Two: During the second stage of the auction, a bidder desiring to maintain its current bidding eligibility is required to be active on 95 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding unless an activity rule waiver is used. During Stage Two, reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity (the sum of bidding units of the bidder's provisionally winning bids and bids during the current round) by twenty-nineteenths (20/19).

Caution: Since activity requirements increase in Stage Two, bidders must carefully check their activity during the first round following a stage transition to ensure that they are meeting the increased activity requirement. This is especially critical for bidders that have provisionally winning bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required activity level by either logging in to the FCC Auction System or by accessing the bidder summaries on the public results page.

iv. Stage Transitions

96. The auction will start in Stage One and will generally advance to Stage Two when, in each of three consecutive rounds of bidding, the provisionally winning bids have been placed on 20 percent or less of the licenses being auctioned (as measured in bidding units). In addition, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue.

v. Activity Rule Waivers and Reducing Eligibility

97. Each bidder will be provided three activity rule waivers. Bidders may use an activity rule waiver in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum activity level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity rule waivers can be either applied proactively by the bidder (known as a ''proactive waiver'') or applied automatically by the FCC Auction System (known as an ''automatic waiver'') and are principally

a mechanism for auction participants to avoid the loss of bidding eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round. The Bureau is satisfied that its practice of providing three waivers over the course of the auction provides a sufficient number of waivers and flexibility to the bidders, while safeguarding the integrity of the auction.

98. The FCC Auction System assumes that bidders with insufficient activity would prefer to apply an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any round where a bidder's activity level is below the minimum required unless: (1) There are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility. If a bidder has no waivers remaining and does not satisfy the activity requirement, the FCC Auction System will permanently reduce the bidder's eligibility, possibly eliminating the bidder from further bidding in the auction.

99. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the bidding round by using the reduce eligibility function in the FCC Auction System. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

100. Finally, a bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity waiver (using the apply waiver function in the FCC Auction System) during a bidding round in which no bids or withdrawals are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver applied by the FCC Auction System in a round in which there are no new bids or withdrawals will not keep the auction open. Note: Applying a waiver is irreversible; once a proactive waiver is submitted that waiver cannot be unsubmitted, even if the round has not yet closed.

vi. Auction Stopping Rules

101. For Auction No. 63, the Bureau proposed to employ a simultaneous stopping rule approach. The Bureau also sought comment on a modified version of the simultaneous stopping rule. The modified version of the stopping rule would close the auction for all licenses after the first round in which no bidder applies a waiver, places a withdrawal, or submits any new bids on any license on which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule.

102. The Bureau further proposed retaining the discretion to keep the auction open even if no new bids or proactive waivers are submitted and no previous provisionally winning bids are withdrawn in a round. In this event, the effect will be the same as if a bidder had applied a waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either use an activity rule waiver (if it has any left) or lose bidding eligibility.

103. In addition, The Bureau proposed that it reserve the right to declare that the auction will end after a specified number of additional rounds (special stopping rule). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) and the auction will close.

104. The Bureau proposed to exercise these options only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time. Before exercising these options, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity.

105. The Bureau adopts its proposals. Auction No. 63 will begin under the simultaneous stopping rule approach, and the Bureau will retain the discretion to invoke the other versions of the stopping rule. The Bureau believes that these stopping rules are most appropriate for Auction No. 63, because our experience in prior auctions demonstrates that the auction stopping rules balance the interests of administrative efficiency and maximum bidder participation.

vii. Auction Delay, Suspension, or Cancellation

106. The Bureau adopts its proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Bureau emphasizes that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

B. Bidding Procedures

i. Round Structure

107. The initial schedule of bidding rounds will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will also be included in the qualified bidders public notice.

108. The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

ii. Reserve Price or Minimum Opening Bid

109. Section 309(j) of the Communications Act of 1934, as amended, calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when applications for FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction. Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the

availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on the spectrum being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

110. In the *Auction No. 63 Comment Public Notice*, the Bureau proposed to establish minimum opening bids for Auction No. 63 and to retain discretion to lower the minimum opening bids. Specifically, for Auction No. 63, the Bureau proposed to calculate minimum opening bids on a license-by-license basis as follows:

• The minimum opening bid amount for each license in Auction No. 63 is based on a 50 percent reduction of the corresponding minimum opening bid amount from Auction No. 53, with a minimum of $1,000 per license.

111. In the alternative, the Bureau sought comment on whether, consistent with the Section 309(j), the public interest would be served by having no minimum opening bid or reserve price.

112. The Bureau adopts its proposal. The minimum opening bid amounts the Bureau adopts for Auction No. 63 are reducible at the discretion of the Bureau. The Bureau emphasizes, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain requests to reduce the minimum opening bid amount on specific licenses.

113. The specific minimum opening bid amounts for each license available in Auction No. 63 are set forth in Attachment A of the *Auction No. 63 Procedures Public Notice.*

iii. Minimum Acceptable Bid Amounts and Bid Increment Amounts

114. In the *Auction No. 63 Comment Public Notice*, the Bureau proposed to use a minimum acceptable bid increment of five percent. This means that the minimum acceptable bid amount for a license will be approximately five percent greater than the provisionally winning bid amount for the license. The minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount times one plus the minimum acceptable bid percentage—*e.g.*, if the minimum acceptable bid percentage is 5 percent, the minimum acceptable bid amount calculation is (provisionally winning bid amount) * (1 + 0.05), rounded or (provisionally winning bid amount) * (1.05), rounded. The Bureau will round the result using our standard rounding procedures. The Bureau further proposed to retain the discretion to change the minimum acceptable bid amounts and bid increments amounts if the Bureau determine that circumstances so dictate. The Bureau received no comment on this issue. The Bureau will begin the auction with a minimum acceptable bid percentage of 5%.

115. In each round, each eligible bidder will be able to place a bid on a particular license for which it applied in any of nine different amounts. The FCC Auction System will list the nine acceptable bid amounts for each license. Until a bid has been placed on a license, the minimum acceptable bid amount for that license will be equal to its minimum opening bid amount.

116. The nine acceptable bid amounts for each license consist of the minimum acceptable bid amount and eight other bid amounts based on the bid increment percentage. The first additional acceptable bid amount, above the minimum acceptable bid amount, equals the minimum acceptable bid amount times one plus the bid increment percentage, rounded—*e.g.*, if the bid increment percentage is 5 percent, then the next bid amount will equal (minimum acceptable bid amount) * 1.05, rounded; the second additional acceptable bid amount equals the minimum acceptable bid amount times one plus two times the bid increment percentage, rounded, or (minimum acceptable bid amount) * 1.10, rounded; the third additional acceptable bid amount equals the minimum acceptable bid amount times one plus three times the bid increment percentage, rounded, or (minimum acceptable bid amount) * 1.15, rounded; etc. The Bureau will begin the auction with a bid increment percentage of 5 percent. Note that the bid increment percentage need not be the same as the minimum acceptable bid percentage.

117. In the case of a license for which the provisionally winning bid amount has been withdrawn, the minimum acceptable bid amount will equal the amount of the second highest bid amount received for the license. The additional bid amounts above the minimum acceptable bid amount are calculated using the bid increment percentage as described in the previous paragraph.

118. The Bureau retains the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, and the bid increment percentage if it determines that circumstances so dictate. The Bureau will do so by announcement in the FCC Auction System. The Bureau may also use its discretion to adjust the minimum bid increment amount without prior notice if circumstances warrant.

iv. Provisionally Winning Bids

119. At the end of each bidding round, a provisionally winning bid will be determined based on the highest bid amount received for each license. A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the same license at the close of a subsequent round. Provisionally winning bids at the end of the auction become the winning bids. Bidders are reminded that provisionally winning bids count toward activity for purposes of the activity rule.

120. In the *Auction No. 63 Comment Public Notice*, the Bureau proposed to use a random number generator to select a provisionally winning bid in the event of identical high bid amounts being submitted on a license in a given round (*i.e.*, tied bids). No comments were received on this proposal. Therefore, the Bureau adopts its proposal. A pseudo-random number generator based on the L'Ecuyer algorithms will be used to assign a random number to each bid. The tied bid having the highest random number will become the provisionally winning bid. Eligible bidders, including the provisionally winning bidder, will be able to submit a higher bid in a subsequent round. If no bidder submits a higher bid in subsequent rounds, the provisionally winning bid from the previous round will win the license, unless that provisionally winning bid was withdrawn. If any bids are received on the license in a subsequent round, the provisionally winning bid will once again be determined based on the highest bid amount received for the license.

v. Bidding

121. During a round, a bidder may submit bids for as many licenses as it wishes (subject to its eligibility), withdraw provisionally winning bids from previous bidding rounds, remove bids placed in the current bidding round, or permanently reduce eligibility. Bidders also have the option of submitting and removing multiple bids and withdrawing multiple provisionally winning bids (subject to the limitation on withdrawal rounds discussed below) during a round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round. Bidders

should note that the bidding units associated with licenses for which the bidder has removed or withdrawn its bid do not count towards the bidder's current activity.

122. All bidding will take place remotely either through the FCC Auction System or by telephonic bidding. There will be no on-site bidding during Auction No. 63. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, five to ten minutes are necessary to complete a telephonic bid submission.

123. A bidder's ability to bid on specific licenses is determined by two factors: (1) the licenses applied for on the bidder's FCC Form 175 and (2) the bidder's current eligibility. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

124. In order to access the bidding function of the FCC Auction System, bidders must be logged in during the bidding round using the passcode generated by the SecurID card and a personal identification number (PIN) created by the bidder. Bidders are strongly encouraged to print a round summary for each round after they have completed all of their activity for that round.

125. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. For each license, the FCC Auction System will list the nine acceptable bid amounts in a drop-down box. Bidders use the drop-down box to select from among the acceptable bid amounts. The FCC Auction System also includes an upload function that allows bidders to upload text files containing bid information.

126. Until a bid has been placed on a license, the minimum acceptable bid amount for that license will be equal to its minimum opening bid amount. Once there is a provisionally winning bid on a license, the FCC Auction System will calculate a minimum acceptable bid amount for that license for the following round.

127. Finally, bidders are cautioned to select their bid amounts carefully because, as explained in the following section, bidders that withdraw a provisionally winning bid from a previous round, even if the bid was mistakenly or erroneously made, are subject to bid withdrawal payments.

vi. Bid Removal and Bid Withdrawal

128. In the *Auction No. 63 Comment Public Notice*, the Commission proposed bid removal and bid withdrawal procedures. With respect to bid withdrawals, the Commission proposed limiting each bidder to withdrawals in no more than one round during the course of the auction. The round in which withdrawals are used would be at each bidder's discretion. The Bureau received no comments on this issue.

129. Procedures. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the remove bids function in the FCC Auction System, a bidder may effectively unsubmit any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed, *i.e.*, a bid that is removed does not count toward bidding activity. These procedures will enhance bidder flexibility during the auction, and therefore the Bureau adopts them for Auction No. 63.

130. Once a round closes, a bidder may no longer remove a bid. However, in later rounds, a bidder may withdraw provisionally winning bids from previous rounds using the withdraw bids function in the FCC Auction System (assuming that the bidder has not already withdrawn bids in a previous round). A provisionally winning bidder that withdraws its provisionally winning bid from a previous round during the auction is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). Note: Once a withdrawal is submitted during a round, that withdrawal cannot be unsubmitted.

131. In previous auctions, the Bureau has detected bidder conduct that, arguably, may have constituted anti-competitive behavior through the use of bid withdrawals. While the Bureau continues to recognize the important role that bid withdrawals play in an auction, *i.e.*, reducing risk associated with efforts to secure various licenses in combination, the Bureau concludes that, for Auction No. 63, adoption of a limit on the use of withdrawals to one round per bidder is appropriate. By doing so the Bureau believes it strikes a reasonable compromise that will allow bidders to use withdrawals. The Bureau bases its decision on this issue upon its experience with bid withdrawals in prior auctions, including PCS D, E and F block and 800 MHz SMR, and FM broadcast auctions. The Bureau's decision is in no way a reflection of its view regarding the likelihood of any ''gaming'' in this auction.

132. The Bureau will therefore limit the number of rounds in which bidders may place withdrawals to one round. The round will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in the round. Withdrawals during the auction will be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g). Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market.

133. If a provisionally winning bid is withdrawn, the minimum acceptable bid amount will equal the amount of the second highest bid received for the license, which may be less than, or in the case of tied bids, equal to, the amount of the withdrawn bid. To set the additional bid amounts, the second highest bid amount also will be used in place of the provisionally winning bid in the formula used to calculate bid increment amounts. The Commission will serve as a place holder provisionally winning bidder on the license until a new bid is submitted on that license.

134. Calculation. Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction. If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the provisionally winning bid in the same or subsequent auction(s). In the case of multiple bid withdrawals on a single license, within the same or subsequent auctions(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auctions(s), equals or exceeds that withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s). This policy allows bidders most efficiently to allocate their resources as well as to evaluate their bidding strategies and business plans during an auction while, at the same time, maintaining the integrity of the auction process. The Bureau retains the discretion to scrutinize multiple bid withdrawals on a single license for

evidence of anti-competitive strategic behavior and take appropriate action when deemed necessary.

135. Section 1.2104(g)(1) of the rules sets forth the payment obligations of a bidder that withdraws a high bid on a license during the course of an auction, and provides for the assessment of interim bid withdrawal payments. As amended, 47 CFR 1.2104(g)(1) provides that in instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the withdrawn bids. The three percent interim payment will be applied toward any final bid withdrawal payment that will be assessed after subsequent auction of the license. Assessing an interim bid withdrawal payment ensures that the Commission receives a minimal withdrawal payment pending assessment of any final withdrawal payment. 47 CFR 1.2104(g) provides specific examples showing application of the bid withdrawal payment rule.

vii. Round Results

136. Bids placed during a round will not be made public until the conclusion of that round. After a round closes, the Bureau will compile reports of all bids placed, bids withdrawn, current provisionally winning bids, new minimum acceptable bid amounts, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities for Auction No. 63 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

viii. Auction Announcements

137. The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available by clicking a link in the FCC Auction System.

V. Post-Auction Procedures

A. Down Payments and Withdrawn Bid Payments

138. After bidding has ended, the Commission will issue a public notice declaring the auction closed and identifying winning bidders, down payments, final payments, and any withdrawn bid payments due.

139. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction No. 63 to 20 percent of the net amount of its winning bids (gross bids less any applicable small business, very small business, or entrepreneur bidding credits). In addition, by the same deadline, all bidders must pay any bid withdrawal payments due under 47 CFR 1.2104(g), as discussed in Bid Removal and Bid Withdrawal.

B. Final Payments

140. Each winning bidder will be required to submit the balance of the net amount of its winning bids within 10 business days after the deadline for submitting down payments.

C. Long-Form Application (FCC Form 601)

141. Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application (FCC Form 601) for each license won through Auction No. 63. Winning bidders that are very small businesses, small businesses, or entrepreneurs must demonstrate their eligibility for very small business, small business, or entrepreneur bidding credits. See 47 CFR 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

D. Ownership Disclosure Information Report (FCC Form 602)

142. At the time it submits its long-form application (FCC Form 601), each winning bidder also must comply with the ownership reporting requirements as set forth in 47 CFR 1.913, 1.919, and 1.2112. An ownership disclosure record was automatically created in the Universal Licensing System (ULS) for any applicant that submitted an FCC Form 175. However, winning bidders will be required to review and confirm that it is complete and accurate as of the date of filing Form 601. Further instructions will be provided to auction winning bidders at the close of the auction.

E. Tribal Land Bidding Credit

143. A winning bidder that intends to use its license(s) to deploy facilities and provide services to federally recognized tribal lands that are unserved by any telecommunications carrier or that have a wireline penetration rate equal to or below 85 percent is eligible to receive a tribal land bidding credit as set forth in 47 CFR 1.2107 and 1.2110(f). A tribal land bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify.

144. Unlike other bidding credits that are requested prior to the auction, a winning bidder applies for the tribal land bidding credit after winning the auction when it files its long-form application (FCC Form 601). When initially filing the long-form application, the winning bidder will be required to advise the Commission whether it intends to seek a tribal land bidding credit, for each market won in the auction, by checking the designated box(es). After stating its intent to seek a tribal land bidding credit, the applicant will have 180 days from the close of the long-form filing window to amend its application to select the specific tribal lands to be served and provide the required tribal government certifications. Licensees receiving a tribal land bidding credit are subject to performance criteria as set forth in 47 CFR 1.2110(f)(3)(vi).

145. For additional information on the tribal land bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rule making proceeding regarding tribal land bidding credits and related public notices. Relevant documents can be viewed on the Commission's web site by going to *http://wireless.fcc.gov/auctions* and clicking on the Tribal Land Credits link.

F. Default and Disqualification

146. Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at its final bid. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.

G. Refund of Remaining Upfront Payment Balance

147. All applicants that submit upfront payments but are not winning bidders for a license in Auction No. 63 may be entitled to a refund of their remaining upfront payment balance

after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from the applicant after any applicable bid withdrawal payments have been paid. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

148. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a provisionally winning bid during the auction must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number (TIN) and FCC Registration Number (FRN). Send refund requests to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Gail Glasser, 445 12th Street, SW., Room 1-C864, Washington, DC 20554.

149. Bidders are encouraged to file their refund information electronically using the Refund Information icon in the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418–2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

Federal Communications Commission.

Gary Michaels,

Deputy Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. 05–18478 Filed 9–14–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: Tuesday, September 20, 2005 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This Meeting Will Be Closed To The Public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration. Internal personnel rules and procedures or matters affecting a particular employee.

(**Note:** The Starting Time For The Open Meeting On September 22, 2005 Has Been Changed To 2 p.m.)

DATE AND TIME: Thursday, September 22, 2005, at 2 p.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open To The Public.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes.

Advisory Opinion 2005–11: Friends of Duke Cunningham, by Kenneth Batson, Treasurer.

Advisory Opinion 2005–12: Representative Chaka Fattah, by counsel, Neil Reiff. Draft Notice of Proposed Rulemaking on Definitions of ''Solicit'' and ''Direct.'' (11 CFR 300.2(m) and (n)).

Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 05–18409 Filed 9–13–05; 10:30 am]

BILLING CODE 6715–01–M

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 September 29, 2005.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30303:

1. Clara Brown, Jasper, Tennessee; to acquire additional voting shares of General Bancshares, Inc., and thereby indirectly acquire Citizens State Bank, both of Jasper, Tennessee.

2. Robert Thomas, Monteagle, Tennessee,
Robert Thomas, Jr., Signal Mountain, Tennessee,
David Thomas, Chattanooga, Tennessee, and
Frank Thomas, Monteagle, Tennessee; to acquire additional voting shares of General Bancshares, Inc., Jasper, Tennessee, and thereby indirectly acquire Citizens State Bank, Jasper, Tennessee.

Board of Governors of the Federal Reserve System, September 9, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–18302 Filed 9–14–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 10, 2005.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs

Officer) P.O. Box 55882, Boston, Massachusetts 02106-2204:

1. Southern Connecticut Bancorp, Inc., New Haven, Connecticut; to acquire 100 percent of the voting shares of The Bank of Southeastern Connecticut, New London, Connecticut, a de nova bank.

B. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. Cathay General Bancorp, Los Angeles, California; to acquire up to 100 percent of Great Eastern Bank, New York, New York.

Board of Governors of the Federal Reserve System, September 9, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–18301 Filed 9–14–05; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–4040–0004 (Formerly OMB–0348–0043)]

Grants.gov Program Management Office; Agency Information Collection Activities: Proposed Collection; Comment Request

Agency: Office of the Secretary, Grants.gov Program Management Office, HHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Grants.gov Program Management Office, one of the 26 E–Government initiatives, managed by the Department of Health and Human Services is publishing the following summary of proposed collection for public comment. Interested individuals are invited to send comments regarding any aspect of this collection of information or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Regular, Revision of a currently approved collection;

Title of Information Collection: SF–424 Application for Federal Assistance;

Form/OMB No.: OS–4040–0004 (Formerly OMB–0348–0043);

The SF–424 Application for Federal Assistance (OMB control number 0348–0043) was cleared by OMB for emergency use on July 31, 2003, **Federal Register** notice [68 FR 44974]. OMB has since assigned the responsibility for this government-wide standard form to the Grants.gov Program Management Office and therefore the SF–424 Application for Federal Assistance OMB control number was changed in April 2005 from 0348–0043 to 4040–0004.

Use: In the **Federal Register** notice published April 8, 2003 [68 FR 17090], OMB proposed to establish a government-wide standard set of data elements and definitions for grant-related applications. After consultation with the public, OMB added four data elements to the existing Standard Form 424 (SF–424), Application for Federal Assistance data elements and established the data as the standard core data set for use on both paper and electronic applications. After obtaining emergency clearance, July 31, 2003, **Federal Register** notice, [68 FR 44974], use of the standard data elements was implemented through the electronic grants application process of Grants.gov, and was deployed in October 2003 as part of the implementation of the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107).

OMB recognized that a transition period would be needed to provide agencies time to adapt their application forms and systems to the SF–424 core data set and to phase out the use of the old forms. OMB committed to a one-year transition period and further committed to reevaluate the data set at the end of the transition period. Following the expiration of the transition period, a cross-agency working group recommended revisions to the SF–424 core data set and form. Based on these recommendations, the Grants.gov Program office now proposes the addition of the following three new standard data elements to the SF–424 data set and form: Requesting entity's Province to collect non-US geographic subdivision data for international address purposes, if applicable. Requesting entity's Point of Contact's Organizational Affiliation, if applicable. Requesting entity's Point of Contact's Title, if applicable.

The Grants.gov Program office further proposes deletion of the requesting entity's designation of construction or non-construction type of submission data element. Also proposed are non-data collection related changes, *i.e.*, renaming of data elements. These changes are presented in the supporting statement found on the HHS Web site at *http://www.hhs.gov/oirm/infocollect/pending.*

Federal agencies will not be required to collect all of the information included in the data set. The agency will identify the data that must be provided by applicants through instructions that will accompany the application package.

The efforts to address potential future revisions to the SF–424A and SF–424C budget forms and categories and to evaluate the SF–424B and SF–424D assurance language are separate efforts to be undertaken by the Pub. L. 106/107 working groups and have no impact upon the proposed revisions to the SF–424 data set or form.

An estimate of the total burden was submitted during the first information collection package for the SF–424 on April 8, 2003, **Federal Register** notice [68 FR 17090]. The estimate has been updated based on the Paperwork Reduction Act Worksheets (OMB 83-C) received from the agencies. Collectively, the agencies plan to receive 142,223 applications annually and estimate that it takes applicants one hour on average to complete each application. Cumulatively, the agencies report the total burden to applicants to be 146,758 hours.

Frequency: Recordkeeping, Reporting, on occasion.

Affected: Federal, State, Local and Tribal governments; farms; non-profit institutions, and other for-profit.

Total Annual Respondents: 77,576;

Total Annual Responses: 142,223;

Average Burden Per Response: 1 hour;

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access the HHS Web site address at *http://www.hhs.gov/oirm/infocollect/pending/* or e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *naomi.cook@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the OS Paperwork Clearance Officer designated at the following address: Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Budget, Technology, and Finance, Office of Information and Resource Management, Attention: Naomi Cook (4040–0004), Room 531–H, 200 Independence Avenue, SW., Washington DC 20201.

Dated: September 3, 2005.

Robert E. Polson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 05–18287 Filed 9–14–05; 8:45 am]

BILLING CODE 4151–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–New]

Agency Information Collection Activities: Proposed Collection; Comment Request

Agency: Office of the Secretary, HHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

#1 Type of Information Collection Request: New Collection, Regular;

Title of Information Collection: National Community Centers of Excellence in Women's Health and National Centers of Excellence in Women's Health Joint Project Evaluation Professional Survey;

Form/OMB No.: OS–0990–New;

Use: Health professionals and community leaders who participated in a joint project program will complete a survey sharing their perceptions of the program's impact on their work. This will help evaluate the processes and outcomes of the joint projects and their ability to provide integrated services to women.

Frequency: Other, once per person;

Affected Public: Individuals or households,

Annual Number of Respondents: 170.

Total Annual Responses: 170;

Average Burden Per Response: 15-minutes;

Total Annual Hours: 43.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access the HHS Web site address at *http://www.hhs.gov/oirm/infocollect/pending/* or e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *naomi.cook@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the OS Paperwork Clearance Officer designated at the following address: Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Budget, Technology, and Finance, Office of Information and Resource Management, Attention: Naomi Cook (0990–New), Room 531–H, 200 Independence Avenue, SW., Washington DC 20201.

Dated: September 6, 2005.

Robert E. Polson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 05–18288 Filed 9–14–05; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the Citizens' Health Care Working Group

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meetings.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces meetings of the Citizens' Health Care Working Group (the Working Group) mandated by section 1014 of the Medicare Modernization Act.

DATES: Business meetings of the Working Group will be held on Wednesday, September 21, 2005 from 3:30 to 5 p.m. and Thursday, September 22, 2005 from 8:30 a.m. to 11:30 a.m. A public meeting with invited speakers will take place on Friday, September 23 from 9 a.m. to 2:30 p.m. This meeting will focus on Oregon's experience in engaging the public in developing health care policy.

ADDRESSES: Events for all three days will take place in the Portland City Hall, 1221 SW. 4th Avenue, Portland, Oregon 97204. The Working Group business meetings on both Wednesday and Thursday will take place in the Rose Room. Friday's meeting will take place in the City Council Chambers.

All meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Caroline Taplin, Citizens' Health Care Working Group, at (301) 443–1514 or *ctaplin@ahrq.gov*. If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Mr. Donald L. Innis, Director, Office of Equal Employment Opportunity Program, Program Support Center, on (301) 443–1144.

The agendas for these three Working Group meetings are available on the Citizens' Working Group Web site, *http://www.citizenshealthcare.gov*. Also available at that site is a roster of Working Group members. When transcriptions of the Group's September meetins are completed, they will also be available on the Web site.

SUPPLEMENTARY INFORMATION: Section 1014 of Pub. L. 108–173, (known as the Medicare Modernization Act) directs the Secretary of the Department of Health and Human Services (DHHS), acting through the Agency for Healthcare Research and Quality, to establish a Citizens' Health Care Working Group (Citizen Group). This statutory provision, codified at 42 U.S.C. 299n., directs the Working Group to: (1) Identify options for changing our health care system so that every American has the ability to obtain quality, affordable health care coverage; (2) provide for a nationwide public debate about improving the health care system; and (3) submit its recommendations to the President and the Congress.

The Citizens' Health Care Working Group is composed of 15 members: the Secretary of DHHS is designated as a member by the statute and the Comptroller General of the U.S. Government Accountability Office (GAO) was directed to name the remaining 14 members whose appointments were announced on February 28, 2005.

Working Group Meeting Agendas

The Working Group business meetings on September 21 and 22 will be devoted to ongoing Working Group business. Topics to be addressed are expected to include: reports from Working Group Committees, plans for release of the required Report to the American people, and plans for community meetings and other activities to engage the public.

At the public meeting on September 23, invited speakers will discuss Oregon's experiences in engaging the public in discussions of health policy.

Submission of Written Information

In general, individuals or organizations wishing to provide written information for consideration by the Citizens' Health Care Working Group should submit information electronically to *citizenshealth@ahrq.gov*. The Working Group invites submissions on those topics to be addressed at the Working Group business meetings listed above. Since all electronic submissions will be posted on the Working Group web site, separate submissions by topic will facilitate review of ideas submitted on each topic by the Working Group and the public.

Dated: September 1, 2005.

Carolyn M. Clancy,

Director.

[FR Doc. 05–18389 Filed 9–13–05; 9:47 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meetings

In accordance with section 10(d) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), the Agency for Healthcare Research and Quality (AHRQ) announces meetings of scientific peer review groups. The subcommittees listed below are part of the Agency's Health Services Research Initial Review Group Committee.

The subcommittee meetings will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications are to be reviewed and discussed at these meetings. These discussions are likely to involve information concerning individuals associated with the applications, including assessments of their personal qualifications to conduct their proposed projects. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of Subcommittee:* Health Care Research Training.

Date: September 22–23, 2005 (Open from 8 a.m. to 8:15 a.m. on September 22 and closed for remainder of the meeting).

2. *Name of Subcommittee:* Health Research Dissemination and Implementation.

Date: October 20–21, 2005 (Open from 8 a.m. to 8:15 a.m. on October 21 and closed for remainder of the meeting).

3. *Name of Subcommittee:* Health Systems Research.

Date: October 20–21, 2005 (Open from 8 a.m. to 8:15 a.m. on October 21 and closed for remainder of the meeting).

4. *Name of Subcommittee:* Health Care Technology and Decision Sciences.

Date: October 27–28, 2005 (Open from 8 a.m. to 8:15 a.m. on October 27 and closed for remainder of the meeting).

5. *Name of Subcommittee:* Health Care Quality and Effectiveness Research.

Date: October 27–28, 2005 (Open 8 a.m. to 8:15 a.m. on October 27 and closed for remainder of the meeting).

All the meetings above will take place at: Agency for Healthcare Research and Quality, John Eisenberg Conference Center, 540 Gaither Road, Rockville, Maryland 20850.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of the meetings should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Suite 2000, Rockville, Maryland 20850, Telephone (301) 427–1554. Agenda items for these meetings are subject to change as priorities dictate.

Dated: September 1, 2005.

Carolyn M. Clancy,

Director.

[FR Doc. 05–18388 Filed 9–13–05; 9:47 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 04065–Supplement]

Increasing Teen Driving Safety

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2005 supplemental funds for a cooperative agreement program to provide support and assistance to the Society for Advancement of Violence and Injury Research (SAVIR), for the development and implementation of an intervention to encourage teen driver compliance with (and parental endorsement of) Graduated Driver Licensing restrictions on drivers who have an intermediate license—the group for which crash risk is highest among all drivers.

B. Eligible Applicant

Assistance will be provided to SAVIR. SAVIR is being targeted because they are uniquely qualified to carry out this activity. This assistance will be delivered as a supplement to Program Announcement 04065. SAVIR was the only recipient of this award and the current supplement is consistent with the scope of the original announcement. Dr. Robert Foss, the Principal Investigator, is a leading expert in the field of Graduated Drivers Licensing (GDL) interventions and has recently conducted a similar study using the same methodology. Currently, no other individual is in a position to conduct and evaluate an enhanced enforcement intervention, which requires the development of specific materials on local GDL laws to inform police officers, teens, and families about the requirements and penalties for GDL infractions. Dr. Foss has already developed these tools and training methods. The time it would take for another investigator to accrue the knowledge required for this task and set up an intervention and evaluation plan would set the date of completion back considerably and possibly derail the project. This work is critical to supporting the research agenda and CDC's mission to reduce fatalities and injuries to teens from motor vehicle crashes. This activity is also instrumental in carrying forward the research-related goals of the Adolescent Trailblazer team.

C. Funding

Approximately $231,000 is available in FY 2005 to fund this award. It is expected that the award will begin on October 1, 2005 and will be made for a 12-month budget period with a project period of up to two years. Funding estimates may change.

D. Where To Obtain Additional Information

For general comments or questions about this announcement contact: Technical Information Management Section, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone—770–488–2700.

For technical questions about this program, contact: Arlene Greenspan, Project Officer, CDC, National Center for Injury Prevention and Control, 4770 Buford Highway NE., Mailstop K–63, Atlanta, GA 30341, Telephone—770–488–1279, fax—770–488–1317, e-mail—*aig0@cdc.gov*.

Dated: September 9, 2005.

William P. Nichols,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 05–18321 Filed 9–14–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0486]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Experimental Study of Health Claims on Food Packages

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Experimental Study of Health Claims on Food Packages'' 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 20, 2005 (70 FR 20568), 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 0910–0565. The approval expires on August 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: September 7, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–18283 Filed 9–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cardiovascular and Renal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 16, 2005, from 8 a.m. to 5 p.m.

Location: Food and Drug Administration, CDER Advisory Committee Conference Room, rm. 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Cathy Groupe, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, e-mail: *GroupeC@cder.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512533. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug application (NDA) 21–628, proposed trade name CERTICAN (everolimus) Tablets (0.25 milligrams (mg), 0.50 mg, 0.75 mg, and 1.0 mg), Novartis Pharmaceuticals Corporation, for the proposed indication of prophylaxis of rejection in heart transplantation. The background material will become available no later than the day before the meeting and will be posted on FDA's Web site at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm.* (Click on the year 2005 and scroll down to the heading Cardiovascular and Renal Drugs Advisory Committee.)

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 8, 2005. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 8, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Beverly O'Neil at 301–827–7001, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 6, 2005.

Scott Gottlieb,

Deputy Commissioner for Policy.

[FR Doc. 05–18365 Filed 9–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Dental Products Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Dental Products Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 11, 2005, from 9:15 a.m. to 5:45 p.m., and on October 12, 2005, from 8 a.m. to 5 p.m.

Location: Hilton Washington DC North/Gaithersburg, Ballroom Salons A and B, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Michael E. Adjodha, Center for Devices and Radiological Health (HFZ–480), Food and Drug

Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–827–5283, ext. 123, e-mail: *mea@cdrh.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512518. Please call the Information Line for up-to-date information on this meeting.

Agenda: On October 11, 2005, the committee will hear a presentation on the FDA Critical Path Initiative and a presentation by the Office of Surveillance and Biometrics in the Center for Devices and Radiological Health outlining their responsibility for the review of postmarket study design. Subsequently, on October 11 and 12, 2005, the committee will discuss and make recommendations on the classification of the following unclassified dental devices:

- Root canal cleanser, product code KJJ, intended to cleanse a root canal after endodontic instrumentation;
- Retraction cord, product code MVL, intended for temporary retraction and hemostasis of the gingival margin;
- Root apex locator, product code LQY, intended to measure the length of the root canal;
- Dental mouthguards, product code MQC, intended to provide protection against bruxism, teeth clenching, and grinding;
- Artificial saliva, product code LFD, intended for the relief of chronic and temporary xerostomia;
- Oral wound dressing, product code MGQ, intended to provide pain relief from aphthous ulcers, canker sores, and minor oral lesions; and
- Electrical anesthesia, product code LWM, intended, through the application of electrical current, to provide analgesia or anesthesia during dental procedures.

Also, on October 12, 2005, the committee will discuss and make recommendations regarding the over-the-counter (OTC) use of dental mouthguards.Background information for the topics, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting on the Internet at *http://www.fda.gov/cdrh/panelmtg.html*. More information regarding product code classification can be accessed by visiting *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfPCD/classification.cfm* or by contact person. Material for the October 11 and 12 sessions will be posted on October 7, 2005.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by October 3, 2005. On October 11, 2005 and October 12, 2005, oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of committee deliberations and for approximately 30 minutes near the end of the deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 3, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, 301–594–1283, ext. 113, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 6, 2005.

Scott Gottlieb,

Deputy Commissioner for Policy.

[FR Doc. 05–18363 Filed 9–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Nonprescription Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Nonprescription Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 20, 2005, from 8 a.m. to 5:30 p.m., and on October 21, 2005, from 8 a.m. to 12 noon.

Location: Holiday Inn Washington Silver Spring, The Ballrooms, 8777 Georgia Ave., Silver Spring, MD. The hotel telephone number is 301–589–0800.

Contact Person: Darrell Lyons, Center for Drug Evaluation and Research (HFD–021), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–6760, FAX: 301–827–6778, e-mail: *lyonsd@cder.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512541. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss the benefits and risks of antiseptic products marketed for consumer use (e.g., antibacterial hand-washes and body-washes). The discussion will include topics such as the efficacy of antiseptics intended for use by consumers and potential risks to the individual and the general population from using these products. The background material will become available no later than the day before the meeting and will be posted under the Nonprescription Drugs Advisory Committee (NDAC) on FDA's Web site at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*. (Click on the year 2005 and scroll down to NDAC).

Procedure: On October 20, 2005, from 8 a.m. to 5:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by October 13, 2005. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on October 20, 2005. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 13, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On October 21, 2005, from 8 a.m. to 12 noon, the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)).

Persons attending FDA's advisory committee meetings are advised that the

agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact LaNise Giles at 301–827–7001, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 8, 2005.

Scott Gottlieb,

Deputy Commissioner for Policy.

[FR Doc. 05–18366 Filed 9–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 20, 2005, from 8 a.m. to 5 p.m.

Location: Food and Drug Administration, Center for Drug Evaluation and Research (CDER), Advisory Committee Conference Room, rm. 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Victoria Ferretti-Aceto, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *ferrettiv@cder.fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee will do the following: (1) Present the structure and function of the Office of Oncology Drug Products in CDER, (2) discuss issues involved with the conduct of certain pediatric postmarketing studies for products approved for oncologic indications, (3) review status of studies for specific off-patent drugs for pediatric oncology, and (4) consider other off-patent oncology drugs for which pediatric studies are needed, as mandated by the Best Pharmaceuticals for Children Act. When available, background materials for this meeting will be posted 1 business day before the meeting on FDA's Web site at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*. (Click on the year 2005 and scroll down to Oncologic Drugs Advisory Committee; Pediatric Subcommittee.)

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person by October 13, 2005. Oral presentations from the public will be scheduled between approximately 11:45 a.m. and 12:15 p.m., and between approximately 3 p.m. and 3:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 13, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Victoria Ferretti-Aceto at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 6, 2005.

Scott Gottlieb,

Deputy Commissioner for Policy.

[FR Doc. 05–18330 Filed 9–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005D–0348]

Draft Guidance for Industry and Food and Drug Administration Staff; Procedures for Handling Post-Approval Studies Imposed by Premarket Approval Application Order; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Procedures for Handling Post-Approval Studies Imposed by PMA Order.'' The draft guidance is designed to assist the Center for Devices and Radiological Health (CDRH) and sponsors to meet their responsibilities to track post-approval studies (sometimes called Condition of Approval Studies) that are mandated for market approval of medical devices.

DATES: Submit written or electronic comments on this draft guidance by November 14, 2005.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance document entitled ''Procedures for Handling Post-Approval Studies Imposed by PMA Order'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance.

Submit written comments concerning this draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Steven H. Chasin, Office of Surveillance and Biometrics, Division of Postmarket Surveillance, Center for Devices and Radiological Health (HFZ–500), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–3674

SUPPLEMENTARY INFORMATION:

I. Background

The draft guidance is designed to assist sponsors and CDRH to oversee post-approval studies. These studies are oftentimes mandated at the time the Center approves a Premarket Approval Application (PMA) to address additional concerns. This guidance aims to assure that:

- Sponsors submit clear, consistent and timely study reports;
- CDRH can track the status of the studies;
- CDRH staff reviews the studies and holds discussions with the sponsors in a timely manner;
- CDRH stakeholders can quickly learn about the status of these studies; and
- CDRH can take appropriate and timely action based on study results.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on ''Procedures for Handling Post-Approval Studies Imposed by PMA Order.'' It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

To receive ''Procedures for Post-Approval Studies Imposed by PMA Order'' by fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt, press 1 to order a document. Enter the document number (1516) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so by using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

IV. Paperwork Reduction Act of 1995

This draft guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 USC 3501–3520). The collections of information addressed in the draft guidance document have been approved by OMB in accordance with the PRA under the regulations governing premarket approval applications (21 CFR part 814, OMB control number 0910–0231).

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 9, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–18372 Filed 9–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004D–0251]

Guidance for Industry, Food and Drug Administration Staff, and Food and Drug Administration-Accredited Third Parties; Requests for Inspection by an Accredited Person Under the Inspections by Accredited Persons Program Authorized by the Medical Device User Fee and Modernization Act of 2002; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Requests for Inspection by an Accredited Person under the Inspection by Accredited Persons Program Authorized by Section 201 of the Medical Device User Fee and Modernization Act of 2002.'' The Medical Device User Fee and Modernization Act of 2002 authorizes FDA to establish a voluntary inspection program under which manufacturers of class II or class III devices who meet certain eligibility criteria as defined by the statute can elect to have FDA-accredited third parties conduct some of their establishment inspections instead of FDA. This guidance document describes the establishment eligibility criteria and the process for establishments to follow when requesting FDA's approval to have an accredited person (AP) conduct an inspection of their establishment instead of FDA under the new Inspections by Accredited Persons Program (AP Program).

DATES: Submit written or electronic comments on this guidance at any time. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the guidance document entitled ''Requests for Inspection by an Accredited Person under the Inspection by Accredited Persons Program Authorized by Section 201 of the Medical Device User Fee and Modernization Act of 2002'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

For medical device issues: Casper E. Uldriks, Center for Devices and Radiological Health (HFZ–300), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD

20850, 240–276–0106.

For biologics issues: Carol Rehkopf, Center for Biologics Evaluation and Research (HFM–650), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–6202.

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2002, the Medical Device User Fee and Modernization Act of 2002 (MDUFMA) (Public Law 107–250) was signed into law. Section 201 of MDUFMA amends the Federal Food, Drug, and Cosmetic Act (the act) by adding new provisions authorizing FDA to establish a voluntary inspection program under which eligible manufacturers of class II or class III devices can elect to have FDA-accredited third parties conduct some of their establishment inspections instead of FDA. Certain technical corrections were subsequently made to these provisions by the Medical Devices Technical Corrections Act (MDTCA) (Public Law 108–214), which was enacted on April 1, 2004. FDA announced in the **Federal Register** of June 3, 2004 (69 FR 31397), the availability of a draft guidance document entitled ''Requests for Inspection by an Accredited Person under the Inspections by Accredited Persons Program Authorized by Section 201 of the Medical Device User Fee and Modernization Act of 2002,'' and invited interested persons to comment by September 1, 2004.

One person submitted a comment in response to the draft guidance. The comment suggested, among other things, that partial inspections during a 2-year period should be permitted without the need for establishments to have to reapply to participate in the AP Program after each partial inspection. The comment further suggested that the guidance be revised to explicitly state that complete inspections conducted by APs under the new program which result in either a ''No Action Indicated'' or ''Voluntary Action Indicated'' classification can satisfy FDA's biennial establishment inspection requirement under section 510(h) of the act (21 U.S.C. 360(h)). The agency carefully considered the comment while finalizing the guidance and has revised the document accordingly.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on implementation of a new program that allows third-party inspections of eligible device establishments as authorized by section 201 of MDUFMA (as amended by MDTCA). It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

To receive ''Requests for Inspection by an Accredited Person under the Inspection by Accredited Persons Program Authorized by Section 201 of the Medical Device User Fee and Modernization Act of 2002'' by fax, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt, press 1 to order a document. Enter the document number 1532 followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so by using the Internet. The Center for Devices and Radiological Health (CDRH) maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

IV. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). The collections of information addressed in the guidance document have been approved by OMB in accordance with the PRA under the regulations governing the agency request or requirement that members of the public submit reports, keep records, or provide information to a third party. The provisions addressed in the guidance have been approved by OMB under OMB control number 0910–0569. This approval expires on August 31, 2008. 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.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 9, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–18364 Filed 9–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Bureau of U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Desktop Scanners

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that the Bureau of Customs and Border Protection (CBP) has issued a final determination concerning the country of origin of certain desktop scanners to be offered to the United States Government under an undesignated government procurement contract. The final determination found that, based upon the facts presented, the United States is the country of origin of the Kodak i600 line of desktop scanners for purposes of U.S. Government procurement. The Kodak i600 series includes the i620, i640, and i660 models.

DATES: The final determination was issued on September 9, 2005. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of September 15, 2005.

FOR FURTHER INFORMATION CONTACT: Ed Caldwell, Valuation and Special Programs Branch, Office of Regulations and Rulings (202–572–8872).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on September 9, 2005, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain desktop scanners to be offered to the United States Government under an undesignated government procurement contract. The CBP ruling number is HQ 563294. This final determination was issued at the request of Eastman Kodak Company under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18).

The final determination concluded that, based upon the facts presented, the assembly in the United States of parts of various origins to create the Kodak i600 scanners substantially transformed the imported parts used in production.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, Customs Regulations (19 CFR 177.30), states that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: September 9, 2005.

Michael T. Schmitz,

Assistant Commissioner, Office of Regulations and Rulings.

Attachment

HQ 563294

September 9, 2005.

MAR–2–05 RR:CR:SM 563294 EAC

Category: Marking.

Mr. Alan W.H. Gourley, Crowell & Moring LLP, 1001 Pennsylvania Avenue, NW., Washington, DC 20004–2595

RE: U.S. Government Procurement; Final Determination; country of origin of desktop scanners; substantial transformation; 19 CFR part 177

Dear Mr. Gourley:

This is in response to your letter dated June 3, 2005, requesting a final determination on behalf of Eastman Kodak Company (''Kodak''), pursuant to subpart B of part 177, Customs Regulations (19 CFR 177.21 *et seq.*). Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2411 *et seq.*), U.S. Customs and Border Protection (''CBP'') issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated foreign country or instrumentality for the purpose of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of certain desktop scanners that Kodak is considering selling to the U.S. Government. We note that Kodak is a party-at-interest within the meaning of 19 CFR 177.22(d)(2) and is entitled to request this final determination.

Facts:

I. Background

We are advised that the scanners under consideration consist of the three models within Kodak's i600 line of scanners, the i620, i640, and i660. The Kodak i600 Series Scanners are desktop scanners that have the primary function of creating electronic images from paper documents. Paper documents of various sizes, dimensions, and types may be fed into the scanners, viewed through cameras, and converted into electronic images. The scanners can process these images at a rate of up to 480 per minute. In addition, the scanners have a number of features to enhance their performance and improve the quality of the images they produce, such as skew angle determination, which detects and corrects images fed at an angle, and electronic color dropout, which removes irrelevant background color from images.

The primary difference between these models is the speed at which they are able to process images, with the i660 able to process images most quickly. The mechanical components and manufacturing processes used to build the different models are nearly identical. The differences in processing speed are attributable to differences between the programming solutions that are installed on the scanners. Kodak developed the programming for the i600 line of scanners in the United States.

II. Component Parts and Subassemblies

Kodak has manufactured its i600 series scanners both in its Rochester, New York facility and in a facility located in Shanghai, China. Many, but not all, of the parts used in the manufacture of the scanners are obtained from Chinese sources. The i600 scanners are comprised of 13 major subassemblies. Regardless of whether the scanners are manufactured to completion in the United States or China, the Shanghai facility also assembles three of the thirteen major subassemblies for the scanners from parts of U.S., Chinese, and other origins.

The present ruling request pertains only to Kodak i600 scanners to be manufactured in the United States from parts shipped from China, but sourced from various countries abroad.

Each subassembly performs a specific function and together, with miscellaneous other components and hardware, constitute a finished product capable of electronically scanning a variety of paper images. The finished scanners consist of approximately 600 individual parts. The major subassemblies are identified and described as follows.

Operator Control Panel (''OCP'') Assembly: This assembly provides the interface between the user and scanner, including wiring and the power switch used to turn the machine on and off.

Elevator Assembly: This assembly lifts the paper to the proper height to be fed into the machine for scanning without jamming the feed.

Carriage Assembly: This assembly is located at the front of the machine where paper is fed, and includes a metal tray upon which paper rests as it is fed into the scanner. The carriage assembly also includes the lead edge of the paper transport system which has a separation roller that ensures the top sheet of paper is separated from those below.

Feed Module Assembly: This assembly is set above the carriage assembly where it grabs the top sheet of paper and feeds it into the scanner.

Image Baffle Assembly: Each scanner includes two image baffle assemblies. Each assembly has a glass plate through which a camera module views paper for scanning. There are two such assemblies because separate cameras view the front and back of each document as it moves through the scanner.

Backup Baffle Assembly: Each scanner includes two backup baffle assemblies. Each assembly is adjacent to the paper path where it guides the paper through the scanner and helps assure the paper feeds cleanly through the machine and does not jam. Each assembly also includes a backup strip, which provides a background for documents as they are viewed by a camera. There is one backup baffle assembly for each of the image baffle assemblies.

Camera Modules (Upper and Lower): Each scanner includes two camera modules. The camera modules include mirrors and lenses used to view documents as they are fed through the scanner. Each camera module views and electronically captures a different side of the document. The upper camera module is part of the pod assembly. The lower camera module is located below the paper path. As the camera modules view a document, the light images they detect are converted into raw electronic data using a charge couple device. That raw data is amplified and forwarded to the ''E-box'', where the data is converted into an electronic image.

Pod Assembly: The pod assembly is the top portion of the machine, which can be opened to provide access to the paper path. The components in this assembly operate together to feed a document through the machine and to view one side of the document during scanning. This assembly includes numerous parts, as well as the following major subassemblies: (a) The upper camera module; (b) an image baffle assembly; and (c) a backup baffle assembly.

E-Box Assembly: This assembly contains the central ''brain'' of the machine, and it converts raw electronic data from the camera assembly into high quality electronic images. The E-box Assembly incorporates two circuit boards, the machine control board (''MCB'') and the image processing board (''IPB'').

Shroud Assembly and Cabinetry: These pieces are the cosmetic cabinetry that

encompass and form the outside of the machine.

Under the proposed production scenario, Kodak will purchase the two ''camera modules'' and the ''feed module'' as assembled units from its Shanghai facility. The Shanghai facility will assemble these modules using various parts, including a charge couple device for each camera module, which is purchased from the United States. The other major subassemblies will be manufactured in Rochester, New York, using component parts purchased from inventory at the Shanghai facility. It is envisioned that the Rochester facility will purchase the necessary number of parts, but that they would not be packaged or inventoried as kits. The parts inventoried at the Shanghai facility are sourced primarily from China, but include components from such designated countries as the United States, Canada, Japan, and Korea.

III. The Assembly Process

We are informed that assembly of the scanners at the Rochester facility requires approximately four to six hours of work encompassing essentially five stages: (a) Manufacturing most of the major subassemblies; (b) building the pod assembly; (c) performing the ''main build'; (d) performing ''end of line'' procedures; and (e) packaging. During these stages, the machine is built, the firmware that allows the machine to work as a scanner is loaded, the major subassemblies and the integrated circuit are tested, and the scanner's parameters are set to enable proper operation.

1. Manufacture of Major Subassemblies

The first step of production involves assemblage of most of the scanner's major subassemblies. In order to demonstrate the complexity of these operations, a description of the operations undertaken to assemble the E-box assembly has been provided. As noted above, the E-box Assembly contains the central brain of the machine and is a key component for ensuring the proper function and quality of the scanning operation. It contains approximately 50 individual parts that technicians in the United States must assemble. The building process includes, among other things, mounting a CPU board to a base and adding to that CPU board a programmed chip that enables and controls processing speed. Other operations performed include mounting gaskets and a card cage, installing electromagnetic interference (''EMI'') gaskets, installing the machine control board (''MCB'') and image processing board (''IPB'') circuit boards, attaching a power supply to the CPU board, mounting a fan and installing an air duct, and attaching a cover to the base.

During this stage of production, technicians also build the OCP, elevator, carriage, image baffle, backup baffle, and shroud assemblies. At the end of this production stage, these subassemblies are complete and ready to undergo further processing.

2. Building the Pod Assembly

After completing the major subassemblies set forth above, the technicians begin assembling the pod assembly, which is the top of the scanner. The technicians use the upper camera module, image baffle assembly, backup baffle assembly, and approximately 180 additional parts to build the pod assembly. Additional parts that must be integrated during this manufacturing stage include lamp inverters, air ducts, dust seals, video cables, blowers, air filters, rollers, support baffles, lamps, clutches, gears, and shafts. Special fixtures and tooling are used to build the pod assembly.

3. Main Build

After building the pod assembly, the technicians manufacture the bottom of the scanner, integrate the pod assembly, make fine adjustments to the unit, and perform certain testing operations. This stage of production is referred to as the ''main build.''

During the main build, technicians integrate the elevator, carriage, image baffle, backup baffle, E-box, shroud, OCP, and lower camera subassemblies, along with literally hundreds of additional parts. The additional parts include components such as camera mounts, lamp invertors, latch handles, bumpers, stops, slide blocks, bushings, brackets, gaskets, wires, air ducts, UDDS emitter boards (a circuit board for the ultrasonic double document sensor, which is used to detect misfeeds), electronic grounding jacks, elevator position sensors, carriage plates, motors, lamps, shafts, belts, blowers, air filters, foam seals, bearings, cables, switch actuators, and exterior cabinetry. The technicians also attach the pod assembly with a special fixture during this stage.

Technicians perform quality assurance checks throughout the main build and also use special fixtures designed to test electrical grounding.

4. End of Line Procedures

During this phase of production, additional quality control checks are conducted to ensure, for example, that the OCP cover is correctly installed, that all wires are dressed correctly, that the pod latches operate properly, and that glass and roller components are clean and ready for operation. The feeder module is then installed along with a separation roller and a separation pad. It is stated that the core elements of this stage of production, however, are operations such as programming, testing, and calibration of the machine.

The technicians program the equipment by inputting Kodak's proprietary firmware designed for the i600 line of scanners. This firmware was developed by Kodak's Software Engineering Group within the United States and is considered the ''intelligence'' of the scanner. The firmware provides the programming that will control machine function and the algorithms to process images.

The technicians load the firmware using Kodak's Scanner Validation Tool (''SVT''), which is a software package also developed and provided by Kodak's Software Engineering Group. In order to perform this task, technicians connect the scanner to a computer with the SVT and firmware already loaded. They then use the SVT to transfer the firmware onto the scanner. This process installs the firmware onto the IPB circuit board and CPU circuit board, which the technicians previously installed during manufacture of the E-box subassembly.

Once the firmware is loaded onto the scanner, the technicians use the SVT and the firmware to calibrate and test the responses of the machine for specific inputs. These testing and calibration operations include procedures such as calibration of the UDDS system, calibration of the scanner for brightness, calibration of the scanner's speed, and measurement of image quality.

5. Packaging

Once the end of line procedures are completed, the assembled scanners are visually inspected and packaged for shipment.

Issue: Whether the assembled Kodak i600 line of scanners are considered to be products of the United States for purposes of U.S. Government procurement.

Law and Analysis: Pursuant to Subpart B of Part 177, 19 CFR 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 CFR 177.22(a).

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens* v. *United States*, 573 F. Supp. 1149 (CIT 1983), *aff'd,* 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. *See,* C.S.D. 80–111, C.S.D. 85–25, C.S.D. 89–110, C.S.D. 89–118, C.S.D. 90–51, and C.S.D. 90–97. In C.S.D. 85–25, 19 Cust. Bull. 844 (1985), CBP held that for purposes of the Generalized System of Preferences (''GSP''), the assembly of a large number of fabricated components onto a printed circuit board in a process involving a considerable amount of time and skill resulted in a substantial transformation. In that case, in excess of 50 discrete fabricated components (such as resistors, capacitors, diodes, integrated circuits, sockets, and connectors) were assembled.

CBP has held in a number of cases involving similar type equipment that

complex and meaningful assembly operations involving a large number of components will generally result in a substantial transformation. For example, in Headquarters Ruling Letter (''HRL'') 562495 dated November 13, 2002, color ink jet printers were assembled in Singapore of components imported from a number of other countries. CBP determined that the imported components were substantially transformed during assembly such that the country of origin of the assembled ink jet printers was Singapore. In support of this position, CBP recognized that the processing operations that occurred within Singapore were complex and extensive, required the integration of 13 major subassemblies to the chassis, and that the resulting product was a new and distinct article of commerce that possessed a new name, character, and use.

In HRL 561734 dated March 22, 2001, published in the **Federal Register** on March 29, 2001 (66 FR 17222), CBP held that certain multi-functional machines (consisting of printer, copier, and fax machines) assembled in Japan were a product of that country for purposes of U.S. Government procurement. The multi-functional machines were assembled from 227 parts (108 parts obtained from Japan, 92 from Thailand, 3 from China, and 24 from other countries) and eight subassemblies, each of which was assembled in Japan. One of the subassemblies produced in Japan, referred to as the scanner unit, was described as the ''heart of the machine.'' In finding that the imported parts were substantially transformed in Japan, CBP stated that the individual parts and components lost their separate identities when they became part of the multi-functional machine. *See also,* HRL 561568 dated March 22, 2001, published in the **Federal Register** on March 29, 2001 (66 FR 17222).

By contrast, assembly operations that are minimal or simple will generally not result in a substantial transformation. For example, in HRL 734050 dated June 17, 1991, CBP held that Japanese-origin components were not substantially transformed in China when assembled in that country to form finished printers. The printers consisted of five main components identified as the ''head'', ''mechanism'', ''circuit'', ''power source'', and ''outer case.'' The circuit, power source and outer case units were entirely assembled or molded in Japan. The head and mechanical units were made in Japan but exported to China in an unassembled state. All five units were exported to China where the head and mechanical units were assembled with screws and screwdrivers. Thereafter, the head, mechanism, circuit, and power source units were mounted onto the outer case with screws and screwdrivers. In holding that the country of origin of the assembled printers was Japan, CBP recognized that the vast majority of the printer's parts were of Japanese origin and that the operations performed in China were relatively simple assembly operations.

The programming operations performed in the instant case must also be considered. In *Data General Corporation* v. *United States,* 4 CIT 182 (1982), the Court of International Trade held that a PROM (programmable read-only memory) fabricated in a foreign country but programmed in the United States for use in a computer circuit board assembled abroad was substantially transformed. In *Data General,* the court stated that the electronic pattern introduced into the circuit by programming gave the PROM the function as a read only memory and that the essence of the article, its pattern of interconnection or stored memory, was established by programming.

As applied, we find that the various foreign-origin parts are substantially transformed within the United States when assembled to form the Kodak i600 line of scanners in the manner set forth above. In making this determination we note that the scanners are comprised of approximately 600 parts and thirteen subassemblies. Ten of the subassemblies are assembled to completion within the United States during a complex and meaningful process. Illustrative examples of two major subassemblies built to completion in the United States are the E-Box assembly (comprised of approximately 50 parts) and the pod assembly (comprised of more than 180 parts). During the main build phase of production, the various subassemblies and literally hundreds of additional parts are assembled together to form the scanners. Specialized fixtures, tooling, and other equipment are used throughout assembly to align, test, and calibrate the scanners as they are built. After assembly, the scanners are programmed with firmware developed in the United States, which constitutes the intelligence of the scanners. During such assembly and programming operations, the individual components and subassemblies of foreign-origin are subsumed into a new and distinct article of commerce that has a new name, character, and use. Therefore, we find that the country of origin of the Kodak i600 scanners for purposes of U.S. Government procurement is the United States.

Holding: Based upon the specific facts of this case, we find that the individual components and subassemblies imported into the United States are substantially transformed when assembled in the manner set forth above to form Kodak i600 desktop scanners. Therefore, the country of origin of the Kodak i600 line of desktop scanners for purposes of U.S. Government procurement is the United States.

Notice of this final determination will be given in the **Federal Register** as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Any party-at-interest may, within 30 days after publication of the **Federal Register** notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Michael T. Schmitz,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 05–18359 Filed 9–14–05; 8:45 am]

BILLING CODE 9110–06–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker License Due to Death of the License Holder

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: Notice is hereby given that, pursuant to Title 19 of the Code of Federal Regulations § 111.51(a), the following individual Customs broker licenses and any and all permits have been cancelled due to the death of the broker:

Name	License No.	Port name
Thomas A. Borgia ...	10419	Miami.
Karl A. Becnel	09684	New Orleans.

Dated: September 8, 2005.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 05–18360 Filed 9–14–05; 8:45 am]

BILLING CODE 9110–06–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker Permit

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker permits are cancelled without prejudice.

Name	Permit	Issuing port
General Brokerage Services, Inc.	H34	Miami.

Name	Permit	Issuing port
General Brokerage Services, Inc.	99–00537	Washington, DC.
MarketMakers, Inc.	WW6	Miami.
Oscar H. Vildosola	26–02–ALW	Nogales.
Menlo Worldwide Trade Services, Inc.	26–02–001	Nogales.
Mary Fong	20016	Los Angeles.
Hanshin Air Cargo	98013	Los Angeles.
Menlo Worldwide Trade Services, Inc.	52–03–225	Miami.
Mark Leverett	WYT	Miami.

Dated: September 8, 2005.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 05–18361 Filed 9–14–05; 8:45 am]

BILLING CODE 9110–06–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker License

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker licenses are cancelled without prejudice.

Name	License No.	Issuing port
MarketMakers, Inc.	14666	Miami.
General Brokerage Services, Inc.	07283	Miami.

Dated: September 8, 2005.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 05–18362 Filed 9–14–05; 8:45 am]

BILLING CODE 9110–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

DATES: Written data or comments must be received on or before October 17, 2005.

ADDRESSES: Send written data or comments to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Fasbender, (612) 713–5343.

SUPPLEMENTARY INFORMATION:

Permit Number: TE087770–1

Applicant: Kimberly Livengood.

The applicant requests a permit amendment to take the Indiana bat (*Myotis sodalis*) and gray bat (*M. grisescens*) in Illinois. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE106545–1

Applicant: Melody Meyers-Kinzie.

The applicant requests a permit amendment to take clubshell (*Pluerobema clava*), rough pigtoe (*P. plenum*), fanshell (*Cyprogenia stegaria*), and northern riffleshell (*Epioblasma torulosa rangiana*) throughout Kentucky. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE108952

Applicant: Debra Scott.

The applicant requests a permit amendment to take the Indiana bat (*Myotis sodalist*) in Illinois. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE839763–6

Applicant: John Whitaker, Indiana State University.

The applicant requests a permit amendment to take the Indiana bat (*Myotis sodalist*) throughout the range of the species. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE056081–4

Applicant: EnviroScience, Inc., Stow, Ohio.

The applicant requests a permit amendment to take endangered mussels in Florida. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE088720–1

Applicant: G. Tom Watters, Columbus, Ohio.

The applicant requests a permit to take endangered mussels in Florida and hold in Ohio for host identification and propagation efforts. The scientific research is aimed at enhancement of survival of the species in the wild.

Dated: August 10, 2005.

Wendi Weber,

Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 05–18317 Filed 9–14–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

Notice of Availability of the Final Recovery Plan for the Pecos Sunflower (Helianthus paradoxus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability of the Final Recovery Plan for the Pecos sunflower (*Helianthus paradoxus*). The Pecos sunflower is a wetland annual plant that grows on wet, alkaline soils at spring seeps, wet meadows and pond margins. It occurs in seven widely spaced populations in west-central and eastern New Mexico and west Texas. Loss and/or alteration of wetland habitat is the primary threat to Pecos sunflower, primarily by surface water diversion and wetland filling for agriculture and recreational uses, and groundwater pumping and aquifer depletion for municipal uses. The Recovery Plan outlines the necessary criteria, objectives, and actions to reduce these threats and accomplish the goal of delisting the Pecos sunflower.

ADDRESSES: A copy of the Recovery Plan may be requested by contacting the U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE., Albuquerque, New Mexico, 87113. The Recovery Plan can also be obtained from the Internet at *http://www.fws.gov/endangered/recovery/*.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, New Mexico Ecological Services Field Office, at the above address; telephone 505/346–2525, facsimile 505/346–2542.

SUPPLEMENTARY INFORMATION:

Background

Pecos sunflower was listed as threatened under the Endangered Species Act of 1973 (Act), as amended, on October 20, 1999 (64 FR 56582–56590). The threats facing the survival and recovery of this species are the loss and alteration of its wetland habitat due to aquifer depletions, diversions of surface water, and filling wetlands for conversion to dry land; competition from non-native plant species, including Russian olive and tamarisk; excessive livestock grazing; and highway maintenance and mowing. The Final Recovery Plan includes scientific information about the species and provides the objectives, criteria, and actions needed to delist the species. Recovery actions designed to achieve the objectives and criteria include identifying and securing core conservation habitats essential for the long-term survival of this species, continuing life history, population, and habitat studies, ensuring compliance with existing regulations, and promoting opportunities for voluntary conservation of the species.

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of listed species, establish criteria for downlisting or delisting those species, and estimate time and costs for implementing the recovery measures needed.

The Act requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service considers all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and others also take these comments into account in the course of implementing recovery plans.

A Draft Recovery Plan for Pecos sunflower was available for a 30-day public comment period beginning July 2, 2004 (69 FR 40409). The Service also requested and received peer review from two independent specialists with expertise regarding Pecos sunflower and closely related species. During the comment period, we received letters from seven individuals and organizations, including both peer reviewers. In response to two requests to extend the public comment period, we re-opened the comment period for an additional 30 days on September 14, 2004 (69 FR 55447). No additional comments were received during that time. The recovery plan was modified to address many of the comments and specific responses for substantive comments are summarized in appendix A of the Final Recovery Plan.

Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 17, 2005.

H. Dale Hall,

Regional Director.

[FR Doc. 05–18324 Filed 9–14–05; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Inv. Nos. 731–TA–344, 391A, 392A, 392C, 393A, 394A, 396, and 399A (Second Review)]

Certain Bearings From China, France, Germany, Italy, Japan, Singapore, and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the antidumping duty orders on certain bearings from China, France, Germany, Italy, Japan, Singapore, and the United Kingdom.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on certain bearings from China, France, Germany, Italy, Japan, Singapore, and the United Kingdom would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: September 7, 2005.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION: On September 7, 2005, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of

the Act.[1] The Commission found that both the domestic and respondent interested party group responses to its notice of institution (70 FR 31531, June 1, 2005) were adequate.[2] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: September 9, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–18338 Filed 9–14–05; 8:45 am]

BILLING CODE 7020–02–P

[1] Vice Chairman Deanna Tanner Okun and Commissioner Shara L. Aranoff did not participate.

[2] Commissioner Jennifer A. Hillman found that the respondent interested party group responses with respect to ball bearings from Germany and spherical plain bearings from France were inadequate. Commissioner Daniel R. Pearson found that the respondent interested party group response with respect to spherical plain bearings from France was inadequate.

INTERNATIONAL TRADE COMMISSION

[USITC SE–05–029]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 20 , 2005 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Agenda for future meetings: None.

2. Minutes.

3. Ratification List.

4. Inv. No. 731–TA–459 (Second Review) (Polyethylene Terephthalate Film from Korea)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before September 29, 2005.)

5. Inv. Nos. 731–TA–376, 563, and 564 (Second Review) (Stainless Steel Butt-Weld Pipe Fittings from Japan, Korea, and Taiwan)—briefing and vote. (The Commission is currently scheduled tor transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before September 29, 2005.)

6. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: September 12, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–18439 Filed 9–13–05; 12:47 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–05–028]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 19 , 2005 at 2 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: None.

2. Minutes.

3. Ratification List.

4. Inv. No. 731–TA–841 (Second Review)(Non-Frozen Concentrated Apple Juice from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before September 28, 2005.)

5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: September 12, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–18440 Filed 9–13–05; 12:47 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day emergency notice of information collection under review: Request for Recognition of a Non-profit Religious, Charitable, Social Service, or Similar Organization (Form EOIR–31).

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by September 23, 2005. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Comments are encouraged and will be accepted for 60 days until November 14, 2005.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to MaryBeth Keller, General Counsel, Executive Office for Immigration Review, U.S. Department of Justice, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 22041; telephone: (703) 305–0470.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement with Change.

(2) *Title of the Form/Collection:* Request for Recognition of a Non-profit Religious, Charitable, Social Service, or Similar Organization.

(3) *Agency Form Number, if Any, and the Applicable Component of the Department of Justice Sponsoring the Collection:* Form Number: EOIR–31. Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected Public Who Will be Asked or Required to Respond, as Well as a Brief Abstract:* Primary: Non-profit organizations seeking to be recognized as legal service providers by the Board of Immigration Appeals (Board) of the Executive Office for Immigration Review (EOIR). Other: None. Abstract: This information collection is necessary to determine whether the organization meets the regulatory and relevant case law requirements for recognition by the Board as a legal service provider, which then would allow its designated representative or representatives to seek full or partial accreditation to practice before the EOIR and/or the Department of Homeland Security.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent to Respond:* It is estimated that 110 respondents will complete the form annually with an average of 2 hours per response.

(6) *An Estimate of the Total Public Burden (in Hours) Associated With the Collection:* There are an estimated 220 total annual burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530, or by e-mail at *brenda.e.dyer@usdoj.gov.*

Dated: September 9, 2005.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 05–18306 Filed 9–14–05; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

Notice of Public Comment Period for Proposed consent Decree Under the Clean Air

Under 28 CFR 50.7, notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Consent Decree in *United States* v. *Cargill, Incorporated*, (Civil Action No. 05–2037 JMR/FLN), which was lodged with the United States District Court for the District of Minnesota on September 1, 2005.

This proposed Consent Decree was lodged simultaneously with the Complaint in this national environmental enforcement action against Cargill, pursuant to Sections 113(b) and 211(d) of the Clean Air Act (''CAA''), 42 U.S.C. 7413(b) (1983), *amended by*, 42 U.S.C. 7413(b) (Supp. 1991).

Under the settlement, Cargill will implement pollution control technologies to greatly reduce emissions of volatile organic compounds (''VOC''), nitrogen oxides (''Nox''), carbon monoxide (''CO''), and sulfur dioxide (''SO2'') from corn and oilseed processing units across 27 plants in 13 states, which will result in emission reductions of approximately 30,000 tons per year.

In addition, Cargill will pay a civil penalty of $1.6 million, and spend $3.5 million on Supplemental Environmental Projects (''SEPs''). This action is the result of a cooperative enforcement effort resulting in 10 states and 4 counties, Alabama, Georgia, Illinois, Indiana, Iowa, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Memphis and Shelby County, Tennessee, the Ohio County of Montgomery, and the Iowa Counties of Linn and Polk, joining in this settlement as Plaintiff-Interveners and signatories to the Consent Decrees. Each will share in the civil penalties assessed and will benefit from Cargill's performance of the SEPs in many of the communities where the plants are located.

Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Cargill, Incorporated*, D.J. Ref. 90–5–2–1–07481/1.

The Consent Decree may be examined at the Office of the United States Attorney, District of Minnesota, 600 U.S. Courthouse, 300 South Fourth Street, Minneapolis, MN 55415. During the public comment period the Cargill Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html*. A copy of the Cargill Consent Decree, may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 51 4–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $31.00 (includes attachments), or $14.00, without attachments (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert E. Maher, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–18297 Filed 9–14–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Supplemental Consent Decree to First Round De Minimis Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on August 31, 2005, a proposed Supplemental Consent Decree to the First Round De Minimis Consent Decree in *United States* v. *Chevy Chase Cars, Inc., et al.*, Civil Action No. 05–1222, was lodged with the United States District Court for the Western District of Pennsylvania. This Supplemental Consent Decree relates to two other matters before the same Court: *United States* v. *Allegheny Ludlum Corp., et al.*, C.A. No. 97–1863 and *United States* v. *Aetna, Inc., et al.* C.A. No. 05–15. All three matters are Superfund cost recovery actions commenced by the United States against potentially responsible parties relating to the Breslube Penn Superfund Site in Coraopolis, Moon Township, Pennsylvania.

In the *Chevy Chase Car, Inc., et al.* action, the United States seeks the recovery of response costs incurred in connection with the Breslube Penn Superfund Site. The complaint alleges that each of the named defendants arranged for the treatment and/or disposal of wastes containing hazardous substances at the Site, within the meaning of 42 U.S.C. 9607(a)(3). The complaint names 22 defendants, each of which have signed the proposed Supplemental Consent Decree to the

First Round De Minimis Consent Decree. Under the Supplemental Consent Decree, each of the named defendants would pay a proportionate share of all past and future response costs incurred and to be incurred at the Site, plus a premium. In return for these payments, each defendant would receive a covenant not to sue by the United States, subject to certain reservations of rights, and contribution protection from suit by other potentially responsible parties. However, because two of the settlors/named defendants chose a lower settlement premium with a ''reopener,'' their liability can be reopened in the event that Site future response costs exceed $26 million. The other twenty settlors/named defendants selected a higher settlement premium, with no ''reopener'' provision. The total recovery under this Consent Decree should be approximately $270,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to this Supplemental Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Chevy Chase Cars, Inc., et al.*, D.J. Ref. 90–11–3–1762/2.

The *Chevy Chase Cars, Inc., et al.* Consent Decree may be examined at the Office of the United States Attorney for Western District of Pennsylvania, at 700 Grant Street, Suite 400, Pittsburgh, PA 15219 (ask for Jessica Lieber Simolar), and at U.S. EPA Region III's Office, 1650 Arch Street, Philadelphia, PA (ask for Mary Rugala). During the public comment period, the *United States* v. *Chevy Chase Cars, Inc., et al.* consent decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $11.00 (25 cents per page reproduction cost) for a full copy of the consent decree, or $6.50, for a copy without signature pages, payable to the U.S. Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–18296 Filed 9–14–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and Section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9622(d)(2), notice is hereby given that on September 1, 2005, a proposed Remedial Design/Remedial Action Consent Decree (''Decree'') in *United States* v. *The Oeser Company*, Civil Action No. C05–1491–JCC (W.D. Washington) was lodged with the United States District Court for the Western District of Washington.

The Decree resolves claims of the United States against the Oeser Company (''Oeser'') under Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), for injunctive relief, civil penalties, and recovery of response costs incurred and to be incurred by the United States Environmental Protection Agency (''EPA'') at the Oeser Company Superfund Site located in Whatcom County, Bellingham, Washington (''Site''). The Decree requires Oeser to implement EPA's selected remedial action for the Site, pay EPA's future oversight costs at the Site, and pay at least $8.6 million in reimbursement of EPA's past response costs. The remedial action is expected to cost about $3.8 million, but costs could go as high as $6 million. To secure the funds for the cleanup, Oeser will deposit approximately $6 million into two trust accounts that will be used first to pay for the cleanup and secondly, if any funds remain, to provide additional reimbursement of EPA's past costs. In addition, the company agrees to contribute $500,000 to a trust account held by the City of Bellingham for performance of a cleanup of Little Squalicum Creek.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *The Oeser Company*, Civil Action No. C05–1491–JCC (W.D. Washington), D.J. Ref. 90–11–2–07535.

The Decree may be examined at the Office of the United States Attorney for the Western District of Washington, 700 Stewart Street, Suite 5220, Seattle, Washington 98101–1271, and at U.S. EPA Region X, 1220 Sixth Avenue, Seattle, Washington 98101. During the public comment period, the Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $79.00 (25 cents per page reproduction cost) payable to the U.S. Treasury. In requesting a copy without the appendices, please enclose a check in the amount of $18.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Robert E. Maher, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–18295 Filed 9–14–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Application for National Firearms Examiner Academy.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 14, 2005.

This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact James Yurgealitis, Program Manager, National Laboratory Center, 6000 Ammendale Road, Ammendale, MD 20705.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for National Firearms Examiner Academy.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 63301. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, local, or tribal government. Other: Federal Government. The information requested on this form is necessary to process requests from prospective students to attend the ATF National Firearms Examiner Academy and to acquire firearms and tool mark examiner training. The information collection is used to determine the eligibility of the applicant.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 75 respondents will complete a 12-minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 15 annual total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: September 9, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–18310 Filed 9–14–05; 8:45 am]

BILLING CODE 4410–FY–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Crime Victim Compensation State Certification Form Request.

The Department of Justice (DOJ), Office of Justice Programs (OJP), Office for Victims of Crime (OVC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 14, 2005. The process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jeff Kerr at (202) 616–3581, Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement, without change, of a previously approved collection of which approval has expired.

(2) *Title of the Form/Collection:* Crime Victim Compensation State Certification Form.

(3) *Agency Form Number, if Any, and the Applicable Component of the Department of Justice Sponsoring the Collection:* Form Number: 7390/5, Office of Justice Programs, Office for Victims of Crime.

(4) *Affected Public Who Will Be Asked or Required To Respond, as Well as a Brief Abstract:* Primary: State, Local, Tribal Government. The Victims of Crime Act (VOCA), as amended, and the Victim Compensation Program Guidelines require each crime victim compensation program to submit an annual Crime Victim Compensation Certification Form. Information received for each program will be used to calculate the annual formula/block grant amount for the VOCA state crime victim compensation programs. The information is aggregated and serves as supporting documentation for the Director's biennial report to the Congress.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent To Respond:* It is estimated that 54 respondents will complete the form within approximately 1 hour.

(6) *An Estimate of the Total Public Burden (in Hours) Associated With the Collection:* There are an estimated 54 total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: September 9, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–18307 Filed 9–14–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Victims of Crime Act, Crime Victim Assistance Grant Program, Subgrant Award Report.

Department of Justice (DOJ), Office of Justice Programs (OJP), Office for Victims of Crime (OVC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 14, 2005. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact DeLano Foster (202) 616–3612, Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Victims of Crime Act, Victim Assistance Grant Program, Subgrant Award Report.

(3) *Agency Form Number, if Any, and the Applicable Component of the Department of Justice Sponsoring the Collection:* Form Number: 1121–0142. Office for Victims of Crime, Office of Justice Programs.

(4) *Affected Public Who Will Be Asked or Required To Respond, as Well as a Brief Abstract:* Primary: State Government. Other: None. The VOCA, Crime Victim Assistance Grant Program, Subgrant Award Report is a required submission by state grantees, within 90 days of their awarding a subgrant for the provision of crime victim services. VOCA and the Program Guidelines require each state victim assistance office to report to OVC on the impact of the Federal funds, to certify compliance with the eligibility requirements of VOCA, and to provide a summary of proposed activities. This information will be aggregated and serve as supporting documentation for the Director's biennial report to the President and to the Congress on the effectiveness of the activities supported by these grants.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent To Respond/Reply:* It is estimated that approximately 5,900 responses will be received which will take an average of 30 minutes to complete per response.

(6) *An Estimate of the Total Public Burden (in Hours) Associated With the Collection:* The current estimated burden is 295 (5,900 responses × .05 hour per response = 295 hours). There is no increase in the annual recordkeeping and reporting burden.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: September 9, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–18308 Filed 9–14–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Victim of Crime Act, Crime Victim Assistance Grant Program, Performance Report.

Department of Justice (DOJ), Office of Justice Programs (OJP), Office for Victims of Crime (OVC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 14, 2005. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact DeLano Foster (202) 616–3612, Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Victims of Crime Act, Victim Assistance Grant Program, Performance Report.

(3) *Agency Form Number, if Any, and the Applicable Component of the Department of Justice Sponsoring the Collection:* Form number: 1121–0115. Office for Victims of Crime, Office of Justice Programs.

(4) *Affected Public Who Will be Asked or Required to Respond, as Well as a Brief Abstract:* Primary: State Government. Other: None. The VOCA, Crime Victim Assistance Grant Program, State Performance Report is a required annual submission by state grantees to report to the Office for Victims of Crime (OVC) on the uses and effects VOCA victim assistance grant funds have had on services to crime victims in the State, to certify compliance with the eligibility requirement of VOCA, and to provide a summary of supported activities carried out within the State during the grant period. This information will be aggregated and serve as supporting documentation for the Director's biennial report to the President and to the Congress on the effectiveness of the activities supported by these grants.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent To Respond:* It is estimated that approximately 57 respondents will take approximately 21 hours to complete the report.

(6) *An Estimate of the Total Public Burden (in Hours) Associated With the Collection:* The current estimated burden is 1,197 (20 hours per respondent (estimate median) + 1 hour per respondent for recordkeeping × 57 respondents = 1,197 hours). There is no increase in the annual recordkeeping and reporting burden.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: September 9, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–18309 Filed 9–14–05; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (05–135)]

NASA Advisory Council, Aeronautics Research Advisory Committee; Council of Deans Subcommittee; Vehicle Systems Program Subcommittee; Aviation Safety and Security Program Subcommittee; Meetings

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting cancellation.

Federal Register Citations of Previous Announcements

Volume 70, Number 166, Page 51092, Notice Number 05–130, August 29, 2005; Volume 70, Number 166, Page 51092, Notice Number 05–131, August 29, 2005; Volume 70, Number 154, Page 46891, Notice Number 05–128, August 11, 2005; Volume 70, Number 154, Page 46892, Notice Number 05–127, August 11, 2005.

Previously Announced Dates of Meetings

Tuesday, September 20, 2005, 9 a.m. to 5 p.m. and Wednesday, September 21, 2005, 9 a.m. to 5 p.m.; Monday, September 19, 2005, 9 a.m. to 5 p.m.; Wednesday, September 14, 2005, 8:30 a.m. to 5 p.m.; Thursday, September 8, 2005, 9 a.m. to 5 p.m. These meetings will be rescheduled.

Contact Person For More Information: Mary-Ellen McGrath (202) 358–4729.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 05–18277 Filed 9–14–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts; Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Notice of final guidance.

SUMMARY: The National Endowment for the Arts (''the Endowment'') publishes for public comment proposed Policy Guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient persons. This policy guidance is intended to replace policy guidance published on the Endowment Web site, *http://www.arts.gov,* in November of 2000. Notice of Proposed Guidance seeking comments was published on June 30, 2004. No comments were received.

DATES: The Final Guidance is effective October 17, 2005.

ADDRESSES: Interested persons should submit written comments to: Claudia Nadig, Office of General Counsel, National Endowment for the Arts,1100 Pennsylvania Avenue, NW., Washington, DC 20506. Telephone (202) 682–5418. E-mail *nadigc@arts.endow.gov.*

FOR FURTHER INFORMATION CONTACT: Claudia Nadig, Office of General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Telephone (202) 682–5418. E-mail *nadigc@arts.endow.gov.*

SUPPLEMENTARY INFORMATION: Under Endowment regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.* (Title VI), recipients of federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP). See 45 CFR 1110. Executive Order 13166, reprinted at 65 FR 50121 (August 16, 2000), directs each federal agency that extends assistance subject to the requirements of Title VI to publish, after review and approval by the Department of Justice, guidance for its respective recipients clarifying that obligation. Executive Order 13166 further directs that all such guidance documents be consistent with the compliance standards and framework detailed in the Department of Justice (DOJ) Policy Guidance entitled ''Enforcement of Title VI of the Civil

Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency.'' See 65 FR 50123 (August 16, 2000).

Endowment Guidance regarding obligations under Title VI to take reasonable steps to ensure access to programs and activities by persons with limited English proficiency was originally published on the Endowment Web site in November of 2000. See *http://www.arts.gov* On March 14, 2002, the Office of Management and Budget (OMB) issued a Report to Congress entitled ''Assessment of the Total Benefits and Costs of Implementing Executive Order No. 13166: Improving Access to Services for Persons with Limited English Proficiency.'' Among other things, the Report recommended the adoption of uniform guidance across all federal agencies, with flexibility to permit tailoring to each agency's specific recipients. Consistent with this OMB recommendation, the Department of Justice (DOJ) published LEP Guidance for DOJ recipients which was drafted and organized to function as a model for similar guidance by other federal grant agencies. See 67 FR 41455 (June 18, 2002). Consistent with this directive, the Endowment has developed this proposed Guidance which is designed to reflect the application of the DOJ Guidance standards to particular classes of Endowment recipients.

It has been determined that the proposed guidance does not constitute a regulation subject to the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553.

The text of the complete proposed guidance document appears below.

Dated: August 22, 2005.

Claudia Nadig,

General Counsel, National Endowment for the Arts.

I. Introduction

Most individuals living in the United States read, write, speak and understand English. There are many individuals, however, for whom English is not their primary language. For instance, based on the 2000 census, over 26 million individuals speak Spanish and almost 7 million individuals speak an Asian or Pacific Island language at home. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient, or ''LEP.'' While detailed data from the 2000 census has not yet been released, 26% of all Spanish-speakers, 29.9% of all Chinese-speakers, and 28.2% of all Vietnamese-speakers reported that they spoke English ''not well'' or ''not at all'' in response to the 1990 census.

Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities. The Federal Government funds an array of services that can be made accessible to otherwise eligible LEP persons. The Federal Government is committed to improving the accessibility of these programs and activities to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. Recipients should not overlook the long-term positive impacts of incorporating or offering English as a Second Language (ESL) programs in parallel with language assistance services. ESL courses can serve as an important adjunct to a proper LEP plan. However, the fact that ESL classes are made available does not obviate the statutory and regulatory requirement to provide meaningful access for those who are not yet English proficient. Recipients of federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government services.[1]

In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d and Title VI regulations against national origin discrimination. The purpose of this policy guidance is to assist recipients in fulfilling their responsibilities to provide meaningful access to LEP persons under existing law. This policy guidance clarifies existing legal requirements for LEP persons by providing a description of the factors recipients should consider in fulfilling their responsibilities to LEP persons.[2] These are the same criteria the Endowment will use in evaluating whether recipients are in compliance with Title VI and Title VI regulations.

Before discussing these criteria in greater detail, it is important to note two basic underlying principles. First, we must ensure that federally-assisted programs aimed at the American public do not leave some behind simply because they face challenges communicating in English. This is of particular importance because, in many cases, LEP individuals form a substantial portion of those encountered in federally-assisted programs. Second, we must achieve this goal while finding constructive methods to reduce the costs of LEP requirements on small businesses, small local governments, or small non-profits that receive federal financial assistance.

There are many productive steps that the federal government, either collectively or as individual grant agencies, can take to help recipients reduce the costs of language services without sacrificing meaningful access for LEP persons. Without these steps, certain smaller grantees may well choose not to participate in federally assisted programs, threatening the critical functions that the programs strive to provide. To that end, the National Endowment for the Arts, in conjunction with the Department of Justice (DOJ), plans to continue to provide assistance and guidance in this important area. In addition, the Endowment plans to work with its recipients and LEP persons to identify and share model plans, examples of best practices, and cost-saving approaches. Moreover, the Endowment intends to explore how language assistance measures, resources and cost-containment approaches developed with respect to their own federally conducted programs and activities can be effectively shared or otherwise made available to recipients, particularly small businesses, small local governments, and small non-profits. An interagency working group on LEP has developed a website, www.lep.gov, to assist in disseminating this information to recipients, federal agencies, and the communities being served.

Many commentators have noted that some have interpreted the case of *Alexander* v. *Sandoval*, 532 U.S. 275 (2001), as impliedly striking down the regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to

[1] The Endowment recognizes that many recipients may have had language assistance programs in place prior to the issuance of Executive Order 13166. This policy guidance provides a uniform framework for a recipient to integrate, formalize, and assess the continued vitality of these existing and possibly additional reasonable efforts based on the nature of its program or activity, the current needs of the LEP populations it encounters, and its prior experience in providing language services in the community it serves.

[2] The policy guidance is not a regulation but rather a guide. Title VI and its implementing regulations require that recipients take reasonable steps to ensure meaningful access by LEP persons. This guidance provides an analytical framework that recipients may use to determine how best to comply with statutory and regulatory obligations to provide meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are limited English proficient.

federally assisted programs and activities. The Endowment and the Department of Justice have taken the position that this is not the case, and will continue to do so. Accordingly, we will strive to ensure that federally assisted programs and activities work in a way that is effective for all eligible beneficiaries, including those with limited English proficiency.

II. Legal Authority

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person shall ''on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.'' Section 602 authorizes and directs federal agencies that are empowered to extend federal financial assistance to any program or activity ''to effectuate the provisions of [section 601] * * * by issuing rules, regulations, or orders of general applicability.'' 42 U.S.C. 2000d–1.

In pertinent part, the Endowment's regulations promulgated pursuant to section 602 forbid recipients from ''utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.'' See 45 CFR 1110.3(b)(2).

The Supreme Court, in *Lau* v. *Nichols*, 414 U.S. 563 (1974), interpreted regulations promulgated by the former Department of Health, Education, and Welfare, including language substantially similar to that of the Endowment quoted above, to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national-origin discrimination. In Lau, a San Francisco school district that had a significant number of non-English speaking students of Chinese origin was required to take reasonable steps to provide them with a meaningful opportunity to participate in federally funded educational programs.

On August 11, 2000, Executive Order 13166 was issued. ''Improving Access to Services for Persons with Limited English Proficiency,'' 65 FR 50121 (August 16, 2000). Under that order, every federal agency that provides financial assistance to non-federal entities must publish guidance on how their recipients can provide meaningful access to LEP persons and thus comply with Title VI regulations forbidding funding recipients from ''restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program'' or from ''utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.''

On that same day, DOJ issued a general guidance document addressed to ''Executive Agency Civil Rights Officers'' setting forth general principles for agencies to apply in developing guidance documents for recipients pursuant to the Executive Order. ''Enforcement of Title VI of the Civil Rights Act of 1964 National Origin Discrimination Against Persons With Limited English Proficiency,'' 65 FR 50123 (August 16, 2000) (''DOJ LEP Guidance'').

Subsequently, federal agencies raised questions regarding the requirements of the Executive Order, especially in light of the Supreme Court's decision in *Alexander* v. *Sandoval*, 532 U.S. 275 (2001). On October 26, 2001, Ralph F. Boyd, Jr., Assistant Attorney General for the Civil Rights Division, issued a memorandum for ''Heads of Departments and Agencies, General Counsels and Civil Rights Directors.'' This memorandum clarified and reaffirmed the DOJ LEP Guidance in light of *Sandoval*.[3] The Assistant Attorney General stated that because *Sandoval* did not invalidate any Title VI regulations that proscribe conduct that has a disparate impact on covered groups—the types of regulations that form the legal basis for the part of Executive Order 13166 that applies to federally assisted programs and activities—the Executive Order remains in force. This Guidance is thus published pursuant to Executive Order 13166.

III. Who Is Covered?

The Endowment's regulations at 45 CFR 1110.3(b)(2) require all recipients of federal financial assistance from the Endowment to provide meaningful access to LEP persons.[4] Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of assistance from the Endowment typically include, but are not limited to, for example:

- State arts agencies,
- Nonprofit arts organizations, and
- Educational programs pertaining to the arts.

Subrecipients likewise are covered when federal funds are passed through from one recipient to a subrecipient.

Coverage extends to a recipient's entire program or activity; *i.e.*, to all parts of a recipient's operations. This is true even if only one part of the recipient receives the federal assistance.[5] For example, once the Endowment provides assistance to a state arts agency, all of the state-wide operations of the entire state arts agency—not just the particular projects receiving federal assistance—are covered.

Finally, some recipients operate in jurisdictions in which English has been declared the official language. Nonetheless, these recipients continue to be subject to federal non-discrimination requirements, including those applicable to the provision of federally assisted services to persons with limited English proficiency.

IV. Who Is a Limited English Proficient Individual?

Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be limited English proficient, or ''LEP,'' entitled to language assistance with respect to a

[3] The memorandum noted that some commentators have interpreted *Sandoval* as impliedly striking down the disparate-impact regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to federally assisted programs and activities. See, *e.g.*, *Sandoval*, 532 U.S. at 286, 286 n.6 (''[W]e assume for purposes of this decision that section 602 confers the authority to promulgate disparate-impact regulations; * * * We cannot help observing, however, how strange it is to say that disparate-impact regulations are 'inspired by, at the service of, and inseparably intertwined with' Sec. 601 * * * when Sec. 601 permits the very behavior that the regulations forbid.''). The memorandum, however, made clear that DOJ disagreed with the commentators' interpretation. *Sandoval* holds principally that there is no private right of action to enforce Title VI disparate-impact regulations. It did not address the validity of those regulations or Executive Order 13166 or otherwise limit the authority and responsibility of federal grant agencies to enforce their own implementing regulations.

[4] Pursuant to Executive Order 13166, the meaningful access requirement of the Title VI regulations and the four-factor analysis set forth in the DOJ LEP Guidance are to additionally apply to the federally conducted programs and activities of federal agencies, including the Endowment.

[5] However, if a federal agency were to decide to terminate federal funds based on noncompliance with Title VI or its regulations, only funds directed to the particular program or activity that is out of compliance would be terminated. 42 U.S.C. 2000d–1.

particular type of service, benefit, or encounter.

Examples of populations likely to include LEP persons who are encountered and/or served by the Endowment's recipients and should be considered when planning language services include, but are not limited to:

- Community members who may attend performances or exhibits
- Persons participating in programs or activities administered or supported by local arts organizations, museums, or cultural centers
- Students and their parents or guardians subject to or serviced by educational programs dealing with the arts

V. How Does a Recipient Determine the Extent of Its Obligation To Provide LEP Services?

Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors: (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the grantee/recipient and costs. As indicated above, the intent of this guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, small local governments, or small nonprofits.

After applying the above four-factor analysis, a recipient may conclude that different language assistance measures are sufficient for the different types of programs or activities in which it engages. For instance, some of a recipient's activities will be more important than others or have greater impact on or contact with LEP persons, and thus may require more in the way of language assistance. The flexibility that recipients have in addressing the needs of the LEP populations they serve does not diminish, and should not be used to minimize, the obligation that those needs be addressed. The Endowment's recipients should apply the following four factors to the various kinds of contacts that they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons.

(1) The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population

One factor in determining what language services recipients should provide is the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population. The greater the number or proportion of these LEP persons, the more likely language services are needed. Ordinarily, persons ''eligible to be served, or likely to be directly affected, by'' a recipient's program or activity are those who are served or encountered in the eligible service population. This population will be program-specific, and includes persons who are in the geographic area that has been approved by a federal grant agency as the recipient's service area. When considering the number or proportion of LEP individuals in a service area, recipients providing educational services to minor LEP students should also include the students' LEP parent(s) or primary caretakers among those likely to be encountered.

Recipients should first examine their prior experiences with LEP encounters and determine the breadth and scope of language services that were needed. In conducting this analysis, it is important to include language minority populations that are eligible for their programs or activities but may be underserved because of existing language barriers. Other data should be consulted to refine or validate a recipient's prior experience, including the latest census data for the area served, data from school systems and from community organizations, and data from state and local governments.[6] Community agencies, school systems, religious organizations, legal aid entities, and others can often assist in identifying populations for whom outreach is needed and who would benefit from the recipients' programs and activities were language services provided.

Examples:

A museum in a city with a large Hispanic population including a significant number of LEP members should consider translating exhibit labels and/or audio tours into Spanish (or offering regular bilingual tours).

A visual arts organization in a community with a very small number of Vietnamese LEP residents but a significant Chinese LEP population should consider translating its brochures in Chinese, but need not necessarily translate those brochures into Vietnamese.

(2) The Frequency With Which LEP Individuals Come in Contact With the Program

Recipients should assess, as accurately as possible, the frequency with which they have or should have contact with an LEP individual from different language groups seeking assistance. The more frequent the contact with a particular language group, the more likely that enhanced language services in that language are needed. The steps that are reasonable for a recipient that serves an LEP person on a one-time basis will be very different than those expected from a recipient that serves LEP persons daily.

- A dance company that regularly performs in a Korean cultural center is more likely to encounter Korean LEP persons, and thus have a greater need for appropriate language services, than a visiting dance troupe scheduled to perform at the Korean cultural center on a single occasion. However, if the cultural center itself is a recipient of assistance from the Endowment or another federal agency, it may have its own obligation, apart from that of the performing troupes it sponsors or hosts, to provide appropriate language services regardless of the number of performances by individual dance companies.
- A local arts agency that operates a job referral directory of local artists in a community that includes a significant Hmong population, a language group known to include a large percentage of LEP persons. The recipient should consider translating the application form into Hmong or, because Hmong is traditionally an oral rather than written language, offering an interpreter to assist Hmong-speaking LEP individuals in filling out the application.

It is also advisable to consider the frequency of different types of language contacts. For example, frequent contacts with Spanish-speaking people who are LEP may require certain assistance in Spanish. Less frequent contact with different language groups may suggest a different and less intensified solution. If an LEP individual accesses a program or service on a daily basis, a recipient has

[6] The focus of the analysis is on lack of English proficiency, not the ability to speak more than one language. Note that demographic data may indicate the most frequently spoken languages other than English and the percentage of people who speak that language who speak or understand English less than well. Some of the most commonly spoken languages other than English may be spoken by people who are also overwhelmingly proficient in English. Thus, they may not be the languages spoken most frequently by limited English prlficient individuals. When using demographic data, it is important to focus in on the languages spoken by those who are not proficient in English.

greater duties than if the same individual's program or activity contact is unpredictable or infrequent. But even recipients that serve LEP persons on an unpredictable or infrequent basis should use this balancing analysis to determine what to do if an LEP individual seeks services under the program in question. This plan need not be intricate. It may be as simple as being prepared to use one of the commercially-available telephonic interpretation services to obtain immediate interpreter services. In applying this standard, recipients should take care to consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.

(3) The Nature and Importance of the Program, Activity, or Service Provided by the Program

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed. For example, the obligations of a federally assisted school or hospital to LEP constituents are generally far greater than those of a federally assisted zoo or theater. A recipient needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Decisions by a federal, state, or local entity to make an activity compulsory, such as a particular educational program, can serve as strong evidence of the program's importance. While all situations must of course be analyzed on a case-by-case basis, the following general observations may be helpful to the Endowment's recipients considering the implications of applying this factor of the four-factor test to their respective programs:

With respect to the nature of a program, it should be emphasized that the message of visual art, dance, and orchestral music is generally conveyed independent of the written or spoken word and thus can be accessible regardless of language. Moreover, in certain cases, the source language in which a play, song, opera, or poem is written may be essential to its nature. Thus, while librettos, subtitles, and synopses may be appropriate in English or another language, translation of the entire performance may not be consistent with the nature or fundamental purpose of the work as an art form. However, to the extent that a recipient determines that additional written or oral explanatory information is helpful to understand performances or exhibits, it should ensure that this information is, when warranted under the four-factor analysis, also made available in appropriate languages other than English.

With respect to the importance of a program, activity, or service provided by one of the Agency's recipients, the obligation to provide translation services will most likely be greatest in educational or training situations. Entities that receive federal financial assistance from both the Department of Education and the Endowment may rely on the Department of Education's more particularized LEP Guidance to ensure compliance with the obligation to provide meaningful access in an educational context.

Examples:

- A local arts agency administering an ''artist in residence'' program that places one or more sub-recipients in local elementary and secondary schools with a relatively small Haitian LEP student population should consider the provision of appropriate Haitian language services (including the possible selection of an artist who speaks Haitian Creole) in light of the frequent, possibly daily, interactions with this otherwise small student and parent LEP population.
- A state arts agency rural arts apprenticeship program should consider matching students with limited English skills to bilingual mentors.
- A filmmaker making a film or television program for national distribution may dub or subtitle the film in other languages, but is not required to do so.
- A theater company need not offer a play in translation even if it serves a large LEP population, but may wish to present a synopsis in other languages.
- A Chinese opera company in a heavily Hispanic area need not offer surtitles in Spanish (or English) but may consider translating a synopsis of the libretto.
- A literary center might offer a program of poetry readings in Japanese, and offer written versions in English.

(4) The Resources Available to the Recipient and Costs

A recipient's level of resources and the costs that would be imposed on it may have an impact on the nature of the steps it should take. Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets. For example, a multi-million dollar orchestra receiving a $75,000 grant from the Endowment would obviously have a much greater ability to address the language needs of a LEP audience than a small chamber ensemble for whom that same grant amount represents its principal budget. In addition, ''reasonable steps'' may cease to be reasonable where the costs imposed substantially exceed the benefits.

Resource and cost issues, however, can often be reduced by technological advances; the sharing of language assistance materials and services among and between recipients, advocacy groups, and Federal grant agencies; and reasonable business practices. Where appropriate, training bilingual staff to act as interpreters and translators, information sharing through industry groups, telephonic and video conferencing interpretation services, pooling resources and standardizing documents to reduce translation needs, using qualified translators and interpreters to ensure that documents need not be ''fixed'' later and that inaccurate interpretations do not cause delay or other costs, centralizing interpreter and translator services to achieve economies of scale, or the formalized use of qualified community volunteers, for example, may help reduce costs.[7] Recipients should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns. Large entities and those entities serving a significant number or proportion of LEP persons should ensure that their resource limitations are well-substantiated before using this factor as a reason to limit language assistance. Such recipients may find it useful to be able to articulate, through documentation or in some other reasonable manner, their process for determining that language services would be limited based on resources or costs.

The Endowment is well aware of the fact that many of its grant recipients may experience difficulties with resource allocation. The Endowment emphasizes that reasonable translation and interpretation costs are appropriately included in grant and award budget requests.

This four-factor analysis necessarily implicates the ''mix'' of LEP services required. Recipients have two main ways to provide language services: Oral interpretation either in person or via telephone interpretation service (hereinafter ''interpretation'') and written translation (hereinafter ''translation''). Oral interpretation can

[7] Small recipients with limited resources may find that entering into a bulk telephonic interpretation service contract will prove cost effective.

range from on-site interpreters for critical services provided to a high volume of LEP persons to access through commercially-available telephonic interpretation services. Written translation, likewise, can range from translation of an entire document to translation of a short description of the document. In some cases, language services should be made available on an expedited basis while in others the LEP individual may be referred to another office of the recipient for language assistance.

The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. Regardless of the type of language service provided, quality and accuracy of those services can be critical in order to avoid serious consequences to the LEP person and to the recipient. Recipients have substantial flexibility in determining the appropriate mix.

VI. Selecting Language Assistance Services

Recipients have two main ways to provide language services: Oral and written language services. Quality and accuracy of the language service is critical in order to avoid serious consequences to the LEP person and to the recipient.

A. Oral Language Services (Interpretation)

Interpretation is the act of listening to something in one language (source language) and orally translating it into another language (target language). Where interpretation is needed and is reasonable, recipients should consider some or all of the following options for providing competent interpreters in a timely manner:

Competence of Interpreters. When providing oral assistance, recipients should ensure competency of the language service provider, no matter which of the strategies outlined below are used. Competency requires more than self-identification as bilingual. Some bilingual staff and community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret in and out of English. Likewise, they may not be able to do written translations.

Competency to interpret, however, does not necessarily mean formal certification as an interpreter, although certification is helpful. When using interpreters, recipients should ensure that they:

Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and employ the appropriate mode of interpreting (*e.g.*, consecutive, simultaneous, summarization, or sight translation);

Have knowledge in both languages of any specialized terms or concepts peculiar to the entity's program or activity and of any particularized vocabulary and phraseology used by the LEP person;[8] and, if applicable, understand and follow confidentiality and impartiality rules to the same extent the recipient employee for whom they are interpreting and/or to the extent their position requires.

Understand and adhere to their role as interpreters without deviating into any other role such as counselor or advisor.

Some recipients may have additional self-imposed requirements for interpreters. Where individual rights depend on precise, complete, and accurate interpretation or translations, the use of certified interpreters is strongly encouraged.[9] Where such proceedings are lengthy, the interpreter will likely need breaks and team interpreting may be appropriate to ensure accuracy and to prevent errors caused by mental fatigue of interpreters. The Endowment recognizes, however, that such situations are infrequent in the types of programs and activities it typically funds.

While quality and accuracy of language services is critical, the quality and accuracy of language services is nonetheless part of the appropriate mix of LEP services required. The quality and accuracy of language services in compulsory educational classes, for example, must be quite high while the quality and accuracy of language services in translation of a dance company's program notes need not meet the same exacting standards.

Finally, when interpretation is needed and is reasonable, it should be provided in a timely manner. To be meaningfully effective, language assistance should be timely. While there is no single definition for ''timely'' applicable to all types of interactions at all times by all types of recipients, one clear guide is that the language assistance should be provided at a time and place that avoids the effective denial of the service, benefit, or right at issue or the imposition of an undue burden on or delay in important rights, benefits, or services to the LEP person. Conversely, where access to or exercise of a service, benefit, or right is not effectively precluded by a reasonable delay, language assistance can likely be delayed for a reasonable period.

Hiring Bilingual Staff. When particular languages are encountered often, hiring bilingual staff offers one of the best, and often most economical, options. Recipients and sub-recipients can, for example, fill public contact positions, such as box office personnel or program directors, with staff who are bilingual and competent to communicate directly with LEP persons in their language and at the appropriate level of competency. Similarly, a state arts agency serving an area with a significant LEP population could seek to match students with limited English skills with language-appropriate bilingual mentors. If bilingual staff are also used to interpret between English speakers and LEP persons, or to orally interpret written documents from English into another language, they should be competent in the skill of interpreting. Being bilingual does not necessarily mean that a person has the ability to interpret. In addition, there may be times when the role of the bilingual employee may conflict with the role of an interpreter (for instance, a bilingual member of a formal review panel adjudicating allegations of program or fiscal noncompliance would probably not be able to perform effectively the role of interpreter and adjudicator at the same time, even if the bilingual employee were a qualified interpreter). Effective management strategies, including any appropriate adjustments in assignments and protocols for using bilingual staff, can ensure that bilingual staff are fully and appropriately utilized. When bilingual staff cannot meet all of the language service obligations of the recipient, the recipient should turn to other options.

Hiring Staff Interpreters. Hiring interpreters may be most helpful where there is a frequent need for interpreting services in one or more languages. Depending on the facts, sometimes it may be necessary and reasonable to provide on-site interpreters to provide accurate and meaningful communication with an LEP person.

[8] Many languages have ''regionalisms,'' or differences in usage. For instance, a word that may be understood to mean something in Spanish for someone from Cuba may not be so understood by someone from Mexico. In addition, because there may be languages which do not have an appropriate direct interpretation of some terms, the interpreter should be so aware and be able to provide the most appropriate interpretation. The interpreter should likely make the recipient aware of the issue and the interpreter and recipient can then work to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate.

[9] For those languages in which no formal accreditation or certification currently exists, courts and law enforcement agencies should consider a formal process for establishing the credentials of the interpreter.

Contracting for Interpreters. Contract interpreters may be a cost-effective option when there is no regular need for a particular language skill. In addition to commercial and other private providers, many community-based organizations and mutual assistance associations provide interpretation services for particular languages. Contracting with and providing training regarding the recipient's programs and processes to these organizations can be a cost-effective option for providing language services to LEP persons from those language groups.

Using Telephone Interpreter Lines. While of limited value for live performances or museum exhibits, telephone interpreter service lines often offer speedy interpreting assistance in many different languages in other public-contact situations. They may be particularly appropriate where the mode of communicating with an English proficient person would also be over the phone. Although telephonic interpretation services are useful in many situations, it is important to ensure that, when using such services, the interpreters used are competent to interpret any technical terms specific to a particular program that may be important parts of the conversation. Nuances in language and non-verbal communication can often assist an interpreter and cannot be recognized over the phone. Video teleconferencing may sometimes help to resolve this issue where necessary. In addition, where documents are being discussed, it is important to give telephonic interpreters adequate opportunity to review the document prior to the discussion and any logistical problems should be addressed.

Using Community Volunteers. In addition to consideration of bilingual staff, staff interpreters, or contract interpreters (either in-person or by telephone) as options to ensure meaningful access by LEP persons, use of recipient-coordinated community volunteers, working with, for instance, community-based organizations may provide a cost-effective supplemental language assistance strategy under appropriate circumstances. They may be particularly useful in providing language access for a recipient's less critical programs and activities. To the extent the recipient relies on community volunteers, it is often best to use volunteers who are trained in the information or services of the program and can communicate directly with LEP persons in their language. Just as with all interpreters, community volunteers used to interpret between English speakers and LEP persons, or to orally translate documents, should be competent in the skill of interpreting and knowledgeable about applicable confidentiality and impartiality rules, if any. Recipients should consider formal arrangements with community-based organizations that provide volunteers to address these concerns and to help ensure that services are available more regularly.

Use of Family Members or Friends as Interpreters. Although recipients should not plan to rely on an LEP person's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities, where LEP persons so desire, they should be permitted to use, at their own expense, an interpreter of their own choosing (whether a professional interpreter, family member, or friend) in place of or as a supplement to the free language services expressly offered by the recipient. LEP persons may feel more comfortable when a trusted family member or friend acts as an interpreter. In addition, in exigent circumstances that are not reasonably foreseeable, temporary use of interpreters not provided by the recipient may be necessary. However, with proper planning and implementation, recipients should be able to avoid most such situations.

Recipients, however, should take special care to ensure that family, legal guardians, caretakers, and other informal interpreters are appropriate in light of the circumstances and subject matter of the program, service or activity, including protection of the recipient's own administrative or enforcement interest in accurate interpretation. In many circumstances, family members (especially children) or friends are not competent to provide quality and accurate interpretations. Issues of confidentiality, privacy, or conflict of interest may also arise. LEP individuals may feel uncomfortable revealing or describing sensitive, confidential, or potentially embarrassing information to a family member, friend, or member of the local community. In addition, such informal interpreters may have a personal connection to the LEP person or an undisclosed conflict of interest. For these reasons, when oral language services are necessary, recipients should generally offer competent interpreter services free of cost to the LEP person.

While issues of competency, confidentiality, and conflict of interest in the use of family members or friends often make their use inappropriate, the use of these individuals as interpreters may be an appropriate option where proper application of the four factors would lead to a conclusion that recipient-provided services are not necessary. An example of this might be a gift shop or cafeteria associated with an small art museum or an unstaffed historical site, either of which might attract many tourists from a multitude of language groups. There, the importance and nature of the activity may be relatively low and unlikely to implicate issues of confidentiality, conflict of interest, or the need for accuracy. In addition, the resources needed and costs of providing language services may be high. In such a setting, an LEP person's use of family, friends, or others may be appropriate.

If the LEP person voluntarily chooses to provide his or her own interpreter, a recipient should consider whether a record of that choice and of the recipient's offer of assistance is appropriate. Where precise, complete, and accurate interpretations or translations of information and/or testimony are critical, or where the competency of the LEP person's interpreter is not established, a recipient might decide to provide its own, independent interpreter, even if an LEP person wants to use his or her own interpreter as well. Extra caution should be exercised when the LEP person chooses to use a minor as the interpreter. While the LEP person's decision should be respected, there may be additional issues of competency, confidentiality, or conflict of interest when the choice involves using children as interpreters. The recipient should take care to ensure that the LEP person's choice is voluntary, that the LEP person is aware of the possible problems if the preferred interpreter is a minor child, and that the LEP person knows that a competent interpreter could be provided by the recipient at no cost.

B. Written Language Services (Translation)

Translation is the replacement of a written text from one language (source language) into an equivalent written text in another language (target language).

What Documents Should be Translated? After applying the four-factor analysis, a recipient may determine that an effective LEP plan for its particular program or activity includes the translation of vital written materials into the language of each frequently-encountered LEP group eligible to be served and/or likely to be affected by the recipient's program.

Such written materials could include, for example:

- Notices advising LEP persons of free language assistance

• Written tests that do not assess English language competency, but test competency for a particular license, job, or skill for which knowing English is not required

• Applications to participate in a recipient's program or activity or to receive recipient benefits, grants, or services.

Whether or not a document (or the information it solicits) is ''vital'' may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner. Where appropriate, recipients are encouraged to create a plan for consistently determining, over time and across its various activities, what documents are ''vital'' to the meaningful access of the LEP populations they serve.

Classifying a document as vital or non-vital is sometimes difficult, especially in the case of outreach materials like brochures or other information on rights and services. Awareness of rights or services is an important part of ''meaningful access.'' Lack of awareness that a particular program, right, or service exists may effectively deny LEP individuals meaningful access. Thus, where a recipient is engaged in community outreach activities in furtherance of its activities, it should regularly assess the needs of the populations frequently encountered or affected by the program or activity to determine whether certain critical outreach materials should be translated. Community organizations may be helpful in determining what outreach materials may be most helpful to translate. In addition, the recipient should consider whether translations of outreach material may be made more effective when done in tandem with other outreach methods, including utilizing the ethnic media, schools, religious, and community organizations to spread a message.

Sometimes a document includes both vital and non-vital information. This may be the case when the document is very large. It may also be the case when the title and a phone number for obtaining more information on the contents of the document in frequently-encountered languages other than English is critical, but the document is sent out to the general public and cannot reasonably be translated into many languages. Thus, vital information may include, for instance, the provision of information in appropriate languages other than English regarding where a LEP person might obtain an interpretation or translation of the document.

Into What Languages Should Documents be Translated? The languages spoken by the LEP individuals with whom the recipient has contact determine the languages into which vital documents should be translated. A distinction should be made, however, between languages that are frequently encountered by a recipient and less commonly-encountered languages. Many recipients serve communities in large cities or across the country. They regularly serve LEP persons who speak dozens and sometimes over 100 different languages. To translate all written materials into all of those languages is unrealistic. Although recent technological advances have made it easier for recipients to store and share translated documents, such an undertaking would incur substantial costs and require substantial resources. Nevertheless, well-substantiated claims of lack of resources to translate all vital documents into dozens of languages do not necessarily relieve the recipient of the obligation to translate those documents into at least several of the more frequently-encountered languages and to set benchmarks for continued translations into the remaining languages over time. As a result, the extent of the recipient's obligation to provide written translations of documents should be determined by the recipient on a case-by-case basis, looking at the totality of the circumstances in light of the four-factor analysis. Because translation is a one-time expense, consideration should be given to whether the up-front cost of translating a document (as opposed to oral interpretation) should be amortized over the likely lifespan of the document when applying this four-factor analysis.

Safe Harbor. Many recipients would like to ensure with greater certainty that they comply with their obligations to provide written translations in languages other than English. Paragraphs (a) and (b) outline the circumstances that can provide a ''safe harbor'' for recipients regarding the requirements for translation of written materials. A ''safe harbor'' means that if a recipient provides written translations under these circumstances, such action will be considered strong evidence of compliance with the recipient's written-translation obligations.

The failure to provide written translations under the circumstances outlined in paragraphs (a) and (b) does not mean there is non-compliance. Rather, they provide a common starting point for recipients to consider whether and at what point the importance of the service, benefit, or activity involved; the nature of the information sought; and the number or proportion of LEP persons served call for written translations of commonly-used forms into frequently-encountered languages other than English. Thus, these paragraphs merely provide a guide for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four-factor analysis.

Example: Even if the safe harbors are not used, if written translation of a certain document(s) would be so burdensome as to defeat the legitimate objectives of its program, the translation of the written materials is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances.

Safe Harbor Standards. The following actions will be considered strong evidence of compliance with the recipient's written-translation obligations: (a) The recipient provides written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or (b) If there are fewer than 50 persons in a language group that reaches the five percent trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

These safe harbor provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable.

The Endowment acknowledges that it provides assistance to a wide range of programs and activities serving different geographic areas with varying populations. Moreover, as noted above, the obligation to consider translations applies only to a recipient's vital documents having a significant impact on access rather than all types of documents used or generated by a recipient in the course of its activities. For these reasons, a strict reliance on the numbers or percentages set out in the safe harbor standards may not be appropriate for all of the Endowment's recipients and for all their respective programs or activities. While the safe harbor standards outlined above offer a

common guide, the decision as to what documents should be translated should ultimately be governed by the underlying obligation under Title VI to provide meaningful access by LEP persons by ensuring that the lack of appropriate translations of vital documents does not adversely impact upon an otherwise eligible LEP persons ability to access its programs or activities.

Competence of Translators. As with oral interpreters, translators of written documents should be competent. Many of the same considerations apply. However, the skill of translating is very different from the skill of interpreting, and a person who is a competent interpreter may or may not be competent to translate.

Particularly where vital documents are being translated, competence can often be achieved by use of certified translators. Certification or accreditation may not always be possible or necessary.[10] Competence can often be ensured by having a second, independent translator ''check'' the work of the primary translator. Alternatively, one translator can translate the document, and a second, independent translator could translate it back into English to check that the appropriate meaning has been conveyed. This is called ''back translation.''

Translators should understand the expected reading level of the audience and, where appropriate, have fundamental knowledge about the target language group's vocabulary and phraseology. Sometimes direct translation of materials results in a translation that is written at a much more difficult level than the English language version or has no relevant equivalent meaning.[11] Community organizations may be able to help consider whether a document is written at a good level for the audience. Likewise, consistency in the words and phrases used to translate terms of art or other technical concepts helps avoid confusion by LEP individuals and may reduce costs. Creating or using already-created glossaries of commonly-used terms may be useful for LEP persons and translators and cost effective for the recipient. Providing translators with examples of previous accurate translations of similar material by the recipient, other recipients, or federal agencies may be helpful.

While quality and accuracy of translation services is critical, the quality and accuracy of translation services is nonetheless part of the appropriate mix of LEP services required. For instance, documents that are simple and have no significant consequence for LEP persons who rely on them may use translators that are less skilled than important documents with legal or other information upon which reliance has important consequences. The permanent nature of written translations, however, imposes additional responsibility on the recipient to ensure that the quality and accuracy permit meaningful access by LEP persons.

VII. Elements of Effective Plan on Language Assistance for LEP Persons

After completing the four-factor analysis and deciding what language assistance services are appropriate, a recipient should develop an implementation plan to address the identified needs of the LEP populations they serve. Recipients have considerable flexibility in developing this plan. The development and maintenance of a periodically-updated written plan on language assistance for LEP persons (''LEP plan'') for use by recipient employees serving the public will likely be the most appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. Moreover, such written plans would likely provide additional benefits to a recipient's managers in the areas of training, administration, planning, and budgeting. These benefits should lead most recipients to document in a written LEP plan their language assistance services, and how staff and LEP persons can access those services. Despite these benefits, certain recipients, such as recipients serving very few LEP persons and recipients with very limited resources, may choose not to develop a written LEP plan. However, the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a recipient's program or activities. Accordingly, in the event that a recipient elects not to develop a written plan, it should consider alternative ways to articulate in some other reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, religious organizations, community groups, and groups working with new immigrants can be very helpful in providing important input into this planning process from the beginning.

The following five steps may be helpful in designing an LEP plan and are typically part of effective implementation plans.

(1) Identifying LEP Individuals Who Need Language Assistance

The first two factors in the four-factor analysis require an assessment of the number or proportion of LEP individuals eligible to be served or encountered and the frequency of encounters. This requires recipients to identify LEP persons with whom it has contact.

One way to determine the language of communication is to use language identification cards (or ''I speak cards''), which invite LEP persons to identify their language needs to staff. Such cards, for instance, might say ''I speak Spanish'' in both Spanish and English, ''I speak Vietnamese'' in both English and Vietnamese, etc. To reduce costs of compliance, the federal government has made a set of these cards available on the Internet. The Census Bureau ''I speak card'' can be found and downloaded at *http://www.usdoj.gov/crt/cor/13166.htm.* When records are normally kept of past interactions with members of the public, the language of the LEP person can be included as part of the record. In addition to helping employees identify the language of LEP persons they encounter, this process will help in future applications of the first two factors of the four-factor analysis. In addition, posting notices in commonly encountered languages notifying LEP persons of language assistance will encourage them to self-identify.

(2) Language Assistance Measures

An effective LEP plan would likely include information about the ways in which language assistance will be provided. For instance, recipients may want to include information on at least the following:

- Types of language services available.

[10] For those languages in which no formal accreditation currently exists, a particular level of membership in a professional translation association can provide some indicator of professionalism.

[11] For instance, there may be languages which do not have an appropriate direct translation of some terms and the translator should be able to provide an appropriate translation. The translator should likely also make the recipient aware of this. Recipients can then work with translators to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate. Recipients will find it more effective and less costly if they try to maintain consistency in the words and phrases used to translate terms of art and legal or other technical concepts. Creating or using already-created glossaries of commonly used terms may be useful for LEP persons and translators and cost effective for the recipient. Providing translators with examples of previous translations of similar material by the recipient, other recipients, or federal agencies may be helpful.

• How staff can obtain those services.
• How to respond to LEP callers.
• How to respond to written communications from LEP persons.
• How to respond to LEP individuals who have in-person contact with recipient staff.
• How to ensure competency of interpreters and translation services.

(3) Training Staff

Staff should know their obligations to provide meaningful access to information and services for LEP persons. An effective LEP plan would likely include training to ensure that:
• Staff know about LEP policies and procedures.
• Staff having contact with the public are trained to work effectively with in-person and telephone interpreters.

Recipients may want to include this training as part of the orientation for new employees. It is important to ensure that all employees in public contact positions are properly trained. Recipients have flexibility in deciding the manner in which the training is provided. The more frequent the contact with LEP persons, the greater the need will be for in-depth training. Staff with little or no contact with LEP persons may only have to be aware of an LEP plan. However, management staff, even if they do not interact regularly with LEP persons, should be fully aware of and understand the plan so they can reinforce its importance and ensure its implementation by staff.

(4) Providing Notice to LEP Persons

Once an organization has decided, based on the four factors, that it will provide language services, it is important for the recipient to let LEP persons know that those services are available and that they are free of charge. Recipients should provide this notice in a language LEP persons will understand. Examples of notification that recipients should consider include:
• Posting signs in intake areas and other entry points. When language assistance is needed to ensure meaningful access to information and services, it is important to provide notice in appropriate languages in intake areas or initial points of contact so that LEP persons can learn how to access those language services. For instance, signs in intake offices could state that free language assistance is available. The signs should be translated into the most common languages encountered. They should explain how to get the language help.[12]
• Stating in outreach documents that language services are available from the agency. Announcements could be in, for instance, brochures, booklets, and in outreach and recruitment information. These statements should be translated into the most common languages and could be ''tagged'' onto the front of common documents.
• Working with community-based organizations and other stakeholders to inform LEP individuals of the recipients' services, including the availability of language assistance services.
• Using a telephone voice mail menu. The menu could be in the most common languages encountered. It should provide information about available language assistance services and how to get them.
• Including notices in local newspapers in languages other than English.
• Providing notices on non-English-language radio and television stations about the available language assistance services and how to get them.
• Presentations and/or notices at schools and religious organizations.

(5) Monitoring and Updating the LEP Plan

Recipients should, where appropriate, have a process for determining, on an ongoing basis, whether new documents, programs, services, and activities need to be made accessible for LEP individuals, and they may want to provide notice of any changes in services to the LEP public and to employees. In addition, recipients should consider whether changes in demographics, types of services, or other needs require annual reevaluation of their LEP plan. Less frequent reevaluation may be more appropriate where demographics, services, and needs are more static. One good way to evaluate the LEP plan is to seek feedback from the community.

In their reviews, recipients may want to consider assessing changes in:
• Current LEP populations in service area or population affected or encountered.
• Frequency of encounters with LEP language groups.
• Nature and importance of activities to LEP persons.
• Availability of resources, including technological advances and sources of additional resources, and the costs imposed.
• Whether existing assistance is meeting the needs of LEP persons.
• Whether staff knows and understands the LEP plan and how to implement it.
• Whether identified sources for assistance are still available and viable.

In addition to these five elements, effective plans set clear goals, management accountability, and opportunities for community input and planning throughout the process.

VIII. Voluntary Compliance Effort

The goal for Title VI and Title VI regulatory enforcement is to achieve voluntary compliance. The requirement to provide meaningful access to LEP persons is enforced and implemented by the Endowment through the procedures identified in the Title VI regulations. These procedures include complaint investigations, compliance reviews, efforts to secure voluntary compliance, and technical assistance.

The Title VI regulations provide that the Endowment will investigate whenever it receives a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI or its regulations. If the investigation results in a finding of compliance, the Endowment will inform the recipient in writing of this determination, including the basis for the determination. The Endowment uses voluntary mediation to resolve most complaints. However, if a case is fully investigated and results in a finding of noncompliance, the Endowment must inform the recipient of the noncompliance through a Letter of Findings that sets out the areas of noncompliance and the steps that must be taken to correct the noncompliance. It must attempt to secure voluntary compliance through informal means. If the matter cannot be resolved informally, the Endowment must secure compliance through the termination of federal assistance after the recipient has been given an opportunity for an administrative hearing and/or by referring the matter to a DOJ litigation section to seek injunctive relief or pursue other enforcement proceedings. The Endowment engages in voluntary compliance efforts and provide technical assistance to recipients at all stages of an investigation. During these efforts, the Endowment proposes reasonable timetables for achieving compliance and consult with and assist recipients in exploring cost-effective ways of coming into compliance. In determining a recipient's compliance with the Title VI regulations, the Endowment's primary concern is to ensure that the recipient's policies and procedures provide meaningful access

[12] The Social Security Administration has made such signs available at *http://www.ssa.gov/multilanguage/langlist1.htm*. These signs could, for example, be modified for recipient use.

for LEP persons to the recipient's programs and activities.

While all recipients must work toward building systems that will ensure access for LEP individuals, the Endowment acknowledges that the implementation of a comprehensive system to serve LEP individuals is a process and that a system will evolve over time as it is implemented and periodically reevaluated. As recipients take reasonable steps to provide meaningful access to federally assisted programs and activities for LEP persons, the Endowment will look favorably on intermediate steps recipients take that are consistent with this Guidance, and that, as part of a broader implementation plan or schedule, move their service delivery system toward providing full access to LEP persons. This does not excuse noncompliance but instead recognizes that full compliance in all areas of a recipient's activities and for all potential language minority groups may reasonably require a series of implementing actions over a period of time. However, in developing any phased implementation schedule, recipients should ensure that the provision of appropriate assistance for significant LEP populations or with respect to activities having a significant impact on the health, safety, legal rights, or livelihood of beneficiaries is addressed first. Recipients are encouraged to document their efforts to provide LEP persons with meaningful access to federally assisted programs and activities.

In cases where a recipient of federal financial assistance from the Endowment also receives assistance from one or more other federal agencies, there is no obligation to conduct and document separate but identical analyses and language assistance plans. The Endowment, in discharging its compliance and enforcement obligations under Title VI, will look to analyses performed and plans developed in response to similar detailed LEP guidance issued by other federal agencies. Accordingly, as an adjunct to this Guidance, recipients may, where appropriate, also rely on guidance issued by other agencies in discharging their Title VI LEP obligations.

In determining a recipient entity's compliance with Title VI, the Endowment's primary concern is to ensure that the entity's policies and procedures overcome barriers resulting from language differences that would deny LEP persons a meaningful opportunity to participate in and access programs, services, and benefits. A recipient entity's appropriate use of the methods and options discussed in this policy guidance is viewed by the Endowment as evidence of that entity's willingness to comply voluntarily with its Title VI obligations.

Dated: August 22, 2005.

Murray Welsh,

Director of Administrative Services, National Endowment for the Arts.

[FR Doc. 05–18320 Filed 9–14–05; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 1 year.

DATES: Written comments on this notice must be received by November 14, 2005 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or sent e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday. You may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Follow-on Study: Evaluation of the Research Experiences for Teachers (RET) Program, Participants in FY 2004 and FY 2005 Awards.

OMB Number: 3145–0198.

Expiration Date of Approval: July 31, 2007.

Type of request: Renewal.

Abstract: Proposed Project: The Directorate for Engineering (ENG) initiated the Research Experiences for Teachers (RET) Supplements activity in FY 2001 to be add-ons to active awards funded by ENG programs. The intent was to build on the popular NSF-wide Research Experiences for Undergraduates (REU) Supplements activity by providing opportunities for K–12 teachers to conduct hands-on experiences in the laboratories/facilities of ENG-funded researchers. The assumption was that, like undergraduates, the teachers could benefit from involvement in research and direct exposure to the scientific method, and they could transfer what they learned into classroom activities. Typically the supplements supported one or two teachers. Beginning in FY 2002, ENG has also funded RET Site awards, which are similar to REU Sites in that NSF awards fund groups of teachers to work with faculty members at the same institution and to engage in group activities related to the research. In 2003, community college faculty became eligible as participants in RET awards. By design, all RET awards are made to the university in whose research the teachers participate.

The initial study of the program just concluded focused on participants in ENG-funded RET Supplement and Site awards in 2001 through 2003. That study resulted in modifications to the RET program announcement for the FY 200 competition. The proposed follow-up study will be very similar to the initial study and focus on teachers who participated in RET during 2004 and 2005. The follow-on study will examine how RET experiences have affected participating teachers' subsequent teaching techniques, attitudes about teaching, and professional development activities. Outcomes and impacts beyond the teachers' own classrooms, such as knowledge transfer activities, formal partnerships formed between the RET Principal Investigators (PIs)—the awardees—and the teachers' school system/district will also be examined. The first survey found that follow-up interaction between PIs and teachers were strongly related to reported positive effects. Accordingly, the follow-up study will explore this aspect of the experience in somewhat greater detail that was done in the first survey. The survey data collection will be done on the World Wide Web as before.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 40 minutes per response.

Respondents: Individuals.

Estimated Number of Responses per Form: 600.

Estimated Total Annual Burden on Respondents: 400 hours (600 respondents at 40 minutes per response).

Frequency of Response: One time.

Dated: September 9, 2005.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 05–18298 Filed 9–14–05; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

American Energy Company, LLC Oyster Creek Nuclear Generating Station; Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License No. DRP–16 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering application for the renewal of Operating License No. DPR–16, which authorizes the AmerGen Energy Company, LLC, to operate the Oyster Creek Nuclear Generating Station at 1930 megawatts (MWt) thermal. The renewed license would authorize the applicant to operate the Oyster Creek Nuclear Generating Station for an additional 20 years beyond the period specified in the current license. The current Operating License for the Oyster Creek Nuclear Generating Station expires on April 9, 2009.

The Commission's staff has received an application dated July 22, 2005, from AmerGen Energy Company, LLC, pursuant to 10 CFR Part 54, to renew the operating license number DPR–16 for Oyster Creek Nuclear Generating Station. A Notice of Receipt and Availability of the license renewal application, ''AmerGen Energy Company, LLC; Oyster Creek Nuclear Generating Station; Notice of Receipt and Availability of Application for Renewal Facility Operating License No. DPR–16 for an Additional 20-Year Period,'' was published in the **Federal Register** on August 4, 2005 (70 FR 44940).

The Commission's staff has determined that AmerGen Energy Company, LLC has submitted sufficient information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c) that is acceptable for docketing. The current Docket No. 50–219 for Operating License No. DPR–16 will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of each requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC will issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB), and that any changes made to the plant's CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants,'' dated May 1996. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be the subject of a separate **Federal Register** notice.

Within 60 days after the date of publication of this **Federal Register** Notice, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the licenses. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, First Floor, Rockville, Maryland 20852 and is accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1–800–397–4209, or by e-mail at *pdr@nrc.gov*. If a request for a hearing/petition for leave to intervene is filed within the 60-day period, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request/petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. In the event that no request for a hearing/petition for leave to intervene is filed within the 60-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 51 and 54, renew the license without further notice.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR parts 51 and 54. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the requestor/petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The requestor/petitioner must provide sufficient information to show that a genuine dispute exists with the

applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission requests that each contention be given a separate numeric or alpha designation within one of the following groups: (1) Technical (primarily related to safety concerns); (2) environmental; or (3) miscellaneous.

As specified in 10 CFR 2.309, if two or more requestors/petitioners seek to co-sponsor a contention or propose substantially the same contention, the requestors/petitioners will be required to jointly designate a representative who shall have the authority to act for the requestors/petitioners with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at 301–415–1101, verification number is 301–415–1966.[2] A copy of the request for hearing and petition for leave to intervene must also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the applicant, Kathryn M. Sutton, Esquire, Morgan, Lewis, & Bockius LLP, 1111 Pennsylvania Avenue, NW., Washington, DC, 20004.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition, request and/or contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(I)–(viii).

Detailed information about the license renewal process can be found under the Nuclear Reactors icon at *http://www.nrc.gov/reactors/operating/licensing/renewal.html* on the NRC's Web site. Copies of the application to renew the operating license for Oyster Creek Nuclear Generating Station are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike, First Floor, Rockville, Maryland 20852–2738, and at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html*, the NRC's Web site while the application is under review. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS accession number ML052080172. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC Public Document Room (PDR) Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

The staff has verified that a copy of the license renewal application is also available to local residents near the Oyster Creek Nuclear Generating Station at the Lacey Public Library, 10 East Lacey Road, Forked River, NJ 08731.

Dated at Rockville, Maryland, this 9th day of September, 2005.

For the Nuclear Regulatory Commission.

Samson S. Lee,

Acting Program Director, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. E5–5024 Filed 9–14–05; 8:45 am]

BILLING CODE 7590–01–P

[1] To the extent that the application contains attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel to discuss the need for a protection order.

[2] If the request/petition is filed by e-mail or facsimile, an original and two copies of the document must be mailed within 2 (two) business days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Attention: Rulemaking and Adjudications Staff.

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325 AND 50–324]

Carolina Power & Light Company, Brunswick Steam Electric Plant, Units 1 and 2; Notice of Withdrawal of Applications for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Carolina Power & Light Company (the licensee) to withdraw its November 12, 2002, application, as supplemented on March 5, 2004, for proposed amendments to Facility Operating License No. DPR–71 and Facility Operating License No. DPR–62 for Brunswick Steam Electric Plant, Units 1 and 2, respectively, located in Brunswick County, North Carolina.

The proposed amendments would have revised the Technical Specifications, as necessary, to support an expansion of the core flow operating range (*i.e.*, Maximum Extended Load Line Limit Analysis Plus (MELLLA+)). As part of the MELLLA+ implementation, Carolina Power & Light Company would implement the Detect and Suppress Solution-Confirmation Density (DSS–CD) approach to automatically detect and suppress neutronic/thermal-hydraulic instabilities.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 18, 2003 (68 FR 7813), and renoticed on April 27, 2004 (69 FR 22880). However, by letter dated August 25, 2005, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendments dated November 12, 2002, as supplemented March 5, 2004, and the licensee's letter dated August 25, 2005, which withdrew the application for license amendments. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be

accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams/html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 8th day of September 2005.

For the Nuclear Regulatory Commission.

Brenda L. Mozafari,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. E5–5022 Filed 9–14–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company, Haddam Neck Plant; Partial Exemption from Requirements of 10 CFR Part 50 Appendix A, Criterion 1, 10 CFR Part 50 Appendix B, Criterion XVII, and 10 CFR 50.59(d)(3)

1.0 Background

Connecticut Yankee Atomic Power Company (CY) is the licensee and holder of Facility Operating License No. DPR–61 for the Haddam Neck Plant (HNP), a permanently shutdown decommissioning nuclear plant. Although permanently shutdown, this facility is still subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC).

On December 5, 1996, CY notified NRC that operations had permanently ceased and that all fuel had been permanently removed from the reactor. On July 7, 2000, CY submitted its License Termination Plan (LTP), which the NRC approved on November 25, 2002.

CY began actively decommissioning HNP in April 1999, through a contract with Bechtel Power Corporation. In June 2003, CY began managing the decommissioning using staff augmentation and subcontractors for speciality work.

The nuclear reactor and all associated systems and components necessary for the safe generation of power have been removed from the facility and disposed or sold off-site. Additionally, the structures necessary for safe power generation are either demolished or in an advanced state of demolition. There are no safety-related structures, systems and components (SSCs) remaining at the HNP. Transfer of the spent fuel (SF) and greater-than-Class C (GTCC) waste from the SF pool to the HNP Independent Spent Fuel Storage Installation (ISFSI) was completed on March 30, 2005, but the SF pool has not yet been drained, so it is not ready for demolition.

On February 16, 2005, CY filed a request for NRC approval of an exemption from the recordkeeping requirements of 10 CFR Part 50 Appendix A, Criterion 1, 10 CFR Part 50 Appendix B, Criterion XVII, and 10 CFR 50.59(d)(3).

2.0 Request/Action

Pursuant to the requirements of 10 CFR 50.12, CY requested the following exemption, to the extent necessary, from the record retention requirements of:

(1) 10 CFR Part 50 Appendix A, Criterion 1, which requires certain records be retained ''throughout the life of the unit'';

(2) 10 CFR Part 50 Appendix B, Section XVII, which requires certain records be retained consistent with applicable regulatory requirements for a duration established by the licensee; and

(3) 10 CFR Part 50.59(d)(3), which requires certain records be maintained until ''termination of a license issued pursuant to'' Part 50.

CY proposes to eliminate these records when: (1) The nuclear power unit and associated support systems no longer exist for SSCs associated with safe power generation, or (2) spent nuclear fuel has been completely transferred from the spent fuel pool and the building is ready for demolition.

CY is not requesting any exemption associated with record keeping requirements for storage of spent fuel at its ISFSI under 10 CFR Part 50 or the general license requirements of 10 CFR Part 72.

Most of these records are for SSCs that have been removed from HNP and disposed of offsite. Disposal of these records will not adversely impact the ability to meet other NRC regulatory requirements for the retention of records [e.g., 10 CFR 50.54(a), (p), (q), and (bb); 10 CFR 50.59(d); 10 CFR 50.57(g)]. These regulatory requirements ensure that records from operation and decommissioning activities are maintained for safe decommissioning, spent nuclear fuel storage, completion and verification of final site survey, and license termination.

3.0 Discussion

NRC licensees are required to maintain their records according to the NRC regulatory recordkeeping requirements. Pursuant to the requirements of 10 CFR 50.12, ''Specific Exemptions,'' CY filed a request for a partial exemption from the NRC recordkeeping requirements contained in 10 CFR Part 50 Appendix A, Criterion 1, 10 CFR Part 50 Appendix B, Criterion XVII, and 10 CFR 50.59 (d)(3). The NRC recordkeeping requirements at issue in CY's request for exemption are as follows.

10 CFR Part 50, Appendix A, ''General Design Criteria for Nuclear Power Plants,'' establishes the necessary design, fabrication, construction, testing, and performance requirements for structures, systems, and components important to safety. Specifically, CY requests an exemption from Criterion 1, ''Quality standards and records,'' which states in part:

> Appropriate records of the design, fabrication, erection, and testing of structures, systems, and components important to safety shall be maintained by or under the control of the nuclear power unit licensee throughout the life of the unit.

10 CFR Part 50, Appendix B, ''Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants,'' establishes quality assurance requirements for the design, construction, and operation of structures, systems, and components that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public. Specifically, CY requests an exemption from Criterion XVII, ''Quality Assurance Records'', which states:

> Sufficient records shall be maintained to furnish evidence of activities affecting quality. The records shall include at least the following: Operating logs and the results of reviews, inspections, tests, audits, monitoring of work performance, and materials analyses. The records shall also include closely-related data such as qualifications of personnel, procedures, and equipment. Inspection and test records shall, as a minimum, identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. Records shall be identifiable and retrievable. Consistent with applicable regulatory requirements, the applicant shall establish requirements concerning record retention, such as duration, location, and assigned responsibility.

CY also requests an exemption from 10 CFR 50.59(d)(3), which states: ''The records of changes in the facility must be maintained until the termination of a license issued pursuant to this part or

the termination of a license issued pursuant to 10 CFR Part 54, whichever is later. Records of changes in procedures and records of tests and experiments must be maintained for a period of 5 years.''

Exemption Requirements

In order to be granted an exemption from the requirements of 10 CFR Part 50, Appendix A, Criterion I, Appendix B, Criterion XVII, and 10 CFR 50.59(d)(3), the licensee must meet the requirements of 10 CFR Part 50.12(a)(1), and demonstrate that special circumstances, as defined in 10 CFR 50.12(a)(2) exist. In its exemption request dated February 16, 2005, CY provides the following justification for granting the exemption request and regulatory basis for meeting the requirements of 10 CFR 50.12(a)(1), and that the special circumstances, as defined in 10 CFR 50.12(a)(2), exist:

I. General Justification for Granting the Exemption Request

A. Nuclear Power Generation SSCs

The HNP power generation unit no longer exists. Its systems and components have been removed to various offsite disposal facilities or reuse applications. The structures that have not yet been fully demolished have been remediated or partially demolished to the point of rendering them useless for any application. The general justification for disposition of records associated with these SSCs is that the SSCs no longer exist, they no longer serve, nor can they conceivably serve, any function regulated by the NRC.

While the safe power generation SSCs no longer exist, the HNP site and the power generation ''footprint'' continue to be under NRC regulation due, primarily, to presence of residual radioactivity. The radiological controls (and other programmatic controls such as quality assurance) of the ''footprint'' and the implementation of cleanup criteria are fully covered through the current plant documents such as the updated Final Safety Analysis Report (UFSAR), which includes the HNP License Termination Plan and the Quality Assurance Program. These programmatic elements and their associated records are unaffected by the exemption request.

B. Spent Fuel and Associated SSCs

With all spent fuel and GTCC transferred from the spent fuel pool (SFP) to the ISFSI on March 30, 2005, the SFP and its associated SSCs no longer have a safety function. All records necessary for spent fuel storage have been retained for the ISFSI. Similar to the power generation SSC records, once the SFP is drained and ready for demolition, there is no safety-significance or other regulatory value in retaining SFP SSC records. Also, similar to the power generation ''footprint'', the SFP SSCs ''footprint'' is included under the radiological control provided by the UFSAR, Quality Assurance Program, and their programmatic elements.

Finally, CY believes that when the NRC developed record retention requirements, there was little, if any discussion related to decommissioning facilities. In the case of ISFSI records, however, recent clarification was provided. Specifically, when updating 10 CFR 72.48 requirements (72.48 is the dry fuel storage equivalent of 10 CFR 50.59), the NRC clarified the retention period for records for changes in the facility or spent fuel storage cask design to be until ''* * *. Spent fuel is no longer stored in the facility'' (10 CFR 72.48(d)(3)(I). This is analogous to what CY is requesting—retention of related records until fuel is no longer stored in the SFP and the SFP building is ready for demolition.

C. ISFSI SSCs and Spent Nuclear Fuel

CY is not requesting any exemption associated with retention of these records.

II. Specific Justification for Exemptions and Special Circumstances

A. Specific Exemption Is Authorized by Law

The CY exemption request to reduce record retention durations is authorized by law and within the Commission's authority. CY believes that the Commission would have made these clarifying changes to the regulations had there been sufficient industry experience in performing decommissioning and license termination at Part 50 facilities when the record retention rules were originally promulgated.

B. Specific Exemption Will Not Present an Undue Risk to the Public Health and Safety

The public health and safety are not affected by the proposed exemption. Removal of the underlying SSCs associated with the records has been already determined by CY, in accordance with 10 CFR 50.59, to have no adverse public health and safety impact. Elimination of associated records for these SSCs will not impact health and safety.

C. Specific Exemption Consistent With the Common Defense and Security

CY believes that the elimination of these records is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States.

D. Special Circumstances

Further CY provides the following regulatory basis for meeting the requirements of:

10 CFR 50.12(a)(2)(ii)

''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule * * *''

The common and underlying purpose for the regulations cited above is to ensure that the current license and design basis of the facility is understood, documented, preserved and retrievable. The current license basis encompasses all those elements of SSCs functionally necessary to ensure, within the boundaries of nuclear regulation, safe operation of the facility. In order to ensure future safe operation, a license basis is maintained current by evaluating changes against up-to-date information. The terms such as ''safety functions'', and ''safe operation'' is meaningless if a facility has been dismantled and disposed. In this case, retention of records associated with nonexistent SSCs serves no safety or regulatory purpose. Therefore, application of these record requirements in CY's circumstances does not serve the underlying purpose of the regulations.

10 CFR 50.12(a)(2)(iii)

''Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted,* * *''

The records retention itself is an expensive proposition. Retention of records alone is not sufficient. They must be legible, retrievable and stored in a safe condition. This expense was understood on the part of the Commission and the nuclear industry for the current license basis to ensure the continued safe operation of the facility. However, what was not well understood (when the regulation was adopted) was the effect of explicit record retention durations that survived the life of a facility and no longer served an underlying safety purpose. This is the current situation at the decommissioning facilities.

CY's available record storage capacity continues to shrink as buildings are

remediated, surveyed and demolished. CY is less than one year from demolishing the administrative building where many of the records are stored and retained. Retaining records associated with non-existent SSCs and a non-existent nuclear power generator is a significant hardship today as records are shuffled between buildings and administrative support personnel are reduced. It will become more of a hardship and cost increase as they must make provisions for offsite storage well in advance of building demolition.

10 CFR 50.12(a)(2)(vi)

''There is present any other material circumstances not considered when the regulation was adopted for which it would be in the public interest to grant an exemption.''

First, the cost associated with maintaining records that no longer serve a safety purpose can be significant, particularly for a facility at an advanced stage in the decommissioning process. Decommissioning costs, including record maintenance, are paid by the ratepayers throughout the multi-state region that benefitted from the power produced by the HNP when it was operating. Since HNP is no longer generating electric power and is in decommissioning, the requested records exemption helps towards maintaining a cost-efficient decommissioning.

Second, elimination of these records ensures their future unavailability to individuals and groups interested in adversely affecting commercial nuclear facilities.

4.0 Conclusion

Based on its evaluation, the staff concludes the requirements for a specific exemption in 10 CFR 50.12 have been satisfied.

The staff concludes that the requested exemption from the recordkeeping requirements of 10 CFR Part 50 Appendix A, Criterion 1, 10 CFR Part 50, Appendix B Criterion XVII, and 10 CFR 50.59(d)(3), will not present an undue risk to the public health and safety. The destruction of the identified records will not impact remaining decommissioning activities; plant operations, configuration, and/or radiological effluents; operational and/or installed SSCs that are quality-related or important to safety; or nuclear security.

Further, the staff concludes that the destruction of the identified records is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States.

The staff agrees that an underlying purpose of the record keeping regulations in 10 CFR Part 50, Appendix A, Criterion 1, 10 CFR Part 50, Appendix B, Criterion XVII, and 10 CFR 50.59(d)(3) is to ensure that the NRC staff has access to information in order for the NRC to perform its regulatory functions including inspection and licensing. For example, in the event of any accident, incident, or condition that could impact public health and safety, the records would assist in the protection of public health and safety during recovery from the given accident, incident, or condition, and also could help prevent future events or conditions at the site adversely impacting public health and safety. Because the CY–HNP reactor primary systems, including the reactor vessel, steam generators, pressurizer, reactor coolant pumps and piping, and their associated support systems have been removed for offsite disposal or resale, there are no longer regulatory functions for NRC to perform associated with these systems or components. Thus, the records identified in the exemption would not provide the NRC with information for carrying out its regulatory function. To the extent that CY had sold components, the new user of the components may have need for the associated records, however, that is an issue for the new owner and not a regulatory issue under CY's license.

Therefore, the Commission grants CY the requested exemption to the recordkeeping requirements of 10 CFR Part 50 Appendix A, Criterion 1, 10 CFR 50 Appendix B, Criterion XVII, and 10 CFR 50.59(d)(3), as described in the February 16, 2005, letter. Specifically, pursuant to the requirements of 10 CFR 50.12, CY is exempted from the record retention requirements of 10 CFR Part 50 Appendix A, Criterion I, 10 CFR Part 50 Appendix B, Criterion XVII, and 10 CFR 50.59(d)(3) for: (1) Records pertaining to structures, systems, and components, or activities associated with the nuclear power unit and associated support systems that no longer exist at the CY site; and (2) records pertaining to the spent fuel pool and associated support systems for the safe storage of fuel in the spent fuel pool after the spent nuclear fuel and GTCC has been completely transferred from the spent fuel pool and the spent fuel pool is ready for demolition. This exemption does not apply to any recordkeeping requirements for storage of spent fuel at the CY ISFSI under 10 CFR Part 50 or the general requirements of 10 CFR Part 72. In addition, this exemption does not apply to any records reflecting spills, releases or other information relevant to remaining decommissioning requirements and activities at the CY site.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment as documented in **Federal Register** (70 FR 53258, September 7, 2005).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 9th day of September, 2005.

For the Nuclear Regulatory Commission.

Claudia M. Craig,

Acting Deputy Director, Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E5–5023 Filed 9–14–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Joint Meeting of the Subcommittees on Plant License Renewal and on Plant Operations; Notice of Meeting

The ACRS Subcommittees on Plant License Renewal and on Plant Operations will hold a joint meeting on September 21, 2005, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, September 21, 2005—8:30 a.m. until 5 p.m.

The purpose of this meeting is to gather information regarding the current status and condition of Browns Ferry Unit 1 in preparation for ACRS reviews of the license renewal application for Browns Ferry Units 1, 2, and 3, and the restart of Browns Ferry Unit 1. The Subcommittees will hear presentations by and hold discussions with representatives of the NRC staff, Tennessee Valley Authority, and other interested persons regarding this matter. The Subcommittees will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Cayetano Santos (telephone 301/415–7270) five days prior to the meeting, if possible, so that

appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: September 8, 2005.

Michael L. Scott,

Branch Chief, ACRS/ACNW.

[FR Doc. E5–5021 Filed 9–14–05; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in September 2005. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in October 2005.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. Pursuant to the Pension Funding Equity Act of 2004, for premium payment years beginning in 2004 or 2005, the required interest rate is the ''applicable percentage'' (currently 85 percent) of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the beginning of the plan year for which premiums are being paid. Thus, the required interest rate to be used in determining variable-rate premiums for premium payment years beginning in September 2005 is 4.61 percent (*i.e.*, 85 percent of the 5.42 percent composite corporate bond rate for August 2005 as determined by the Treasury).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between October 2004 and September 2005.

For premium payment years beginning in:	The interest rate is:
October 2004	4.79
November 2004	4.73
December 2004	4.75
January 2005	4.73
February 2005	4.66
March 2005	4.56
April 2005	4.78
May 2005	4.72
June 2005	4.60
July 2005	4.47
August 2005	4.56
September 2005	4.61

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in October 2005 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 9th day of September 2005.

Vincent K. Snowbarger,

Deputy Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 05–18327 Filed 9–14–05; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27060; 812–13134]

Marshall Funds, Inc., et al.; Notice of Application

September 8, 2005.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the ''Act'') under: (i) Section 6(c) of the Act granting an exemption from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting an exemption from sections 12(d)(1)(A) and (B) of the Act; (iii) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(3) of the Act; and (iv) section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions.

Summary of Application: Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility.

Applicants: Marshall Funds, Inc., M&I Investment Management Corp. (''M&I Investment Management''), and Marshall & Ilsley Trust Company, N.A. (''M&I Trust'').

Filing Dates: The application was filed on November 3, 2004, and amended on September 8, 2005.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 4, 2005, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303; Applicants, c/o Pamela M. Krill, Esq., Godfrey & Kahn, S.C., One East Main Street, Madison, WI 53703.

FOR FURTHER INFORMATION CONTACT: Marc R. Ponchione, Senior Counsel, at (202) 551–6874 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicants' Representations

1. Marshall Funds, Inc. is registered under the Act as an open-end management investment company and is organized as a Wisconsin corporation. Marshall Funds, Inc. currently consists of thirteen series (each, a ''Fund'' and together, the ''Funds''), three of which comply with rule 2a-7 under the Act and hold themselves out as money market funds (the ''Money Market Funds''). M&I Investment Management, a wholly-owned subsidiary of Marshall and Ilsley Corporation, is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to the Funds.[1] M&I Trust, a wholly-owned subsidiary of Marshall and Ilsley Corporation, serves as custodian and administrator to the Funds.

2. Some Funds may enter into repurchase agreements or purchase other short-term instruments issued by banks or other entities. Other funds may need to borrow money from the same or similar banks for temporary purposes to satisfy redemption requests, to cover unanticipated cash shortfalls such as a trade ''fail'' in which cash payment for a security sold by a Fund has been delayed, or for other temporary purposes. Currently, Marshall Funds, Inc. has a $25 million standby line of credit with State Street Bank.

3. If the funds were to borrow money through their line of credit, the Funds would pay interest on the borrowed cash at a rate which would be significantly higher than the rate that would be earned by other (non-borrowing) Funds on investments in repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants state that this differential represents the profit the bank would earn for serving as a middleman between a borrower and a lender and is not attributable to any material difference in the credit quality or risk in such transactions. In addition, while bank borrowings generally could supply needed cash to cover unanticipated redemptions and sales fails, the borrowing Funds would incur commitment fees and/or other charges involved in obtaining a bank loan.

4. Applicants request an order that would permit the funds to enter into master interfund lending agreements (''Interfund Lending Agreements'') that would permit each Fund to lend money directly to and borrow directly from other funds for temporary purposes (an ''Interfund Loan''). Applicants believe that the proposed credit facility would both reduce the Funds' potential borrowing costs and enhance the ability of the lending Funds to earn higher rates of interest on their short-term loans. Although the proposed credit facility would reduce the Funds' need to borrow from banks, the Funds would be free to establish and/or continue standby lines of credit or other borrowing arrangements with banks.

5. Applicants anticipate that the credit facility will provide a borrowing Fund with significant savings when the cash position of the Fund is insufficient to meet temporary cash requirements. This situation could arise when shareholder redemptions exceed anticipated volumes and certain Funds have insufficient cash on hand to satisfy such redemptions. When the Funds liquidate portfolio securities to meet redemption requests, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The credit facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

6. Applicants also propose using the credit facility when a sale of portfolio securities fails due to circumstances beyond the Fund's control, such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. Sales fails may present a cash shortfall if the Fund has undertaken to purchase a security with the proceeds from securities sold. Under such circumstances, the Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional costs to the Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the credit facility under these circumstances would give the Fund access to immediate short-term liquidity without incurring custodian overdraft or other charges.

7. While bank borrowings could generally supply needed cash to cover unanticipated redemptions and sales fails, under the credit facility, a borrowing Fund would pay lower interest rates than those offered by banks on short-term loans. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements or purchasing shares of a Money Market Fund.[2] Thus, applicants believe that the credit facility would benefit both borrowing and lending Funds.

8. The interest rate charged to the Funds on any loans (the ''Interfund Loan Rate'') would be determined daily and would be the average of the Repo Rate and the Bank Loan Rate, both as defined below. The Repo Rate on any day would be the highest rate available to the Funds from investments in overnight repurchase agreements. The Bank Loan Rate for any day would be calculated by the Credit Facility Team, as defined below, each day an Interfund Loan is made according to a formula established by each Fund's board of directors (''Board'') designed to approximate the lowest interest rate at which short-term bank loans would be available to the Funds. The formula would be based upon a publicly available rate (*e.g.,* Federal funds plus 25 basis points) and would vary with this rate so as to reflect changing bank loan rates. The Board of each Fund periodically would review the continuing appropriateness of using the publicly available rate to determine the Bank Loan Rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Fund. The initial formula and any subsequent modifications to the formula would be

[1] Applicants request that the relief also apply to any other existing or future registered open-end management investment company or series thereof that is advised by M&I Investment Management or any person controlling, controlled by, or under common control with M&I Investment Management or its successors (''Future Funds,'' included in the term ''Funds''). ''Successor'' is limited to any entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization. All entities that currently intend to rely on the requested order have been named as applicants. Any future entity that relies on the requested relief will do so only in accordance with the terms and conditions of the application.

[2] Marshall Funds, Inc. has received an order that permits the Funds to purchase shares of Money Market Funds for cash management purposes. Investment Company Act Release Nos. 22313 (November 4, 1996) (notice) and 22362 (December 2, 1996) (order).

subject to the approval of each Fund's Board.

9. The Fund's president, treasurer, and compliance officer and an investment professional within M&I Investment Management (who is also an employee of M&I Trust) who serves as a portfolio manager for the Money Market Funds (the ''Money Market Manager'') (collectively, the ''Credit Facility Team'') would administer the credit facility. Under the credit facility, the portfolio managers for each participating Fund could provide standing instructions to participate daily as a borrower or lender. On each business day, M&I Trust, as the Fund's custodian, would prove the Credit Facility Team with data on the uninvested cash and borrowing requirements of all participating Funds. Once it had determined the aggregate amount of cash available for loans and borrowing demand, the Credit Facility Team would allocate loans among borrowing Funds without any further communication from portfolio managers (other than the Money Market Manager in his or her capacity as the Credit Facility Team member). It is expected that there typically will be far more available uninvested cash each day than borrowing demand. After the Credit Facility Team has allocated cash for Interfund Loans, the Credit Facility Team will invest any remaining cash in accordance with the standing instructions of portfolio managers or return remaining amounts to the Funds.

10. The Credit Facility Team would allocate borrowing demand and cash available for lending among the Funds on what the Credit Facility Team believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by the Board of each Fund, including a majority of the members of the Board who are not ''interested persons'' of the Fund, as defined in section 2(a)(19) of the Act (''Independent Directors''), to ensure that both borrowing and lending Funds participate on an equitable basis.

11. The Credit Facility Team would: (a) Monitor the interest rates charged and the other terms and conditions of the loans; (b) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations; (c) ensure equitable treatment of each Fund; and (d) make quarterly reports to the Board of each fund concerning any transactions by the Fund under the credit facility and the interest rates charged.

12. M&I Investment Management and M&I Trust, through the Credit Facility Team, would administer the credit facility as a disinterested fiduciary and a disinterested party, respectively. Neither M&I Investment Management nor M&I Trust would receive any compensation in connection with the administration of the proposed credit facility.

13. No Fund may participate in the credit facility unless: (a) The Fund has obtained shareholder approval for its participation, if such approval is required by law, or provides notice to shareholders of its intention to participate in the proposed credit facility; (b) the Fund has fully disclosed all material information concerning the credit facility in its prospectus and/or SAI; and (c) the Fund's participation in the credit facility is consistent with its investment objectives, limitation, and organizational documents.

14. In connection with the proposed credit facility, applicants request an order under: (a) Section 6(c) of the Act granting relief from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting relief from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act; (c) sections 6(c) and 17(b) of the Act granting relief from sections 17(a)(1) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 12d–1 under the Act permit certain joint arrangements.

Applicants' Legal Analysis

1. Section 17(a)(3) of the Act generally prohibits any affiliated person, or affiliated person of a affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) of the Act generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the act defines ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, such other person. Applicants state that the Funds may be under common control by virtue of having M&I Investment Management as their common investment adviser and/or reason of having common officers, directors, and/or trustees.

2. Section 6(c) of the Act provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) were intended to prevent a party with strong potential adverse interests and some influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of that person and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed credit facility transactions do not raise these concerns because: (a) M&I Investment Management and M&I Trust, through the Credit Facility Team, would administer the program as a disinterested fiduciary and disinterested party, respectively; (b) all Interfund Loans would consist only of uninvested cash reserves that the Funds otherwise would invest in short-term repurchase agreements or other short-term instruments either directly or through a Money Market Fund; (c) the Interfund Loans would not involve a greater risk than such other investments; (d) a lending Fund would receive interest at a rate higher than it could obtain through such other investments; and (e) a borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other

property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants state that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(J) provides that an exemptive order may be granted by the Commission from any provision of section 12(d)(1) if and to the extent such exemption is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b) and 12(d)(1)(J) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the proposed credit facility does not involve these abuses. Applicants note that there would be no duplicative costs or fees to the Funds or shareholders, and that M&I Investment Management and M&I Trust, through the Credit Facility Team, would administer the credit facility as a disinterested fiduciary and a disinterested party, respectively, and would not receive any compensation for its services. Applicants also note that the purpose of the proposed credit facility is to provide economic benefits for all the participating Funds and their shareholders.

6. Section 18(f)(1) of the Act prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank, provided that, immediately after the borrowing, there is an asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks).

7. Applicants believe that granting the relief under section 6(c) is appropriate because the borrowing Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined interfund and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the proposed credit facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) of the Act and rule 17d–1 thereunder generally prohibit any affiliated person of a registered investment company, or affiliated persons of an affiliated person, when acting as principal, from effecting any joint transaction unless the transaction is approved by the Commission. Rule 17d–1(b) under the Act provides that in passing upon applications from exemptive relief, the Commission will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to investment company insiders. Applicants believe that the credit facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and limitations. Applicants therefore believe that each Fund's participation in the credit facility would be on terms which are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that any order of the Commission granting the request relief will be subject to the following conditions:

1. The Interfund Loan Rate to be charged to the Funds under the credit facility will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, the Credit Facility Team will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is: (a) More favorable to the lending Fund than the Repo Rate, and, if applicable, the yield of the highest yielding Money Market Fund in which the lending Fund could otherwise invest; and (b) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding borrowings, any Interfund Loans to the Fund: (a) Will be at an interest rate equal to or lower than any outstanding bank loan; (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral; (c) will have a maturity no longer than any outstanding bank loan (an in any event not over seven days); and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, the event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement, entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the credit facility if its outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after an interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the credit facility on a secured basis only. A Fund may not borrow through the credit facility or from any other source it its total outstanding borrowings immediately after such borrowing would be more than 33⅓ of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% or its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceed 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter: (a) Repay all of its outstanding Interfund Loans; (b)

reduce its outstanding indebtedness to 10% or less of its total assets; or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition 5 shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid, or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No Fund may lend to another Fund through the credit facility if the loan would cause its aggregate outstanding loans through the credit facility to exceed 15% of the lending Fund's current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund will not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Fund's borrowings through the credit facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions or 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents.

12. The Credit Facility Team will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among the Funds without the intervention of any portfolio manager of the Funds (other than the Money Market Manager acting in his or her capacity as a member of the Credit Facility Team). All allocations will require approval of at least one member of the Credit Facility Team who is not the Money Market Manager. The Credit Facility team will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers (except to the extent that the Money Market Manager has access to loan demand data). The Credit Facility Team will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts for investment directly by the Funds.

13. The Credit Facility Team will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Board of each Fund concerning the participation of the Fund in the credit facility and the terms and other conditions of any extensions of credit under the facility.

14. The Board of each Fund, including a majority of the Independent Directors, will: (a) Review no less frequently than quarterly each Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans, and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) review no less frequently than annually the continuing appropriateness of each Fund's participation in the credit facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, the Credit Facility Team will promptly refer the loan for arbitration to an independent arbitrator, selected by the Board of each Fund involved in the loan, who will serve as arbitrator of disputes concerning Interfund Loans.[3] The arbitrator will resolved any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit at least annually a written report to the Board of each Fund setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions, setting forth a description of the terms of the transaction, including the amount, the maturity and the rate of interest on the loan, the rate of interest available at the time on overnight repurchase agreements and bank borrowings, the yield of any Money Market Fund in which the lending Fund could otherwise invest and such other information presented to the Fund's Board in connection with the review required by conditions 13 and 14.

17. The Credit Facility Team will prepare and submit to the Board of each Fund for review an initial report describing the operations of the credit facility and the procedures to be implemented to ensure that all the Funds are treated fairly. After the commencement of the operations of the credit facility, the Credit Facility Team will report on the operations of the credit facility at the quarterly meetings of each Fund's Board.

In addition, for two years following the commencement of the credit facility, the independent public accountant for each Fund shall prepare an annual report that evaluates the Credit Facility Team's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 10 and it shall be filed pursuant to item 77Q3 of Form N–SAR, as such Statements or Form may be revised, amended, or superseded from time to time. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Loan Rate will be higher than the Repo Rate and, if applicable, the yield of the highest yielding Money Market Funds, but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board of each Fund; and (e) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with

[3] If a dispute involves Funds with different Boards, the Board of each Fund will select an independent arbitrator that is satisfactory to each Fund.

the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the credit facility upon receipt of requisite regulatory approval unless it has fully disclosed in its SAI all material facts about its intended participation.

19. Each Fund will satisfy the fund governance standards set forth in rule 0–1(a)(7) under the Act by the compliance date for the rule.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–18311 Filed 9–14–05; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27061; 811–3934]

Tuxis Corporation; Notice of Application

September 9, 2005.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for deregistration under section 8(f) of the Investment Company Act of 1940 (the ''Act'').

Summary of Application: Tuxis Corporation requests an order declaring that it has ceased to be an investment company.

Applicant: Tuxis Corporation.

Filing Dates: The application was filed on May 3, 2004 and amended on September 8, 2005.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 4, 2005 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–9303. Applicant, c/o Stephanie A. Djinis, Law Offices of Stephanie A. Djinis, 1749 Old Meadow Road, Suite 310, McLean, VA 22102.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 551–6870, or Todd F. Kuehl, Branch Chief, at (202) 551–6821 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street NE., Washington, DC 20549–0102 (telephone (202) 551–5850).

Applicant's Representations

1. Applicant was incorporated under the laws of the State of Maryland as Bull & Bear Tax-Free Income Fund, a series of Bull & Bear Municipal Securities, Inc., an open-end management investment company registered under the Act on December 8, 1983. On November 8, 1996, applicant registered under the Act as a closed-end management investment company. Applicant changed its name to Tuxis Corporation in 1998. In October 2001, applicant's stockholders approved a proposal to change the nature of applicant's business so as to cease to be an investment company and become an operating company. Shareholders approved the termination of the investment management agreement between applicant and its investment adviser, and applicant's board of directors terminated its management contract with the outside investment adviser effective November 30, 2001, and authorized applicant's officers to manage applicant's business affairs.

2. Applicant's management commenced a business review, development and acquisition program with respect to the real estate and real estate services industries upon approval of the proposal, and formed five wholly-owned subsidiaries: Tuxis Real Estate I LLC (''TRE–I''), Tuxis Operations LLC (''TOP''), Tuxis Real Estate II LLC (''TRE–II''), Tuxis Real Estate Brokerage LLC (''TEB''), and Winmark Properties I LLC (''Winmark I''). Applicant states that none of these subsidiaries are investment companies as defined in section 3(a) of the Act. The business of TRE–I, TRE–II, and Winmark I consists of holding title to real estate. TOP operates and manages TRE–I's, TRE–II's and Winmark I's properties. TEB is expected to act as agent in the purchase, sale and lease of real estate. Applicant states that it intends to renovate the properties held by TRE–I, TRE–II and Winmark I and then engage in an active leasing program, operating the sites for multiple tenants in retail and other businesses. In addition, applicant states that it intends to further expand its real estate property holdings.

3. Applicant states that its wholly-owned subsidiaries represent approximately 35.3% of applicant's total assets on an unconsolidated basis. Applicant further states that its holding of money market fund shares represent approximately 64.2% of applicant's total assets on an unconsolidated basis.

4. For the last four fiscal quarters ended March 31, 2005 combined, applicant has had net losses from its real estate operations but has derived income from its holdings of Government securities and money market fund shares. During that same time period, applicant received interest and dividends of $95,915 from its holdings of Government securities and money market fund shares and $20,750 from its real estate operations. Applicant states that it expects its revenues from its real estate operations to increase and its revenues from money market fund shares to decrease as its current real estate holdings are developed and leased and as it makes additional real estate acquisitions, thereby reducing its money market fund holdings. Further, applicant states that management is actively reviewing a number of other real estate acquisition candidates and anticipates additional transactions.

Applicant's Legal Analysis

1. Section 8(f) of the Act provides that whenever the Commission, upon application or its own motion, finds that a registered investment company has ceased to be an investment company, the Commission shall so declare by order and upon the taking effect of such order, the registration of such company shall cease to be in effect.

2. Section 3(a)(1)(A) of the Act defines an investment company as any issuer which ''is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities.'' Section 3(a)(1)(C) of the Act defines an investment company as any issuer which ''is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.'' Section 3(a)(2) of the Act defines investment securities as ''all securities except (A) Government securities, (B)

securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which (i) are not investment companies, and (ii) are not relying on the exception from the definition of investment company in paragraph (1) or (7) of subsection (c).'' Applicant states that it is no longer an investment company as defined in section 3(a)(1)(A) or section 3(a)(1)(C). Applicant states that it is primarily engaged in the business of developing its subsidiaries' real estate businesses, and also actively engaged in conducting a business review, development, and acquisition program for additional real estate business opportunities. Applicant further states that its holdings of money market fund shares are awaiting deployment in its real estate and services industries business strategy. Applicant states it is thus qualified for an order of the Commission pursuant to section 8(f) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. E5–5026 Filed 9–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52405/ File No. S7–12–01]

Order Extending Temporary Exemption of Banks, Savings Associations, and Savings Banks From the Definition of ''Broker'' Under Section 3(a)(4) of the Securities Exchange Act of 1934

September 9, 2005.

I. Background

The Gramm-Leach-Bliley Act (''GLBA'') repealed the blanket exception of banks from the definitions of ''broker'' and ''dealer'' under the Securities Exchange Act of 1934 (''Exchange Act'')[1] and replaced it with functional exceptions incorporated in amended definitions of ''broker'' and ''dealer.'' Under the GLBA, banks that engage in securities activities either must conduct those activities through a registered broker-dealer or ensure that their securities activities fit within the terms of a functional exception to the amended definitions of ''broker'' and ''dealer.''

The GLBA provided that the amended definitions of ''broker'' and ''dealer'' were to become effective May 12, 2001. On May 11, 2001, the Securities and Exchange Commission (''Commission'') issued interim final rules (''Interim Rules'') to define certain terms used in, and grant additional exemptions from, the amended definitions of ''broker'' and ''dealer.''[2] Among other things, the Interim Rules extended the exceptions and exemptions granted to banks under the GLBA and Interim Rules to savings associations and savings banks. These Rules also included a temporary exemption that gave banks time to come into full compliance with the more narrowly-tailored exceptions from broker-dealer registration.[3] To further accommodate the banking industry's continuing compliance concerns, the Commission delayed the effective date of the bank ''broker'' and ''dealer'' rules through a series of orders that, among other things, ultimately extended the temporary exemption from the definition of ''broker'' to September 30, 2005.[4]

In previous extension orders, the Commission acknowledged ''that banks may need as much as a year to develop compliance systems to adapt to the GLBA in light of amended Rules. The Commission does not expect banks to develop compliance systems for the provisions of the GLBA discussed in the Rules until the Commission has amended the Rules.''[5] Consistent with those statements, when the Commission proposed Regulation B in June 2004, to replace the Interim Rules, the Commission also proposed a one-year delay in the Regulation's effective date.[6]

Although the comment period for Regulation B expired on September 1, 2004,[7] the Commission has continued to receive comments. To date, the Commission has received over 120 comments on the proposal, including comments from the banking industry, banking regulators, and members of Congress. The Commission has reviewed these comments and has had further discussions with several commenters.

II. Extension of Temporary Exemption From Definition of ''Broker''

The Commission is carefully considering comments to determine what final action should be taken with regard to the Regulation B proposal. The Commission anticipates that this review process will not be completed before the exemption from the Interim Rules relating to the definition of ''broker'' expires on September 30, 2005.[8]

Therefore, the Commission finds that extending the temporary exemption for banks, savings associations, and savings banks from the definition of ''broker'' is necessary and appropriate in the public interest, and is consistent with the protection of investors. The Commission believes that extending the exemption from the definition of ''broker'' until September 30, 2006, will prevent banks and other financial institutions from unnecessarily incurring costs to comply with the statutory scheme based on the current Interim Rules and will give the Commission time to consider fully comments received on Regulation B and take any final action on the proposal as necessary, including consideration of any modification necessary to the proposed compliance date.

III. Conclusion

Accordingly, pursuant to Section 36 of the Exchange Act,[9]

It is hereby ordered that banks, savings associations, and savings banks are exempt from the definition of the term ''broker'' under the Exchange Act until September 30, 2006.

[1] As defined in Exchange Act Sections 3(a)(4) and 3(a)(5) [15 U.S.C. 78c(a)(4) and 78c(a)(5)].

[2] *See* Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934, Exchange Act Release No. 44291 (May 11, 2001), 66 FR 27760 (May 18, 2001).

[3] 17 CFR 240.15a–7.

[4] *See* Exchange Act Release No. 44570 (July 18, 2001); Exchange Act Release No. 45897 (May 8, 2002); Exchange Act Release No. 46751 (Oct. 30, 2002); Exchange Act Release No. 47649 (April 8, 2003); Exchange Act Release No. 50618 (Nov. 1, 2004); and Exchange Act Release No. 51328 (March 8, 2005) (extending the exemption from the definition of ''broker'' until September 30, 2005). During this time, the Commission also extended the temporary exemption from the definition of ''dealer'' to September 30, 2003. *See* Exchange Act Release No. 47366 (Feb. 13, 2003). On February 13, 2003, the Commission adopted amendments to certain parts of the Interim Rules that define terms used in the dealer exceptions, as well as certain dealer exemptions (''Dealer Release''), *see* Exchange Act Release No. 47364 (Feb. 13, 2003), 68 FR 8686 (Feb. 24, 2003). Therefore, this order is limited to an extension of the temporary exemption from the definition of ''broker.''

[5] *See, e.g.*, Order Extending Temporary Exemption of Banks, Savings Associations, and Savings Banks from the Definitions of ''Broker'' and ''Dealer'' under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934; Notice of Intent to Amend Rules, Release No. 34–45897 (May 8, 2002), *http://www.sec.gov/rules/other/34–45897.htm.*

[6] Exchange Act Release No. 49879 (June 17, 2004), 69 FR 39682 (June 30, 2004).

[7] *See* Exchange Act Release No. 50056 (July 22, 2004) 69 FR 44988 (July 28, 2004) (extending comment period on Regulation B until September 1, 2004).

[8] In the Interim Rules, the Commission adopted Exchange Act Rule 15a–7, 17 CFR 240.15a–7, which, as proposed to be amended, would provide banks and other financial institutions until January 1, 2006, to begin complying with the GLBA. In proposing Regulation B, the Commission proposed Rule 781 as a re-designation of Rule 15a–7. *See* 17 CFR 242.781.

[9] 15 U.S.C. 78mm.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. E5–5025 Filed 9–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52398; File No. SR–CBOE–2005–74]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend CBOE Rule 8.4 Relating to Remote Market-Maker Appointments

September 8, 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 September 2, 2005, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend CBOE Rule 8.4 relating to Remote Market-Maker appointments. The text of the proposed rule change is available on the CBOE's Web site (*http://www.cboe.com*), at the CBOE's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to amend CBOE Rule 8.4 relating to Remote Market-Maker (''RMM'') appointments. Rule 8.4 provides that RMMs will have a Virtual Trading Crowd (''VTC'') Appointment, which confers the right to quote electronically in a certain number of products selected from various ''tiers''. There are five tiers that are structured according to trading volume statistics and an ''A+'' Tier which consists of two option classes—options on Standard & Poor's Depositary Receipts and options on the Nasdaq-100 Index Tracking Stock.[5] Rule 8.4(d) assigns ''appointment costs'' to products based on the tier in which they are located, and an RMM may select for each Exchange membership it owns or leases any combination of products trading on the Hybrid 2.0 Platform whose aggregate ''appointment cost'' does not exceed 1.0.

CBOE proposes to amend Rule 8.4(d) relating to the ''A+'' Tier in two respects. First, CBOE proposes to include an additional option class in the ''A+'' Tier, namely options on Diamonds (DIA). CBOE believes it is appropriate to include this option class in this tier based on its trading volume.[6]

Second, CBOE proposes to lower the ''appointment cost'' for the ''A+'' Tier from .60 to .25 for each option class in this tier. CBOE believes that an ''appointment cost'' of .25, or one quarter of a CBOE membership, is a more appropriate ''appointment cost'' for each product in the ''A+'' Tier.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [7] in general and furthers the objectives of Section 6(b)(5) [8] 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

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

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] As required under Rule 19b-4(f)(6)(iii) under the Act,[11] the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change.

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[12] However, Rule 19b–4(f)(6)(iii) [13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In addition, the Exchange has requested that the Commission waive the 30-day operative delay and render the proposed rule change to become operative immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 51543 (April 14, 2005), 70 FR 20952 (April 22, 2005), approving SR–CBOE–2005–23.

[6] Currently, DIA options are traded on CBOE's Hybrid Trading System, but not on the Hybrid 2.0 Platform. Thus, there are no RMMs currently appointed in the DIA option class.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] *Id.*

[13] *Id.*

investors and the public interest. The two changes to the ''A+'' Tier that are described in this proposed rule change do not raise any new, unique, or substantive issues from those raised in the filing that initially established the ''A+'' Tier and the appointment cost for this tier.[14] By lowering the ''appointment cost'' of the ''A+'' Tier, CBOE is reducing the cost to its members to trade in the products that are in this tier. For the reasons stated above, the Commission therefore designates the proposal to become operative immediately.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2005–74 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–CBOE–2005–74. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2005–74 and should be submitted on or before October 6, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–5027 Filed 9–14–05; 8:45 am]

BILLING CODE 8010–01–P

[14] *See supra* note 5.

[15] For purposes only of waiving the operative date of this proposal, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52393; File No. SR–DTC–2005–12]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify the Scope and Update the Description of the Security Position Reports Service

September 8, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 23, 2005, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to clarify the scope and update the description of DTC's Security Position Reports (''SPRs'') Service it provides to issuers, trustees, and authorized agents.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

SPRs are reports prepared by DTC that show for each issuer whose securities are eligible for DTC's book entry services the identity of each DTC participant having that issuer's securities credited to its participant account as of a selected date and the quantity of securities so credited (*i.e.*, ''security position''). Prior to the creation of DTC, issuers had direct access to SPR information from their transfer agents. Now, most securities are registered with the transfer agent in the name of DTC's nominee, Cede & Co., and issuers rely on DTC to provide them with SPR information. DTC also provides SPR information to trustees and authorized third party agents (''TPAs''). These entities typically need SPR information provided by DTC in order to properly conduct proxy, record date, and voting rights-related functions.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] DTC Rule 2 (''Participants and Pledgees''), Section 1 authorizes DTC to provide to the issuer of any security at any time credited to the account of the participant the name of the participant and the amount of the issuer's securities so credited. DTC is also authorized to provide similar information to any appropriate governmental authority.

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] In 1979, the Commission mandated that each clearing agency make SPRs available to issuers whose securities the clearing agency holds in its name or in the name of its nominee. Securities Exchange Act Release No. 16443 (December 28, 1979), 44 FR 76777. In 1989, a DTC rule change authorized DTC to provide SPRs to resolution and indenture trustees for debt obligations on deposit at DTC. Securities Exchange Act Release No. 27426 (November 7, 1989), 54 FR 47624 [File No. SR–DTC–89–20]. TPAs are also provided with such information as a result of their role in carrying out functions on behalf of issuers or trustees. DTC is modifying its SPR process to require all TPAs that receive SPR information to agree on an annual basis to only use such information for the benefit of the

Several types of SPRs are available: (1) Weekly reports showing daily closing positions during that week; (2) monthly reports showing closing positions on the last business day of the month; (3) quarterly dividend record date reports showing closing positions on the dividend record date; and (4) special requests showing closing positions for the date specified. Weekly reports, monthly reports, and quarterly dividend record date reports are available by annual subscription only. SPRs are available via Web browser from DTC's secure internet site, by spreadsheet, by fax, and by computer-to-computer facility (''CCF'') transmission.[5] DTC charges a fee for each SPR and offers discounts for high volume SPR users.[6]

Issuers and trustees control their SPR account and authorize third party agent access to SPRs via DTC's secure Internet site. After an issuer or trustee registers for the Web-based service, DTC validates the registrant's status as an issuer or trustee. Once the registration is approved by DTC, an issuer or trustee may use the Web-based application to order SPRs for itself, as well as designate TPAs that may request SPRs.[7] Additionally, DTC requires an annual confirmation by issuers and trustees of their SPR account registration information, including reconfirmation of third party authorizations.[8] Similarly, subscriptions must be renewed annually. Delivery of SPR information is terminated for those TPAs that are not reconfirmed by the issuer.

Upon a TPA's first use of the Web-based system on behalf of a particular issuer or trustee, DTC verifies the validity of the TPA's usage and sends an electronic request to the authorizing issuer or trustee asking for verification of the TPA's approval to receive SPRs. Once such approval is verified, the authorized TPA may directly request SPRs through the Web-based system.

In addition to the SPR program outlined above, DTC provides certain SPR type information, known as ''call lottery results,'' to auction agents for auction rate securities (''ARS''). ARS are securities whose interest or dividend rate is reset periodically. The reset interest rate is produced in an auction that is governed by a set of auction procedures established by the issuer, trustee, and its auction agent. In a typical auction, the auction agent, among other things: (1) Receives bids from holders indicating at what interest/dividend rate they are willing to continue to hold the ARS and/or instructions from holders to sell their ARS unless a rate minimum is established; (2) determines which bids are valid and can be used in calculating the new rate; and (3) calculates the new rate (''clearing rate'') by determining the lowest interest/dividend rate at which there are purchasers willing to buy all ARS offered in the auction.

Some ARS also have a ''call lottery'' feature, allowing the issuer to redeem a portion of the outstanding ARS shortly before the auction. Because of the typically short time period between the call lottery and the auction, a holder may have submitted a bid before learning his position was called in the lottery.[9] In order to maintain the integrity of the auction process for the benefit of all parties involved, auction agents need the call lottery results to determine which bids came from valid holders and which bids should be ignored because the position has been called. Absent receiving such call lottery information, an auction agent may erroneously set the clearing rate using bids that are invalid because they represent positions that have been called.

As with other SPRs, trustees must authorize DTC to provide call lottery results to the auction agent for that issue. Once authorized, the auction agent is considered a TPA consistent with the SPR program. Currently, the SPR process for call lottery results is manual. DTC is considering enhancements to its SPR system to incorporate ARS call lottery results in its Web-based application.

The proposed rule change is consistent with the requirements of Section 17A of the Act[10] and the rules and regulations thereunder applicable to DTC because it is designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions by clarifying the SPR service which should promote efficiencies in the proxy, record date, and voting rights functions performed by issuers, trustees, and authorized agents.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact on or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act[11] and Rule 19b–4(f)(1)[12] thereunder because the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–DTC–2005–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary,

issuer or trustee. Implementation of this modification is targeted for year end 2005.

[5] CCF transmission is generally available only to trustees and third parties and not to issuers because issuers typically do not maintain the required CCF application/connection to DTC.

[6] DTC bills the issuer or trustee for all SPR requests including those made by their TPAs.

[7] DTC is developing a system enhancement to allow issuers and trustees to limit the type of SPR information available to a particular TPA (*e.g.*, weekly subscriptions only).

[8] To allow issuers to better monitor what reports were ordered by whom and their cost, DTC is developing an enhancement that will provide issuers with sixty days of historical activity.

[9] Similarly, because of timing pressures, the call lottery results are typically provided even prior to settlement of the redemption.

[10] 15 U.S.C. 78q–1.

[11] 15 U.S.C. 78s(b)(3)(A)(i).

[12] 17 CFR 240.19b–4(f)(1).

Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–DTC–2005–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at *https://login.dtcc.com/dtcorg/*. 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–DTC–2005–12 and should be submitted on or before October 6, 2005.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–5028 Filed 9–14–05; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

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 October 17, 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* or fax at 202–2395–7285, Office of Management and Budget, Office of Information and Regulatory Affairs.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, at: *Jacqueline.white@sba.gov* (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Entrepreneurial Development Impact Study.

Form Number: SBA Form 2214.

Frequency: Annually.

Description of Respondents: SBA Clients.

Responses: 7,378.

Annual Burden: 7,378.

Jacqueline K. White,

Chief, Administrative Information Branch.

[FR Doc. 05–18326 Filed 9–14–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5165]

Notice of Meeting of the Advisory Committee on International Law

A meeting of the Advisory Committee on International Law will take place on Thursday, September 29, 2005, from 10 a.m. to approximately 4 p.m., as necessary, in Room 1207 of the United States Department of State, 2201 C Street, NW., Washington, DC. The meeting will be chaired by the Legal Adviser of the Department of State, John B. Bellinger, III, and will be open to the public up to the capacity of the meeting room. The meeting will discuss various issues relating to current international legal topics, including Presidential determinations to comply with International Court of Justice decisions: Avena and domestic litigation; the recent session of the International Law Commission; recent developments on prisoners and detainees, and recent developments on treaties.

Entry to the building is controlled and will be facilitated by advance arrangements. Members of the public desiring access to the session should, by Tuesday, September 27, 2005, notify the Office of the Assistant Legal Adviser for United Nations Affairs (telephone: 202–647–2767) of their name, date of birth; citizenship (country); ID number., *i.e.*, U.S. government ID (agency), U.S. military ID (branch), passport (country), or drivers license (state); professional affiliation, address and telephone number in order to arrange admittance. This includes admittance for government employees as well as others. All attendees must use the ''C'' Street entrance. One of the following valid IDs will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID. Because an escort is required at all times, attendees should expect to remain in the meeting for the entire morning or afternoon session.

Dated: September 9, 2005.

Judith L. Osborn,

Attorney-Adviser, Office of United Nations Affairs, Office of the Legal Adviser, Executive Director, Advisory Committee on International Law, Department of State.

[FR Doc. 05–18354 Filed 9–14–05; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending August 26, 2005

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2005–22261 and OST–2005–22228.

Date Filed: August 26, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope:

Description: Application of American Eagle Airlines, Inc. and Executive Airlines, Inc. d/b/a American Eagle, in response to the Department's notice of August 23, 2005 on streamlining regulatory procedures for licensing U.S. and foreign air carriers, requesting a certificate of public convenience and necessity authorizing scheduled foreign air transportation of persons, property to correspond to U.S.-Mexico routes for which American Eagle Airlines, Inc. holds authority by exemption.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 05–18331 Filed 9–14–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending August 26, 2005

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2005–22204.

Date Filed: August 22, 2005.

Parties: Members of the International Air Transport Association.

Subject:

Mail Vote 452—Resolution 010s;
TC3 Japan, Korea-South East Asia;
Special Passenger Amending Resolution between China (excluding Hong Kong SAR and Macao SAR) and Japan.

Intended effective date: 1 September 2005.

Docket Number: OST–2005–22205.

Date Filed: August 22, 2005.

Parties: Members of the International Air Transport Association.

Subject:

Composite Expedited Resolution 002ad (Memo 1260);
Composite Expedited Resolution 024e (Memo 1261);
Composite Expedited Resolutions 017b and 017c (Memo 1262).

Intended effective date: 1 October 2005.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 05–18332 Filed 9–14–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2005–22174]

Reports, Forms, and Recordkeeping Requirements

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

ACTION: Emergency **Federal Register** notice.

SUMMARY: The Department of Transportation has submitted the following emergency processing public information collection request to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This notice announces that the Information Collection Requested (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. Comments should be directed to the Office of Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

DATES: OMB approval has been requested by September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Complete copies of this request for collection of information may be obtained at no charge from Donna Glassbrenner, Ph.D., Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 6125, NPO–121, Washington, DC 20590. Dr. Glassbrenner's telephone number is (202) 366–3962. Please identify the relevant collection of information by referring to its Docket Number above.

SUPPLEMENTARY INFORMATION: *Title:* National Survey of the Use of Booster Seats.

OMB Control Number: New.

Affected Public: Motorists in passenger vehicles at gas stations, fast food restaurants, and other types of sites frequented by children during the time in which the survey is conducted.

Form Number: NHTSA 1010.

Abstract: The National Survey of the Use of Booster Seats is being conducted to respond to the Section 14(i) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000. The Act directs the Department of Transportation to reduce the deaths and injuries among children in the 4-to-8 year old age group that are caused by failure to use a booster seat by 25 percent. Conducting the National Survey of the Use of Booster Seats will provide the Department with invaluable information on who is and is not using booster seats, helping the Department better direct its outreach programs to ensure that children are protected to the greatest degree possible when they ride in motor vehicles. Emergency approval is requested for the survey in order to obtain this important survey data as soon as possible, saving more children and helping to comply with the TREAD Act requirement.

Estimated Annual Burden: 320 hours.

Number of Respondents: Approximately 4,800 adult motorists will respond to survey questions about the children in their vehicle.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: September 1, 2005.

Joseph Carra,

Associate Administrator for the National Center for Statistics and Analysis, NHTSA.

[FR Doc. 05–18292 Filed 9–14–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Motor Theft Prevention Standard; Mazda

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

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of Mazda Motor Corporation (Mazda) for an exemption in accordance with § 543.9(c)(2) of 49 CFR Part 543, *Exemption from the Theft Prevention Standard,* for the Mazda 3 vehicle line beginning with model year (MY) 2006. This petition is granted because the agency has determined that the antitheft

device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective September 1, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's phone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated June 21, 2005, Mazda Motor Corporation (Mazda), requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR Part 541) for the Mazda 3 vehicle line beginning with MY 2006. The petition requested an exemption from parts-marking pursuant to 49 CFR Part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one line of its vehicle lines per year.

Mazda's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In its petition, Mazda provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. The antitheft device is a transponder-based electronic immobilizer system. Mazda will install its antitheft device as standard equipment on its Mazda 3 vehicle line beginning with MY 2006.

In order to ensure the reliability and durability of the device, Mazda conducted tests based on its own specified standards. Mazda provided a detailed list of the tests conducted and stated its belief that the device is reliable and durable since it has complied with Mazda's specified requirements for each test. The components of the immobilizer device are tested in climatic, mechanical and chemical environments. All keys and key cylinders should meet unique strength tests against attempts of mechanical overriding. The tests conducted were for thermal shock, high temperature exposure, low-temperature exposure, thermal cycling, humidity temperature cycling, random vibration, dust, water, connector and lead/lock strength, chemical resistance, electromagnetic field, power line variations, DC stresses, electrostatic discharge, transceiver/key strength and transceiver mounting strength. Mazda's antitheft device is activated when the driver/operator turns off the engine using the properly coded ignition key. When the ignition key is turned to the ''ON'' position, the transponder (located in the head of the key) transmits a code to the powertrain's electronic control module. Mazda stated that encrypted communications exist between the immobilizer system control function and the powertrain's electronic control module. The vehicle's engine can only be started if the transponder code matches the code previously programmed into the powertrain's electronic control module. If the code does not match, the engine will be disabled. Mazda stated that there are approximately 18×10^{18} different codes and at the time of manufacture, each transponder is hard-coded with a unique code. Mazda also stated that its immobilizer system incorporates a light-emitting diode (LED) that provides information as to when the system is ''unset''. When the ignition is initially turned to the ''ON'' position, the LED illuminates continuously for three seconds to indicate the proper ''unset'' state of the device. When the ignition is turned to ''OFF'' position, a flashing LED indicates the ''set'' state of the system. The integration of the set/unset device (transponder) into the ignition key prevents any inadvertent activation of the system.

Mazda believes that it would be very difficult for a thief to defeat this type of electronic immobilizer system. Mazda believes that its proposed device is reliable and durable because it does not have any moving parts, nor does it require a separate battery in the key. Any attempt to slam-pull the ignition lock cylinder, for example, will have no effect on a thief's ability to start the vehicle. If the correct code is not transmitted to the electronic control module there is no way to mechanically override the system and start the vehicle. Furthermore, Mazda stated that drive-away thefts are virtually eliminated with the sophisticated design and operation of the electronic engine immobilizer system which makes conventional theft methods (*i.e.*, hot-wiring or attacking the ignition-lock cylinder) ineffective.

Mazda reported that in MY 1996, the proposed system was installed on certain U.S. Ford vehicles as standard equipment (*i.e.* on all Ford Mustang GT and Cobra models, Ford Taurus LX, SHO and Sable LS models). In MY 1997, the immobilizer system was installed on the Ford Mustang vehicle line as standard equipment. When comparing 1995 model year Mustang vehicle thefts (without immobilizer), with MY 1997 Mustang vehicle thefts (with immobilizer), data from the National Insurance Crime Bureau showed a 70% reduction in theft. (Actual National Crime Information Center reported thefts were 500 for MY 1995 Mustang, and 149 thefts for MY 1997 Mustang.)

Mazda's proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lack an audible or visible alarm. Therefore, these devices cannot perform one of the functions listed in 49 CFR 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with devices similar to that which Mazda proposes. In these instances, the agency has concluded that the lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

On the basis of this comparison, Mazda has concluded that the proposed antitheft device is no less effective than those devices installed on lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by Mazda, the agency believes that the antitheft device for the Mazda vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541).

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that Mazda has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Mazda provided about its device. For the foregoing reasons, the agency hereby grants in full Mazda's petition for exemption for its vehicle line from the parts-marking requirements of 49 CFR Part 541.

If Mazda decides not to use the exemption for this line, it should formally notify the agency. If such a

decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Mazda wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: September 9, 2005.

Roger A. Saul,

Director, Office of Crashworthiness Standards.

[FR Doc. 05–18339 Filed 9–14–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 658X)]

CSX Transportation, Inc.—Abandonment Exemption—in Hall County, GA

On August 26, 2005, CSX Transportation, Inc. (CSXT), filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 0.85-mile portion of its Southern Region, Atlanta Division, Gainesville Midland Subdivision, between milepost GGM 39.2 and the end of the track, milepost GGM 40.05, in Hall County, GA. The line traverses U.S. Postal Service Zip Code 30501 and is within the station of Gainesville, GA.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 14, 2005.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,200 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than October 5, 2005. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 658X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Louis E. Gitomer, Esq., Ball Janik, LLP, 1455 F Street, NW., Suite 225, Washington, DC, 20005. Replies to the petition are due on or before October 5, 2005.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by SEA, will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: September 8, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–18351 Filed 9–14–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on CARES Business Plan Studies; Cancellation of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that the devastating impact of Hurricane Katrina has forced the cancellation of the Advisory Committee on CARES Business Plan Studies meeting previously scheduled for Thursday, September 29, 2005, from 1 p.m. until 5 p.m., at the VA Gulf Coast Veterans Health Care System, Building 17, Recreation Hall, 400 Veterans Avenue, Biloxi, MS.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs on proposed business plans at those VA facility sites identified in May 2004 as requiring further study by the Capital Asset Realignment for Enhanced Series (CARES) Decision document.

For additional information regarding this matter, please contact Mr. Jay Halpern, Designated Federal Officer, (00CARES), 810 Vermont Avenue, NW., Washington, DC 20024 by phone at (202) 273–5994, or by e-mail at *jay.halpern@va.gov*.

Dated: September 9, 2005.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–18290 Filed 9–14–05; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board; Notice of Meetings

The Department of Veterans Affairs gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that subcommittees of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board will meet from 8 a.m. to 5 p.m. as indicated below.

Gulf War Research A—September 16, 2005, State Plaza Hotel, 2117 E Street, NW., Washington, DC

Gulf War Research B—September 30, 2005, Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC

The purpose of the Board is to provide expert review on the scientific quality, budget, safety and mission relevance of investigator-initiated research proposals submitted for merit review consideration and to provide advice on research program priorities and policies. Proposals submitted for review by the Board involve a wide range of medical specialties within the general areas of biomedical, behavioral and clinic science research. The meeting noted above will focus on proposals submitted in response to Request for Proposals Directed to Understanding Illnesses Affecting Gulf War Veterans.

The meetings will be open to the public for approximately thirty minutes at the start of each meeting to discuss the general status of the program. The remaining portion of each meeting will be closed to the public for the review, discussion, and evaluation of initial and renewal projects.

The closed portion of the meetings involves discussion, examination, reference to staff and consultant critiques of research protocols. During this portion of the meetings, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which could significantly frustrate implementation of proposed agency action regarding such research projects.

As provided by subsection 10(d) of Public Law 92–463, as amended, closing portions of these meetings is in accordance with 5 U.S.C., 552b(c) (6) and (9)(B). Those who plan to attend or would like to obtain a copy of minutes of the meetings should contact William J. Goldberg, Ph.D., Department of Veterans Affairs (121E), 810 Vermont Avenue, NW., Washington, DC 20420 at (202) 254–0294.

Dated: September 9, 2005.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–18289 Filed 9–14–05; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Thursday,
September 15, 2005

Part II

The President

Presidential Determination No. 2005–35 of September 12, 2005—Continuation of the Exercise of Certain Authorities Under the Trading With the Enemy Act

Federal Register
Vol. 70, No. 178
Thursday, September 15, 2005

Presidential Documents

Title 3—

The President

Presidential Determination No. 2005–35 of September 12, 2005

Continuation of the Exercise of Certain Authorities under the Trading with the Enemy Act

Memorandum for the Secretary of State [and] the Secretary of the Treasury

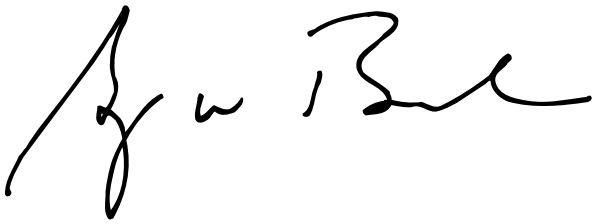
Under section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note), and a previous determination on September 10, 2004 (69 *Fed. Reg.* 55497), the exercise of certain authorities under the Trading with the Enemy Act is scheduled to terminate on September 14, 2005.

I hereby determine that the continuation for 1 year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, pursuant to the authority vested in me by section 101(b) of Public Law 95–223, I continue for 1 year, until September 14, 2006, the exercise of those authorities with respect to countries affected by:

(1) the Foreign Assets Control Regulations, 31 C.F.R. part 500;
(2) the Transaction Control Regulations, 31 C.F.R. part 505; and
(3) the Cuban Assets Control Regulations, 31 C.F.R. part 515.

The Secretary of the Treasury is authorized and directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 12, 2005.

[FR Doc. 05–18495
Filed 9–14–05; 8:45 am]
Billing code 4811–33–P

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Cotton classing, testing and standards:
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Animal and Plant Health Inspection Service

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LIST OF PUBLIC LAWS

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H.R. 3650/P.L. 109–63
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