Federal Register

10–21–05 Friday
Vol. 70 No. 203 Oct. 21, 2005

Pages 61211–61348

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 70 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

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

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: Tuesday, October 25, 2005
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 70, No. 203

Friday, October 21, 2005

Agricultural Marketing Service
RULES
National Organic Program:
Allowed and Prohibited Substances (Livestock); National List; amendments, 61217–61219
Pistachios grown in—
California, 61220–61226
PROPOSED RULES
Hass avocado promotion, research, and information order, 61238–61239

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Forest Service
See Rural Utilities Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61244

Animal and Plant Health Inspection Service
RULES
Interstate transportation of animals and animal products (quarantine):
Tuberculosis in cattle and bison—
State and area classifications, 61226

Antitrust Modernization Commission
NOTICES
Hearings, 61247

Army Department
See Engineers Corps
NOTICES
Inventions, Government-owned; availability for licensing, 61261
Meetings:
Western Hemisphere Institute for Security Cooperation Board of Visitors, 61261
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Bacterial superantigen vaccines, 61261–61262

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Medicare & Medicaid Services
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61291–61293

Civil Rights Commission
NOTICES
Meetings; Sunshine Act, 61249–61250

Commerce Department
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Technology Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61250–61251

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 61247–61249

Defense Department
See Army Department
See Engineers Corps
See Navy Department
NOTICES
Arms sales notification; transmittal letter, etc., 61256–61260
Meetings:
Science Board task forces, 61260
Senior Executive Service Performance Review Board; membership, 61260–61261

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
Schedules I and II—
Proposed 2006 aggregate, 61310–61313

Education Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61264–61266
Meetings:
Institutional Quality and Integrity National Advisory Committee, 61266–61267

Energy Department
See Federal Energy Regulatory Commission

Engineers Corps
NOTICES
Environmental statements; notice of intent:
Los Angeles County, CA—
Port of Los Angeles Channel Deepening Project; additional disposal capacity, 61262–61264

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Kentucky; withdrawn, 61232
Pesticides programs:
Emergency exemption process revisions; notification to Agriculture Secretary, 61232–61233
PROPOSED RULES
Pesticide programs:
Biochemical and microbial pesticide data requirements; notification to Agriculture Secretary, 61242–61243
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61283–61285

Environmental statements; availability, etc.:
Agency comment availability, 61285–61286
Agency weekly receipts, 61286–61287
Meetings:
Clean Air Act Advisory Committee, 61287
Pesticide programs:
Tolerance reassessment decisions—
Fluazifop-P-butyl, 61287–61289
Reports and guidance documents; availability, etc.:
EPA Report on the Environment 2007; additional proposed indicators, 61289–61290

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 61226–61229
Rolls-Royce Deutschland Ltd. & Co. KG, 61229–61232
PROPOSED RULES
Airworthiness directives:
Fokker, 61239–61241

Federal Bureau of Investigation
NOTICES
Meetings:
Criminal Justice Information Services Advisory Policy Board, 61313

Federal Energy Regulatory Commission
NOTICES
Complaints filed:
Connecticut Department of Public Utility Control et al., 61278
Vernon, CA, et al., 61278–61279
Electric rate and corporate regulation combined filings, 61279–61282
Hydroelectric applications, 61282
Meetings:
Joint Boards on Security Constrained Economic Dispatch, 61282–61283
Southwest Power Pool Board of Directors and Members Committee et al., 61283
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission, LLC, 61267
California Independent System Operator Corp., 61267–61268
Cameron Interstate Pipeline, LLC, 61268
Consolidated Edison Co. of New York, Inc., et al., 61268–61269
DC Energy Midwest, LLC, 61269
Distrigas of Massachusetts LLC, 61269
Dominion Transmission, Inc., 61269–61270
Eastern Shore Natural Gas Co., 61270
East Tennessee Natural Gas, LLC, 61270
Florida Gas Transmission Co., 61271
Garden Banks Gas Pipeline, LLC, 61271–61272
Guardian Pipeline, L.L.C., 61272
JMC Wind, LLC, 61272
LG&E Energy LLC et al., 61272–61273
LP & T Energy LLC, 61273
Maine Yankee Atomic Power Co., 61273
Midwestern Gas Transmission Co., 61274
MIGC, Inc., 61274
Northern Border Pipeline Co., 61274–61275
Northwest Pipeline Corp., 61275
Ontelaunee Power Operating Co., LLC, 61275
San Juan Mesa Wind Project, LLC, 61275–61276
Saracen Energy LP et al., 61276
Texas Eastern Transmission, LP, 61276–61277
Viking Gas Transmission Co., 61277
Wisconsin Public Service Corp. et al., 61277–61278

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 61290
Formations, acquisitions, and mergers, 61290–61291

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit determinations, etc., 61300–61301

Food and Drug Administration
NOTICES
Meetings:
Science Board, 61293

Forest Service
NOTICES
Environmental statements; notice of intent:
Ochoco and Deschutes National Forests, OR, 61244–61246

Harry S. Truman Scholarship Foundation
NOTICES
Meetings; Sunshine Act, 61291

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration

Health Resources and Services Administration
NOTICES
Organization, functions, and authority delegations:
Communications Office et al., 61293–61294

Homeland Security Department
See Transportation Security Administration
See U.S. Citizenship and Immigration Services
RULES
Classified national security information, 61211–61217

Housing and Urban Development Department
NOTICES
Environmental statements; notice of intent:
Cedar Grove Housing, Tahoe Vista, Placer County, CA, 61297–61298
Grants and cooperative agreements; availability, etc.:
Homeless assistance; excess and surplus Federal properties, 61298
Low income housing:
Housing assistance payments (Section 8)—
Operating cost adjustment factors, 61298–61300

Industry and Security Bureau
NOTICES
Meetings:
Materials Processing Equipment Technical Advisory Committee, 61251

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service

International Trade Administration
NOTICES
Antidumping:
Antifriction bearings and parts from—
Various countries, 61251–61252
Ball bearings and parts from—
Japan, 61252
Large diameter carbon and alloy seamless standard, line, and pressure pipe from—
Japan, 61252–61253
Low enriched uranium from—
France, 61253–61254

International Trade Commission
NOTICES
Import investigations:
Laminated floor panels, 61309
Non-frozen concentrated apple juice from—
China, 61309
Pool cues with self-aligning joint assemblies and components, 61309–61310

Justice Department
See Drug Enforcement Administration
See Federal Bureau of Investigation

Labor Department
See Mine Safety and Health Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61313–61314

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Uintah and Duchesne Counties, UT; Castle Peak and Eight Mile Flat Oil and Gas Expansion Project, 61301–61302
Environmental statements; notice of intent:
Custer County, ID; L&W Stone's amended plan of operations, 61302
Pinedale Anticline Oil and Gas and Exploration and Development Project, WY, 61302–61304
Public land orders:
Colorado, 61304–61305
Recreation management restrictions, etc.:
Imperial Sand Dunes Recreation Area, CA; supplementary rules, 61305–61307

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 61315–61316

Mine Safety and Health Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61314–61315

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Humanities Panel, 61316–61317

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Northeastern United States fisheries—
Atlantic sea scallop, 61233–61235
West Coast States and Western Pacific fisheries—
Pacific mackerel, 61235–61237
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61254–61255
Grants and cooperative agreements; availability, etc.:
2006 FY funds availability; omnibus notice
Ecological Forecasting Program, 61255–61256

National Park Service
NOTICES
National Register of Historic Places:
Pending nominations, 61307–61309

National Science Foundation
NOTICES
Meetings:
Business and Operations Advisory Committee, 61317
Materials Research Proposal Review Panel, 61317

Navy Department
NOTICES
Inventions, Government-owned; availability for licensing, 61264

Nuclear Regulatory Commission
NOTICES
Meetings:
5th International MACCS Users' Group, 61318
Reports and guidance documents; availability, etc.:
Reactor oversight process; implementation, 61318–61320
Applications, hearings, determinations, etc.:
Duke Energy Corp., 61317–61318

Personnel Management Office
RULES
Prevailing rate systems, 61211
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61320–61321

Rural Utilities Service
NOTICES
Environmental statements; availability:
Georgia Transmission Corp., 61246–61247

Small Business Administration
NOTICES
Small business size standards:
Nonmanufacturer rule; waivers—
Commercial laundry equipment, 61321
Household cooking equipment, 61322
Household laundry equipment, 61322–61323
Household refrigerator equipment, 61322
Sporting and athletic goods manufacturing, 61321

Technology Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61256

Transportation Department
See Federal Aviation Administration
PROPOSED RULES
Air travel; nondiscrimination on basis of disability:
Medical oxygen and portable respiration assistive devices, 61241–61242

Transportation Security Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61294–61295

Treasury Department
NOTICES
Senior Executive Service Performance Review Board; membership, 61323

U.S. Citizenship and Immigration Services
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 61295–61297

Veterans Affairs Department
PROPOSED RULES
Compensation, pension, burial and related benefits:
Dependency and indemnity compensation benefits, 61326–61348

Separate Parts In This Issue

Part II
Veterans Affairs Department, 61326–61348

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
532.....61211

6 CFR
7.....61211

7 CFR
205.....61217
983.....61220

Proposed Rules:
1219.....61238

9 CFR
77.....61226

14 CFR
39 (2 documents) 61226, 61229

Proposed Rules:
39.....61239
382.....61241

15 CFR
902.....61233

38 CFR

Proposed Rules:
5.....61326

40 CFR
52.....61232
81.....61232
166.....61232

Proposed Rules:
158.....61242

50 CFR
648.....61233
660.....61235

Rules and Regulations

Federal Register
Vol. 70, No. 203
Friday, October 21, 2005

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AK83

Prevailing Rate Systems; Redefinition of the Central North Carolina Appropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to redefine the geographic boundaries of the Central North Carolina Federal Wage System (FWS) appropriated fund wage area. The final rule removes Edgecombe and Wilson Counties, NC, from the survey area and adds Hoke County, NC, to the survey area. The redefinition of Edgecombe, Hoke, and Wilson Counties aligns the geographic definition of the Central North Carolina wage area more closely with the regulatory criteria used to define FWS wage areas.

DATES: This rule is effective on November 21, 2005.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; e-mail *pay-performance-policy@opm.gov*; or FAX: (202) 606–4264.

SUPPLEMENTARY INFORMATION: On May 18, 2005, the Office of Personnel Management (OPM) issued a proposed rule (70 FR 28488) to remove Edgecombe and Wilson Counties, NC, from the Central North Carolina survey area and add Hoke County, NC, to the survey area. The proposed rule had a 30-day comment period, during which OPM received no comments.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, the Office of Personnel Management is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

■ 2. In appendix C to subpart B, the wage area listing for the State of North Carolina is amended by revising the listing for Central North Carolina to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

North Carolina

Central North Carolina

Survey Area

North Carolina: Cumberland, Durham, Harnett, Hoke, Johnston, Orange, Wake, Wayne.

Area of Application. Survey area plus:

North Carolina: Alamance, Bladen, Caswell, Chatham, Davidson, Davie, Edgecombe, Franklin, Forsyth, Granville, Guilford, Halifax, Lee, Montgomery, Moore, Nash, Northampton, Person, Randolph, Richmond, Robeson, Rockingham, Sampson, Scotland, Stokes, Surry, Vance, Warren, Wilson, and Yadkin.

South Carolina: Dillon, Marion, and Marlboro.

* * * * *

[FR Doc. 05–21050 Filed 10–20–05; 8:45 am]

BILLING CODE 6325–39–U

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 7

RIN 1601–AA02

Classified National Security Information

AGENCY: Office of the Secretary, DHS.

ACTION: Final rule.

SUMMARY: This final rule revises the Department of Homeland Security's procedures for managing classified national security information. This rule implements procedures required under Executive Order 12958, ''Classified National Security Information,'' as amended by Executive Order 13292, and amends the initial procedures established when the Department was created in January 2003. Further, this rule delegates to the Chief Security Officer of the Department of Homeland Security the responsibility of serving as the ''Senior Agency Official'' pursuant to Executive Order 12958, as amended.

DATES: This final rule is effective October 21, 2005.

FOR FURTHER INFORMATION CONTACT: John J. Young, Chief, Administrative Security Division, Office of Security, Department of Homeland Security, (202) 772–9614 (not a toll free call).

SUPPLEMENTARY INFORMATION:

I. Background

On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 101 *et seq.*) (HSA), creating the Department of Homeland Security (DHS). DHS is comprised of 22 Federal agencies brought together for the common goals of preventing terrorist attacks in the United States, reducing the vulnerability of the United States to terrorist attacks, and minimizing damage and assisting in recovery from attacks that occur in the United States.

DHS came into existence on January 24, 2003 under section 4 of the HSA, 116 Stat. at 2142 (6 U.S.C. 101 note). In order to facilitate public interaction with DHS's Office of the Secretary and to meet the mandate set forth in Executive Order 12958, as amended, DHS issued an interim final rule to establish an initial set of procedures for

the classification, safeguarding and declassification of classified national security information. 68 FR 4703 (Jan. 27, 2003). Because the procedures implemented under the January 27, 2003 interim final rule were determined by DHS to be agency procedural rules, the interim rule was exempt from prior notice and public comment under the Administrative Procedure Act (APA) (5 U.S.C. 553) and became effective upon publication.

On March 25, 2003, the President issued Executive Order 13292, 68 FR 15315 (March 28, 2003), which further amended Executive Order 12958. Executive Order 12958, as amended, further directed Federal agencies to designate a Senior Agency Official to direct and administer the program for handling classified national security information. Among the responsibilities of the Senior Agency Official is the promulgation of implementing regulations that are required to be published in the **Federal Register** to the extent such regulations affect the public.

DHS is promulgating this final rule, consistent with the mandates set forth under Executive Order 12958, as amended, to establish procedures, and revise existing DHS procedures for the classification, safeguarding and declassification of classified national security information. This final rule is consistent with similar rules of other Executive agencies relating to procedures for the classification, safeguarding and declassification of classified national security information.

II. Analysis of This Final Rule

This final rule establishes the procedures necessary for DHS to fulfill its obligations under Executive Order 12958, as amended, ''Classified National Security Information.'' This final rule is not intended to address or satisfy obligations mandated to the Department under Executive Orders 13311, Homeland Security Information Sharing, 68 FR 45149 (July 31, 2003) or Executive Order 13356, Strengthening the Sharing of Terrorism Information to Protect Americans, 69 FR 53599 (September 1, 2004).

Subpart A—Administration

Subpart A delegates responsibility for administration of the DHS classification management program to the Chief Security Officer who shall act in the capacity of ''Senior Agency Official'' as defined in E.O. 12958, as amended. This delegation had been previously assigned to the Under Secretary for Information Analysis and Infrastructure Protection (IAIP) under the predecessor DHS Interim Final Rule dated January 27, 2003. It also mandates responsibility to the components for designation of a security officer/security liaison to implement and oversee the program at each component. Subpart A sets forth potential sanctions that may be imposed pursuant to E.O. 12958, as amended. These sanctions are independent of criminal penalties under 18 U.S.C. 371, 792–798, 1001; the Act of September 23, 1950, ch. 1024, tit. I, section 4, 64 Stat. 991, as amended (50 U.S.C. 783); and the National Security Act of 1947, ch. 343, tit. VI, section 601, as added by the Intelligence Identities Protection Act of 1982, Public Law 97–200, section 2, 96 Stat. 122 (June 23, 1982), as amended (50 U.S.C. 421), or other laws. Each of these provisions of law may impose sanctions against persons who commit a violation in the handling of classified information and it outlines policy for the introduction of classified information into judicial proceedings.

Subpart B—Classified Information

Subpart B provides DHS policy on the classification and declassification of national security information and provisions for the release of classified information to uncleared persons in an emergency. Subpart B also provides the DHS processes for challenging the classification of information and, as it applies to the public, submitting a request for a mandatory review of classified information for declassification and public release. It also establishes the DHS Classification Appeals Panel (DHS/CAP) for the purpose of reviewing appeals of denial for declassification.

III. Regulatory History

Administrative Procedure Act

DHS is implementing this rule without notice and the opportunity for public comment as this rule involves DHS management and organization, and DHS internal procedures for the classification and handling of classified national security information. Therefore, this rule is exempt from the rulemaking requirements under 5 U.S.C. 553 pursuant to the exclusions in section 553(a). Further, this rule generally parallels the procedures currently used by other agencies to fulfill their obligations under Executive Order 12958, as amended, regarding classified national security information. Implementation of this rule without notice and the opportunity for public comment is warranted also under the ''good cause'' standard found under 5 U.S.C. 553(b) because it implements only national security interests relating to classified information and does not affect the rights of the general public. For the same reasons, the Department has determined that this final rule should be issued without a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

DHS, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this final rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. Further, a Regulatory Flexibility Analysis is not required for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter.

Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, section 1(b), Principles of Regulation. This rule is not a significant regulatory action under section 3(f) of Executive Order 12866.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, DHS has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small

Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

National Environmental Policy Act of 1969

DHS has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

Executive Order 12958, as Amended

This Final Rule has been reviewed by the Information Security Oversight Office of the National Archives and Records Administration, pursuant to Executive Order 12958, as amended.

List of Subjects in 6 CFR Part 7

Classified information, Organization, functions, and authority delegations.

■ Accordingly, for the reasons set forth above, 6 CFR chapter I, part 7, is revised to read as follows:

PART 7—CLASSIFIED NATIONAL SECURITY INFORMATION

Sec.
7.1 Purpose.
7.2 Scope.
7.3 Definitions.

Subpart A—Administration

7.10 Authority of the Chief Security Officer, Office of Security.
7.11 Components' responsibilities.
7.12 Violations of classified information requirements.
7.13 Judicial proceedings.

Subpart B—Classified Information

7.20 Classification and declassification authority.
7.21 Classification of information, limitations.
7.22 Classification pending review.
7.23 Emergency release of classified information.
7.24 Duration of classification.
7.25 Identification and markings.
7.26 Derivative classification.
7.27 Declassification and downgrading.
7.28 Automatic declassification.
7.29 Documents of permanent historical value.
7.30 Classification challenges.
7.31 Mandatory review for declassification requests.

Authority: 5 U.S.C. 301; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 101); E.O. 12958, 60 FR 19825, 3 CFR, 1995 Comp., p. 333; E.O. 13142, 64 FR 66089, 3 CFR, 1999 Comp., p. 236; 32 CFR part 2001.

§ 7.1 Purpose.

The purpose of this part is to ensure that information within the Department of Homeland Security (DHS) relating to the national security is classified, safeguarded, and declassified pursuant to the provisions of Executive Order 12958, as amended, and implementing directives from the Information Security Oversight Office (ISOO) of the National Archives and Records Administration (NARA).

§ 7.2 Scope.

(a) This part applies to all employees, detailees and non-contractor personnel outside the Executive Branch who are granted access to classified information by the DHS, in accordance with the standards in Executive Order 12958, as amended, and its implementing directives.

(b) This part does not apply to contractors, grantees and other categories of personnel falling under the purview of Executive Order 12829, National Industrial Security Program, and its implementing directives.

(c) This part is independent of and does not affect any classification procedures or requirements of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq*).

(d) This part does not, and is not intended to, create any right to judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. This part creates limited rights to administrative review of decisions. This part does not, and is not intended to, create any right to judicial review of administrative action.

§ 7.3 Definitions.

The terms defined or used in Executive Order 12958, as amended, and the implementing directives in 32 CFR parts 2001 and 2004, are applicable to this part.

Subpart A—Administration

§ 7.10 Authority of the Chief Security Officer, Office of Security.

(a) The DHS Chief Security Officer (hereafter ''Chief Security Officer'') is designated as the Senior Agency Official as required by section 5.4(d) of Executive Order 12958, as amended, and, except as specifically provided elsewhere in this part, is authorized to administer the DHS Classified National Security Information program pursuant to Executive Order 12958, as amended.

(b) The Chief Security Officer shall, among other actions:

(1) Oversee and administer the DHS's program established under Executive Order 12958, as amended;

(2) Promulgate implementing regulations;

(3) Establish and maintain Department-wide security education and training programs;

(4) Establish and maintain an ongoing self-inspection program including the periodic review and assessment of the DHS's classified product;

(5) Establish procedures to prevent unnecessary access to classified information, including procedures that:

(i) Require that a need for access to classified information is established before initiating administrative procedures to grant access; and

(ii) Ensure that the number of persons granted access to classified information is limited to the minimum necessary for operational and security requirements and needs;

(6) Develop special contingency plans for the safeguarding of classified information used in or near hostile or potentially hostile areas;

(7) Coordinate with the DHS Chief Human Capital Officer, as appropriate to ensure that the performance contract or other system used to rate personnel performance includes the management of classified information as a critical element or item to be evaluated in the rating of:

(i) Original classification authorities;

(ii) Security managers or security specialists; and

(iii) All other personnel whose duties significantly involve the creation or handling of classified information;

(8) Account for the costs associated with implementing this part and report the cost to the Director of ISOO;

(9) Assign in a prompt manner personnel to respond to any request, appeal, challenge, complaint, or suggestion concerning Executive Order 12958, as amended, that pertains to classified information that originated in a DHS component that no longer exists and for which there is no clear successor in function;

(10) Report violations, take corrective measures and assess appropriate sanctions as warranted, in accordance with Executive Order 12958, as amended;

(11) Overseeing DHS participation in special access programs authorized under Executive Order 12958, as amended;

(12) Direct and administer DHS's personnel security program in

accordance with Executive Order 12968 and other applicable law;

(13) Direct and administer DHS implementation and compliance with the National Industrial Security Program in accordance with Executive Order 12829 and other applicable guidance; and

(14) Perform any other duties as the Secretary may designate.

(c) The Chief Security Officer shall maintain a current list of all officials authorized pursuant to this part to originally classify or declassify documents.

§ 7.11 Components' responsibilities.

Each DHS component shall appoint a security officer or security liaison to implement this part. the security officer/security liaison shall:

(a) Implement, observe, and enforce security regulations or procedures within their component with respect to the classification, declassification, safeguarding, handling, and storage of classified national security information;

(b) Report violations of the provisions of this regulation to the Chief Security Officer committed by employees of their component, as required;

(c) Ensure that employees of their component acquire adequate security education and training, as required by the DHS classified information security procedures;

(d) Continuously review the requirements for personnel access to classified information as a part of the continuous need-to-know evaluation, and initiate action to administratively withdraw or reduce the level of access authorized, as appropriate; and

(e) Cooperate fully with any request from the Chief Security Officer for assistance in the implementation of this part.

§ 7.12 Violations of classified information requirements.

(a) Any person who suspects or has knowledge of a violation of this part, including the known or suspected loss or compromise of classified information, shall promptly report such violations or possible violations, pursuant to requirements set forth in DHS directives.

(b) DHS employees and detailees may be reprimanded, suspended without pay, terminated from classification authority, suspended from or denied access to classified information, or subject to other sanctions in accordance with applicable law and DHS regulations or directives if they:

(1) Knowingly, willfully, or negligently disclose to unauthorized persons information properly classified under Executive Order 12958, as amended, or its predecessor orders;

(2) Knowingly, willfully, or negligently classify or continue the classification of information in violation of Executive Order 12958, as amended, or its implementing directives; or

(3) Knowingly, willfully, or negligently violate any other provision of Executive Order 12958, as amended, or DHS implementing directives, or;

(4) Knowingly, willfully, or negligently grant eligibility for, or allow access to, classified information in violation of Executive Order 12958, or its implementing directives, this part, or DHS implementing directives promulgated by the Chief Security Officer.

§ 7.13 Judicial proceedings.

(a) Any DHS official or organization receiving an order or subpoena from a Federal or State court, or an administrative subpoena from a Federal agency, to produce classified information (see 6 CFR 5.41 through 5.49), required to submit classified information for official DHS litigative purposes, or receiving classified information from another organization for production of such in litigation, shall notify the Office of the General Counsel, unless the demand for production is made by the Office of the General Counsel, and immediately determine from the agency originating the classified information whether the information can be declassified. If declassification is not possible, DHS representatives will take appropriate action to protect such information, pursuant to the provisions of this section.

(b) If a determination is made to produce classified information in a judicial proceeding in any manner, the DHS General Counsel attorney, in conjunction with the Department of Justice, shall take appropriate steps to protect classified information in judicial proceedings and retrieve the information when the information is no longer required in such judicial proceedings, in accordance with the Department of Justice procedures, and in Federal criminal cases, pursuant to the requirements of Classified Information Procedures Act (CIPA), Public Law 96–456, 94 Stat. 2025, (18 U.S.C. App.), and the ''Security Procedures Established Pursuant to Public Law 96–456, 94 Stat. 2025, by the Chief Justice of the United States for the Protection of Classified Information,'' and other applicable authorities.

Subpart B—Classified Information

§ 7.20 Classification and declassification authority.

(a) Top Secret original classification authority may only be exercised by the Secretary of Homeland Security and by officials to whom such authority is delegated in writing by the Secretary. The Chief Security Officer, as the Senior Agency Official, is delegated authority to originally classify information up to and including Top Secret. No official who is delegated Top Secret original classification authority by the Secretary may further delegate such authority.

(b) The Chief Security Officer may delegate Secret and Confidential original classification authority to other officials determined to have frequent need to exercise such authority. No official who is delegated original classification authority by the Secretary or the Chief Security Officer may further delegate such authority.

(c) Officials authorized to classify information at a specified level are also authorized to classify information at a lower level. In the absence of an official authorized to exercise classification authority, the person designated to act in lieu of such official may exercise the official's classification authority.

§ 7.21 Classification of information, limitations.

(a) Information may be originally classified only if all of the following standards are met:

(1) An original classification authority is classifying the information;

(2) The information is owned by, produced by or for, or is under the control of the United States Government;

(3) The information falls within one or more of the categories of information specified in section 1.4 of Executive Order 12958, as amended; and

(4) The original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security and such official is able to identify or describe the damage.

(b) Information shall be classified as Top Secret, Secret, or Confidential in accordance with and in compliance with the standards and criteria in Executive Order 12958, as amended. No other terms shall be used to identify United States classified information except as otherwise provided by statute.

(c) Information shall not be classified in order to:

(1) Conceal inefficiency, violations of law, or administrative error;

(2) Prevent embarrassment to a person, organization, or agency;

(3) Restrain competition;

(4) Prevent or delay release of information that does not require protection in the interest of national security.

(d) Information may be reclassified after it has been declassified and released to the public under proper authority only in accordance with the following conditions:

(1) The reclassification action is taken under the personal authority and with the written approval of the Secretary or Deputy Secretary of Homeland Security, based on the determination that the reclassification of the information is necessary in the interest of the national security;

(2) The reclassification of the information meets the standards and criteria for classification pursuant to Executive Order 12958, as amended;

(3) The information may be reasonably recovered; and

(4) The reclassification action is reported promptly to the Director of ISOO.

(e) Information that has not previously been disclosed to the public under proper authority may be classified or reclassified after DHS has received a request for it under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory review provisions of Executive Order 12958, as amended, section 3.5. When it is necessary to classify or reclassify such information, it shall be forwarded to the Chief Security Officer and classified or reclassified only at the direction of the Secretary or Deputy Secretary of Homeland Security.

§ 7.22 Classification pending review.

(a) Whenever persons who do not have original classification authority originate or develop information that they believe requires immediate classification and safeguarding, and no authorized classifier is available, that person shall:

(1) Safeguard the information in a manner appropriate for the classification level they believe it to be;

(2) Apply the appropriate overall classification markings; and

(3) Within five working days, securely transmit the information to the organization that has appropriate subject matter interest and classification authority.

(b) When it is not clear which component would be the appropriate original classifier, the information shall be sent to the Chief Security Officer to determine the appropriate organization.

(c) The organization with classification authority shall decide within 30 days whether to classify the information.

§ 7.23 Emergency release of classified information.

(a) The Secretary of Homeland Security has delegated to certain DHS employees the authority to disclose classified information to an individual or individuals not otherwise routinely eligible for access in emergency situations when there is an imminent threat to life or in defense of the homeland.

(b) In exercising this authority, the delegees shall adhere to the following conditions:

(1) Limit the amount of classified information disclosed to a minimum to achieve the intended purpose;

(2) Limit the number of individuals who receive it to only those persons with a specific need-to-know;

(3) Transmit the classified information through approved communication channels by the most secure and expeditious method possible, or by other means deemed necessary in exigent circumstances;

(4) Provide instructions about what specific information is classified and how it should be safeguarded. Physical custody of classified information must remain with an authorized Federal Government entity, in all but the most extraordinary circumstances as determined by the delegated official;

(5) Provide appropriate briefings to the recipients on their responsibilities not to disclose the information and obtain from the recipients a signed DHS Emergency Release of Classified Information Non-disclosure Form. In emergency situations requiring immediate verbal release of information, the signed nondisclosure agreement memorializing the briefing may be received after the emergency abates;

(6) Within 72 hours of the disclosure of classified information, or the earliest opportunity that the emergency permits, but no later than 7 days after the release, the disclosing authority must notify the DHS Chief Security Officer and the originating agency of the information disclosed. A copy of the signed nondisclosure agreements should be forwarded with the notification under this paragraph (b)(6), or as soon thereafter as practical.

(7) Release of information pursuant to this authority does not constitute declassification of the information.

(8) Authority to disclose classified information may not be further delegated.

§ 7.24 Duration of classification.

(a) At the time of original classification, original classification authorities shall apply a date or event in which the information will be automatically declassified.

(b) The original classification authority shall attempt to establish a specific date or event not more than 10 years after the date of origination in which the information will be automatically declassified. If the original classification authority cannot determine an earlier specific date or event it shall be marked for automatic declassification 10 years from the date of origination.

(c) If the original classification authority determines that the sensitivity of the information requires classification beyond 10 years, it may be marked for automatic declassification for up to 25 years from the date of original classification decision.

(d) Original classification authorities do not have the authority to classify or retain the classification of information beyond 25 years from the date of origination. The only exception to this rule is when disclosure of the information could be expected to reveal the identity of a confidential human source or human intelligence source. In this instance, the information may be marked for declassification as ''25X1–Human,'' indicating that the information is exempt from the ''25 Year Rule'' for automatic declassification. This marking is not authorized for use when the information pertains to non-human intelligence sources or intelligence methods. In all other instances, classification beyond 25 years shall only be authorized in accordance with § 7.28 of this part and Executive Order 12958, as amended.

§ 7.25 Identification and markings.

(a) Classified information must be marked pursuant to the standards set forth in section 1.6 of Executive Order 12958, as amended; 32 CFR part 2001, subpart B; and internal DHS guidance provided by the Chief Security Officer.

(b) Foreign government information shall retain its original classification markings or be assigned a U.S. classification that provides a degree of protection at least equivalent to that required by the entity that furnished the information.

(c) Information assigned a level of classification under predecessor Executive Orders shall remain classified at that level of classification, except as otherwise provided herein, *i.e.*, the information is reclassified or declassified.

§ 7.26 Derivative classification.

(a) Derivative classification is defined as the incorporating, paraphrasing,

restating, or generating in a new form information that is already classified, and marking the newly developed material consistent with the classification markings that apply to the source information. Information is also derivatively classified when classification is based on instructions provided in a security classification guide.

(b) Persons need not possess original classification authority to derivatively classify information based on source documents or classification guides.

(c) Persons who apply derivative classification markings shall observe original classification decisions and carry forward to any newly created documents the pertinent classification markings.

(d) Information classified derivatively from other classified information shall be classified and marked in accordance with the standards set forth in sections 2.1 and 2.2 of Executive Order 12958, as amended, 32 CFR 2001.22, and internal DHS guidance provided by the Chief Security Officer.

§ 7.27 Declassification and downgrading.

(a) Classified information shall be declassified as soon as it no longer meets the standards for classification. Declassification and downgrading is governed by Part 3 of Executive Order 12958, as amended, implementing ISOO directives at 32 CFR part 2001, subpart C, and applicable internal DHS direction provided by the Chief Security Officer.

(b) Information shall be declassified or downgraded by the official who authorized the original classification if that official is still serving in the same position, the originator's successor, or a supervisory official of either, or by officials delegated such authority in writing by the Secretary of Homeland Security or the Chief Security Officer.

(c) It is presumed that information that continues to meet the classification requirements under Executive Order 12958, as amended, requires continued protection. In some exceptional cases during declassification reviews, the need to protect classified information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. If it appears that the public interest in disclosure of the information may outweigh the need to protect the information, the declassification reviewing official shall refer the information with a recommendation for decision to the Chief Security Officer. The Chief Security Officer shall review the information and make a recommendation to the Secretary on whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure. The Secretary shall decide whether to declassify the information. The decision of the Secretary shall be final. This provision does not amplify or modify the substantive criteria or procedures for classification or create any substantive or procedural rights subject to judicial review.

(d) Each component shall develop schedules for declassification of records in the National Archives.

§ 7.28 Automatic declassification.

(a) Subject to paragraph (b) of this section, all classified information contained in records that are more than 25 years old that have been determined to have permanent historical value shall be declassified automatically on December 31, 2006. Subsequently, all classified information in such records shall be automatically declassified not later than 25 years after the date of its original classification with the exception of specific information exempt from automatic declassification pursuant to section 3.3 (b) through (d) of Executive Order 12958, as amended.

(b) At least 180 days before information is declassified automatically under this section, the Chief Security Officer shall notify the ISOO of any specific information that DHS proposes to exempt from automatic declassification. The notification shall include:

(1) A description of the information;

(2) An explanation of why the information is exempt from automatic declassification and must remain classified for a longer period of time; and

(3) A specific date or event for declassification of the information whenever the information exempted does not identify a confidential human source or human intelligence source.

(c) Proposed exemptions under this section shall be forwarded to the Chief Security Officer. When the Chief Security Officer determines the exemption request is consistent with this section, he or she will submit the exemption request to the Executive Secretary of the Interagency Security Classification Appeals Panel (ISCAP) for approval.

(d) Declassification guides that narrowly and precisely define exempted information may be used to exempt information from automatic declassification. Declassification guides must include the exemption notification information detailed in paragraph (b) of this section, and be approved pursuant to paragraph (c) of this section.

§ 7.29 Documents of permanent historical value.

The original classification authority, to the greatest extent possible, shall declassify classified information contained in records determined to have permanent historical value under 44 U.S.C. 2107 before they are accessioned into the National Archives.

§ 7.30 Classification challenges.

(a) Authorized holders of information classified by DHS who, in good faith, believe that specific information is improperly or unnecessarily classified are encouraged and expected to challenge the classification status of that information pursuant to section 1.8 of Executive Order 12958, as amended. Authorized holders may submit classification challenges in writing to the original classification authority with jurisdiction over the information in question. If an original classification authority cannot be determined, the challenge shall be submitted to the Chief Security Officer. The challenge need not be more specific than a question as to why the information is or is not classified, or is classified at a certain level.

(b) If anonymity of the challenger is requested, the challenger may submit the challenge to the Office of Security. The Office of Security will act as an agent for the challenger and the identity of the challenger will be redacted.

(c) The original classification authority shall promptly, and in no case later than 60 days, provide a written response to the submitter. The original classification authority may classify or declassify the information subject to the challenge and, if applicable, state specific reasons why the original classification determination was proper. If the original classification authority is not able to respond within 60 days, he or she shall inform the individual who filed the challenge in writing of that fact, and the anticipated determination date.

(d) The individual challenging the classification will be notified of the determination made by the original classification authority and that the individual may appeal this determination to the Chief Security Officer. Upon receipt of such appeals, the Chief Security Officer shall convene a DHS Classification Appeals Panel (DHS/CAP). The DHS/CAP shall, at a minimum, consist of representatives from the Office of Security, the Office of General Counsel, and a representative from the component having jurisdiction

over the information. Additional members may be added as determined by the DHS Chief Security Officer. The DHS/CAP shall be chaired by the Chief Security Officer.

(e) If the requester files an appeal through the DHS/CAP, and the appeal is denied, the requester shall be notified of the right to appeal the denial to the Interagency Security Classification Appeals Panel (ISCAP) pursuant to section 5.3 of Executive Order 12958, as amended, and the rules issued by the ISCAP pursuant to section 5.3 of Executive Order 12958, as amended.

(f) Any individual who challenges a classification and believes that any action has been taken against him or her in retaliation or retribution because of that challenge shall report the facts to the Office of the Inspector General or other appropriate office.

(g) Nothing in this section shall prohibit a person from informally challenging the classified status of information directly to the original classification authority.

(h) Requests for review of classified material for declassification by persons other than authorized holders are governed by 6 CFR 7.31.

§ 7.31 Mandatory review for declassification requests.

(a) Any person may request that classified information be reviewed for declassification pursuant to the mandatory declassification review provisions of section 3.6 of Executive Order 12958, as amended. Such requests shall be sent to the Departmental Disclosure Officer, Privacy Office, 245 Murray Lane, SW., Building 410, Washington, DC 20528.

(b) The request must sufficiently describe the document or material with enough specificity to allow it to be located by the component with a reasonable amount of effort. When the description of the information in the request is deficient, the component shall solicit as much additional identifying information as possible from the requester. If the information or material requested cannot be obtained with a reasonable amount of effort, the component shall provide the requester, through the DHS Disclosure Officer, with written notification of the reasons why no action will be taken and of the requester's right to appeal.

(c) Requests for review of information that has been subjected to a declassification review request within the preceding two years shall not be processed. The DHS Disclosure Officer will notify the requester of such denial.

(d) Requests for information exempted from search or review under sections 701, 702, or 703 of the National Security Act of 1947, as added and amended (50 U.S.C. 431 through 433), or other provisions of law, shall not be processed. The DHS Disclosure Officer will notify the requester of such denial.

(e) If documents or material being reviewed for declassification under this section contain information that has been originally classified by another government agency, the reviewing authority shall notify the DHS Disclosure Officer. Unless the association of that organization with the requested information is itself classified, the DHS Disclosure Officer will then notify the requester of the referral.

(f) A DHS component may refuse to confirm or deny the existence, or non-existence, of requested information when its existence or non-existence, is properly classified.

(g) DHS components shall make a final determination on the request as soon as practicable but within one year from receipt. When information cannot be declassified in its entirety, components shall make reasonable efforts to redact those portions that still meet the standards for classification and release those declassified portions of the requested information that constitute a coherent segment.

(h) DHS components shall notify the DHS Disclosure Officer of the determination made in the processing of a mandatory review request. Such notification shall include the number of pages declassified in full; the number of pages declassified in part; and the number of pages where declassification was denied.

(i) The DHS Disclosure Officer shall maintain a record of all mandatory review actions for reporting in accordance with applicable Federal requirements.

(j) The mandatory declassification review system shall provide for administrative appeal in cases where the review results in the information remaining classified. The requester shall be notified of the results of the review and of the right to appeal the denial of declassification. To address such appeals, the DHS Disclosure Office shall convene a DHS Classification Appeals Panel (DHS/CAP). The DHS/CAP shall, at a minimum, consist of representatives from the Disclosure Office, the Office of Security, the Office of General Counsel, and a representative from the component having jurisdiction over the information. Additional members may be added as determined by the DHS Disclosure Officer. The DHS/CAP shall be chaired by the DHS Disclosure Officer.

(k) If the requester files an appeal through the DHS/CAP, and the appeal is denied, the requester shall be notified of the right to appeal the denial to the ISCAP pursuant to section 5.3 of Executive Order 12958, as amended, and the rules issued by the ISCAP pursuant to section 5.3 of Executive Order 12958, as amended.

Dated: October 8, 2005.

Michael Chertoff,

Secretary.

[FR Doc. 05–21011 Filed 10–20–05; 8:45 am]

BILLING CODE 4410–10–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Docket Number TM–05–02]

National Organic Program (NOP); Amendment to the National List of Allowed and Prohibited Substances (Livestock)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List) to reflect one recommendation submitted to the Secretary by the National Organic Standards Board (NOSB) on March 3, 2005. Consistent with the recommendation from the NOSB, this final rule revises the annotation of one substance on the National List, methionine, to extend its use in organic poultry production until October 21, 2008.

EFFECTIVE DATE: This rule becomes effective October 22, 2005.

FOR FURTHER INFORMATION CONTACT: Arthur Neal, Director of Program Administration, Telephone: (202) 720–3252; Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Secretary established, within the NOP regulations [7 CFR part 205], the National List (§§ 205.600 through 205.607). The National List identifies synthetic substances that are allowed and nonsynthetic substances that are prohibited in organic crop and livestock production. The National List also identifies nonsynthetic and synthetic substances that are allowed for use in certified handling operations. Under the

authority of the Organic Foods Production Act of 1990 (OFPA), as amended, (7 U.S.C. 6501 *et seq.*), the National List can be amended by the Secretary based on proposed amendments developed by the NOSB. Since established, the National List has been amended twice, October 31, 2003 (68 FR 61987), and November 3, 2003 (68 FR 62215).

This final rule amends the National List to reflect one recommendation submitted to the Secretary by the NOSB on March 3, 2005. Based on their evaluation of a petition submitted by industry participants, the NOSB recommended that the Secretary amend § 205.603(d)(1) of the National List by revising the annotation of methionine, a feed additive, to extend its use in organic poultry production until October 21, 2008. The use of methionine in organic production was evaluated by the NOSB using the evaluation criteria specified in OFPA (7 U.S.C. 6517—6518).

II. Overview of Amendment

The following provides an overview of the amendment made to § 205.603 of the National List:

Section 205.603 Synthetic Substances Allowed for Use in Organic Livestock Production

This final rule revises current paragraph (d)(1) of § 205.603 as follows:

DL-Methionine, DL-Methionine-hydroxyl analog, and DL-Methionine-hydroxyl analog calcium (CAS #—59–51–8; 63–68–3; 348–67–4)—for use only in organic poultry production until October 1, 2008.

Methionine was petitioned for its continued use as a synthetic feed additive in organic poultry operations. Methionine is a colorless or white crystalline powder that is soluble in water. It is classified as an amino acid and considered to be an essential amino acid that is regulated as an animal feed nutritional supplement by the Food and Drug Administration (21 CFR 582.5475).

The NOSB, at its February 28–March 3, 2005, meeting in Washington, DC, received and evaluated public comment on the petition to extend the use of methionine in organic poultry production beyond October 21, 2005. The NOSB concluded that methionine is consistent with the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA; however, the NOSB maintained that non-synthetic alternatives must be developed during the additional extension on the use of synthetic methionine in organic poultry diets. Therefore, the NOSB recommended methionine be added to the National List for use only in organic poultry production until October 1, 2008, so that the organic poultry industry could continue its research to develop non-synthetic alternatives for the use of synthetic methionine.

In response to the NOSB recommendation regarding the use of DL-Methionine in organic livestock production, this action amends § 205.603(d)(1) of the National List regulation as follows:

DL-Methionine, DL-Methionine-hydroxyl analog, and DL-Methionine-hydroxyl analog calcium (CAS #—59–51–8; 63–68–3; 348–67–4)—for use in organic poultry production until October 1, 2008.

III. Related Documents

Two notices were published regarding the meeting of the NOSB and its deliberations on the recommendation and substance petitioned for amending the National List. The substance and recommendation included in this final rule were announced for NOSB deliberation in the following **Federal Register** Notices: (1) 66 FR 48654, September 21, 2001, and (2) 70 FR 7224, February 11, 2005, (Methionine). The proposed rule change was published for comment in the **Federal Register** on July 29, 2005, 70 FR 43786. The substance and recommendation in this final rule were initially submitted for proposed rulemaking in the **Federal Register** Notice, 68 FR 18556, April 16, 2003, and added to the National List as final rule in the **Federal Register** Notice, 68 FR 61987, October 31, 2003.

IV. Statutory and Regulatory Authority

The OFPA, as amended (7 U.S.C. 6501 *et seq.*), authorizes the Secretary, at § 6517(d)(1), to make amendments to the National List based on proposed amendments developed by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorize the NOSB to develop proposed amendments to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion onto or deletion from the National List. The National List petition process is implemented under § 205.607 of the NOP regulations. The current petition process (65 FR 43259, July 13, 2000) can be accessed through the NOP Web site at *http://www.ams.usda.gov/nop.*

A. Executive Order 12866

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

B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. This final rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under § 2115 of the OFPA (7 U.S.C. 6514) from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in § 2115 (b) of the OFPA (7 U.S.C. 6514 (b)). States are also preempted under §§ 2104 through 2108 of the OFPA (7 U.S.C. 6503 through 6507) from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to § 2108(b)(2) of the OFPA (7 U.S.C. 6507(b)(2)), a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to § 2120(f) of the OFPA (7 U.S.C. 6519(f)), this final rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspections Act (21 U.S.C. 451 *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

Section 2121 of the OFPA (7 U.S.C. 6520) provides for the Secretary to establish an expedited administrative

appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such person or is inconsistent with the organic certification program established under this title. The OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, the Agricultural Marketing Service (AMS) performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000 (65 FR 80548). The AMS has also considered the economic impact of this action on small entities and has determined that this final rule would have an impact on a substantial number of small entities. However, AMS has determined that the impact on entities affected by this final rule would not be significant. The effect of this final rule would be to allow the use of additional substances in agricultural production and handling. This action would relax the regulations published in the final rule and would provide small entities with more tools to use in day-to-day operations. The AMS concludes that the economic impact of this addition of allowed substances, if any, would be minimal and entirely beneficial to small agricultural service firms. Accordingly, the USDA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Small agricultural service firms, which include producers, handlers, and accredited certifying agents, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,000,000 and small agricultural producers are defined as those having annual receipts of less than $750,000.

The U.S. organic industry at the end of 2001 included nearly 6,600 certified crop and livestock operations, including organic production and handling operations, producers, and handlers. These operations reported certified acreage totaling more than 2.34 million acres, 72,209 certified livestock, and 5.01 million certified poultry. Data on the numbers of certified handling operations are not yet available, but likely number in the thousands, as they would include any operation that transforms raw product into processed products using organic ingredients. Growth in the U.S. organic industry has been significant at all levels. From 1997 to 2001, the total organic acreage grew by 74 percent; livestock numbers certified organic grew by almost 300 percent over the same period, and poultry certified organic increased by 2,118 percent over this time. Sales growth of organic products has been equally significant, growing on average around 20 percent per year. Sales of organic products were approximately $1 billion in 1993, but reached $15 billion in 2004. In addition, since the implementation of OPFA on October 21, 2002, USDA has accredited 99 certifying agents who have applied to USDA to be accredited in order to provide certification services to producers and handlers. A complete list of names and addresses of accredited certifying agents may be found on the AMS NOP Web site, at *http://www.ams.usda.gov/nop.* AMS believes that most of these entities would be considered small entities under the criteria established by the SBA.

D. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, the existing information collection requirements for the NOP are approved under OMB number 0581–0181. No additional collection or recordkeeping requirements are imposed on the public by this final rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act, or OMB's implementing regulation at 5 CFR part 1320.

E. Discussion of Comments Received

Thirteen (13) comments were received on the proposed revision to extend the use of synthetic methionine in organic poultry production until October 21, 2008. Commenters included poultry producers, poultry processors, consumers, a poultry nutritionist, a certifying agent, and a feed industry organization. The majority of the comments were in support of the proposed revision. One commenter, however, opposed extending the use of synthetic methionine and questioned the need to provide the industry with three years to identify a nonsynthetic alternative. The commenter suggested that a nonsynthetic alternative could be identified in a shorter time period. We have taken this commenter's position into consideration, and based on the research updates, public testimonies, and comments received from other sectors of the industry, we believe that three years is a reasonable time-period to complete research to identify nonsynthetic alternatives to using synthetic methionine in organic poultry production.

Pursuant to 5 U.S.C. 553, it found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the use of methionine will expire for organic poultry operations on October 21, 2005.

List of Subjects in 7 CFR Part 205.

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

■ For the reasons set forth in the preamble, 7 CFR part 205, Subpart G is amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

■ 2. Section 205.603 is amended by revising paragraph (d)(1) to read as follows:

§ 205.603 Synthetic substances allowed for use in organic livestock production.

* * * * *

(d) * * *

(1) DL-Methionine, DL-Methionine-hydroxyl analog, and DL-Methionine-hydroxyl analog calcium (CAS #—59–51–8; 63–68–3; 348–67–4)—for use in organic poultry production until October 1, 2008.

* * * * *

Dated: October 18, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05–21166 Filed 10–19–05; 10:37 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

[Docket No. FV05–983–2 FR]

Pistachios Grown in California; Establishment of Additional Inspection Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes additional inspection requirements authorized under the California pistachio marketing order (order). The order regulates the handling of pistachios grown in California and is administered locally by the Administrative Committee for Pistachios (committee). This rule modifies sampling procedures for dark-stained pistachios which are intended to be dyed or color-coated. It also establishes reinspection requirements for lots of pistachios which are materially changed after meeting initial aflatoxin and quality requirements. This action is expected to assure the quality of pistachios, improve the marketability of pistachios, and provide handlers more marketing flexibility. The benefits of this action are expected to offset the increased inspection costs.

DATES: *Effective Date:* October 22, 2005.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, 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 final rule is issued under Marketing Order No. 983 (7 CFR part 983), regulating the handling of pistachios grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This rule modifies sampling procedures for dark-stained pistachios which are intended to be dyed or color-coated. It also establishes reinspection requirements for lots of pistachios, which are materially changed after meeting initial aflatoxin, quality, and size requirements. This action is expected to improve the quality and marketability of pistachios, provide handlers more marketing flexibility, and improve the marketability of pistachios. The benefits of this action are expected to offset the increased inspection costs.

For the purposes of this final rule, the terms ''marketing year'' and ''production year'' are synonymous.

Section 983.46 of the order authorizes the committee to recommend that the Secretary modify or suspend the order provisions contained in §§ 983.38 through 983.45. These sections took effect August 1, 2005.

Sampling Procedures

Sections 983.38 and 983.39 of the order specify maximum aflatoxin, and minimum quality and size requirements, respectively, that must be met prior to the shipment of pistachios.

Sections 983.38(d)(1) and 983.39(e)(1) of the order specify that a sample must be drawn from each lot, and that this lot sample must be divided into two samples—one portion for aflatoxin testing and one for minimum quality and size testing.

Section 983.39(b)(3)(iv) of the order currently defines dark stain and specifies that pistachios that are dyed or color-coated to improve their marketing quality are not subject to the maximum permissible defects for dark stain.

Pistachios grow on trees in grape-like clusters and are encased in an outer skin or hull. During the pistachio harvest process, the nuts, which contain a significant amount of moisture when harvested, must arrive at the handling facility as soon as possible and the hulls covering the shell must be removed. If the hulls are not removed from the nuts within 24 hours of their removal from the tree, staining of the outer shell occurs.

After being hulled, the pistachios are then dried, and placed in storage containers. When the nuts are removed from storage, they are sorted, sized, graded, and mechanically separated into open and closed shell product (pin-picked), and placed into lots for aflatoxin and minimum quality and size testing. Some handlers have the pistachios tested for aflatoxin prior to these processes. A ''lot'' is any quantity of pistachios that is designated for testing.

During the sorting process, the inshell pistachios are separated by the color of the shells and the amount of stain on the shells. On average, approximately 95 percent of the harvested inshell pistachios are placed into lots designated as non-stained or light-stained pistachios. Such pistachios are typically marketed without any treatment to cover the stains. The remaining 5 percent are placed into lots consisting primarily of dark-stained inshell pistachios.

Handlers typically dye or color-coat the dark-stained inshell pistachios to cover the stains, as the staining limits their marketability and detracts from their appearance.

The color-coating process usually consists of applying a white coating or a flavoring to the shells of the pistachios. The dyeing process consists of applying a dye to the shells. These pistachios are marketed after either of these processes is performed by the handler.

Under the regulatory requirements of the order, one test sample will be drawn per lot and divided into two portions—one for aflatoxin testing and the other for minimum quality and size testing. Handlers or the inspection service will draw this sample while the pistachios

are in their natural state (prior to dyeing or color-coating) because false-positive aflatoxin test results may occur when dyed or color-coated pistachios are used in conducting aflatoxin tests.

Lots of badly-stained, natural-condition pistachios would likely exceed the maximum permissible 3 percent by weight tolerance for dark stain. Thus, they would fail to meet existing voluntary minimum quality requirements under the U.S. Grade Standards for Pistachios in the Shell (7 CFR 51.2540 through 51.2549) or the minimum quality requirements under the order that became effective on August 1, 2005.

On dark stained lots, it is common practice for handlers to use or submit the portion of the initial natural sample designated for aflatoxin testing at a USDA or USDA-approved laboratory. If the sample meets the aflatoxin requirements, handlers then return the sample portion designated for the minimum quality and size testing to the lot, dye or color-coat the lot, and draw or have drawn a second representative dyed or color-coated sample for minimum quality and size inspection. The second representative sample is taken after the pistachios have been dyed or color-coated to assure that the coloring is uniform and adequately covers the stained pistachios.

Because the inspection requirements do not provide for a second sample after dyeing or color-coating, the committee, on December 15, 2004, recommended modifying the order's sampling procedures and establishing a new section entitled ''§ 983.138—Samples for testing.'' The vote was unanimous.

For those lots that consist of primarily light-stained or non-stained inshell pistachios, one sample would continue to be drawn as specified in §§ 983.38(d)(1) and 983.39(e)(1) of the order.

The committee estimated that the total 2005–06 inshell pistachio crop will be approximately 200 million pounds and that approximately 5 percent (6 million pounds or 600 lots) of all inshell pistachios marketed domestically would be dyed or color-coated to cover dark-stained shells.

While this modification to sampling procedures under the order is expected to result in a slight increase in inspection costs for lots which are dyed or color-coated, the improvements in marketability of these pistachios are expected to offset the additional costs. When dark-stained pistachios are currently shelled out, the kernels generally have an approximate value of $1.00 per pound, which is substantially less than the $2.00 per pound value of dyes or color-coated pistachios.

Producers, handlers, and consumers benefit from dyeing or color-coating inshell pistachios because dyeing and color-coating dark-stained pistachios results in nuts having a more desirable color appearance. This makes the nuts more appealing to retailers and consumers. Thus, retailers are willing to pay an average of $2.00 per pound for these previously unmarketable dark-stained, inshell pistachios. This increased value is also expected to contribute to improved or maintained producer returns.

Reinspection

Sections 983.38 and 983.39 of the order specify maximum aflatoxin and minimum quality and size requirements, respectively. These sections took effect August 1, 2005.

Section 983.39(e) of the pistachio order provides minimum quality testing and inspection procedures; and requires each lot of pistachios to be certified, uniquely identified, and traceable from testing through shipment by the handler.

Section 983.41 of the pistachio order provides that handlers who handle less than 1 million pounds of assessed weight (dried weight) pistachios per marketing year (September 1–August 31) with certain aflatoxin testing options and allows such handlers to apply to the committee for an exemption from minimum quality testing. Handlers granted an exemption will be required to pull the samples, make them available for review by the committee, and maintain these samples in their handling facilities for 90 days. Handlers who do not apply or who are not granted an exemption from minimum quality and size testing must test all lots for aflatoxin, quality, and size requirements under the order.

Section 983.42 of the pistachio order provides that handlers may commingle aflatoxin and minimum quality certified lots with other certified lots.

Section 983.43 of the pistachio order provides authority for the committee to recommend the establishment of rules and regulations to specify conditions under which pistachios would be subject to reinspection.

Section 983.70 of the pistachio order exempts handlers who handle 1,000 pounds or less of dried weight pistachios (dried to 5 percent moisture) during any production year within the production area from all aflatoxin and minimum quality and size requirements.

As mentioned earlier, during the production year, handlers typically hull and dry pistachios, and place the nuts into storage containers. These nuts usually remain in storage until sold. When the nuts are removed from storage, handlers have the option of sampling and testing the nuts for aflatoxin prior to further processing (*i.e.*, sorting, sizing, grading, and pin-picking (segregating the split- and closed-shell pistachios)), or placing the nuts into lots for aflatoxin and minimum quality and size testing after these processes have been performed.

The first option is expected to be used primarily by those handlers who have been granted an exemption from minimum quality and size testing pursuant to § 983.41(b). Most handlers are expected to perform these processes, segregate the pistachios into lots, and then draw or have drawn the samples for the required aflatoxin, quality, and size tests.

Typically, handlers who handle a million or more pounds of assessed weight pistachios per marketing year further process the nuts prior to testing for aflatoxin, quality, and size requirements. Such handlers, pursuant to § 983.38(d) are required to uniquely identify each lot so that it can be traced from the point of testing through shipment.

After certification for aflatoxin, quality, and size or pulling and retaining required samples for smaller handlers, the majority of these lots are shipped directly into the channels of commerce. However, some certified lots are readied and retained in the handler's facility in anticipation of future orders.

When handlers receive new orders, they typically either resort or resize existing stored certified lots of inshell pistachios or create new lots from uncertified stored nuts. When existing certified lots are used, they generally have to be reworked to meet specific buyer needs. For instance, lightly-stained nuts, dark-stained nuts, insect-infested nuts, smaller- or larger-sized nuts, closed shell, or open shell nuts may have to be removed via hand-sorting, color-sorting, pin-picking, and/or resizing. Removal of these nuts results in new lots which no longer have representative inspection certificates. Such lots would then be considered to have been ''materially changed.''

Pistachio handlers who handle more than 1,000 pounds and less than a million pounds of assessed weight pistachios per marketing year, and whose pistachios pass aflatoxin testing requirements would not have to comply with the traceability procedures set forth in § 983.38(d). Furthermore, pursuant to § 983.41(a) of the order, such handlers may test their entire

inventory (maximum lot size of 150,000 pounds) or segregate receipts into various sized lots and have an inspector sample and test each specified lot for aflatoxin and may also, pursuant to § 983.41(b) of the order, apply to the committee for an exemption from minimum quality testing.

Because it is more economical for smaller handlers to test larger lots for aflatoxin and to be exempt from minimum quality testing, it is expected that the majority, if not all, such handlers, will apply for the exemption from minimum quality testing.

Exempted handlers, who handle more than 1,000 pounds and less than a million pounds of assessed weight pistachios per marketing year, would draw or have one sample drawn per lot. This sample would be divided into two portions, one for aflatoxin and one for minimum quality testing. Typically, when such handlers receive notice that the lots have passed aflatoxin testing requirements, they return the sample portion designated for minimum quality testing to the lot. Such lots are then further processed (*i.e.*, sized, sorted, air-legged, pin-picked, and graded). Handlers would then draw a new sample, which is required to be maintained for 90 days at the handler's facilities and required to be made available for review or auditing by the committee.

Those handlers who handle more than 1,000 pounds and less than a million pounds and who are not granted such an exemption by the committee are required to meet the traceability procedures as specified in § 983.38(d) of the order, and the aflatoxin, quality, and size requirements under the order for each lot of pistachios.

Thus, the committee at its November 3, 2004, meeting, unanimously recommended establishing a new section entitled ''§ 983.143—Reinspection'' to define the term ''materially changed'' and to specify handler reinspection requirements to assure the quality of pistachios entering market channels.

The committee, at its April 12, 2005, meeting, reconsidered and further clarified its previous recommendation. The committee unanimously recommended that, effective August 1, 2005, lots which are color-sorted, hand-sorted, pin-picked, and/or resized after being initially certified for aflatoxin, quality, and size requirements under the order be considered ''materially changed'' and that any portion of a lot (the portion resorted or resized to meet buyer specifications or the portion that was removed from the original lot) be inspected as new lots.

The committee clarified that § 983.42, which provides that previously certified lots can be commingled with other certified lots, does not apply to portions of lots which are materially changed under the order, as such newly-formed lots may no longer contain the same quantity or quality of inshell pistachios as the original lots.

Final Regulatory Flexibility Analysis

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

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

There are approximately 24 handlers of California pistachios subject to regulation under the order and approximately 741 producers in the production area. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual pistachio receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,000,000. Seventeen of the 24 handlers subject to regulation have annual pistachio receipts of less than $6,000,000. In addition, 722 producers have annual receipts less than $750,000. Thus, the majority of handlers and producers of California pistachios may be classified as small entities.

This rule modifies sampling procedures for dark-stained pistachios which are intended to be dyed or color-coated. It also establishes reinspection requirements for lots of pistachios which are materially changed after meeting initial aflatoxin, quality, and size requirements. This action is expected to assure the quality of pistachios, provide handlers more marketing flexibility, improve the marketability of pistachios, and enhance the marketability for reworked pistachios. These benefits are expected to offset the increased inspection costs.

Section 983.46 of the order authorizes the committee to recommend that the Secretary modify or suspend order provisions contained in §§ 983.38 through 983.45. These provisions took effect August 1, 2005.

Sampling Procedures

Sections 983.38 and 983.39 of the order specify maximum aflatoxin, minimum quality and size requirements, respectively, that must be met prior to the shipment of pistachios.

Sections 983.38(d)(1) and 983.39(e)(1) of the order specify that a sample must be drawn from each lot and that this lot sample must be divided into two subsamples—one portion for aflatoxin testing and one for minimum quality and size testing.

Section 983.39(b)(3)(iv) of the order defines ''dark stain,'' and specifies that pistachios that are dyed or color-coated to improve their marketing quality are not subject to the maximum permissible defects for dark stain.

Pistachios grow on trees in grape-like clusters and are encased in an outer skin, or hull. During the pistachio harvest process, the nuts, which contain a significant amount of moisture when harvested, must arrive at the handling facility as soon as possible and the hulls covering the shell must be removed. If the hulls are not removed from the nuts within 24 hours of their removal from the tree, staining of the outer shell occurs. After being hulled, the pistachios are then dried, and placed in storage containers.

When the nuts are removed from storage, they are sorted, sized, graded, mechanically separated into open- and closed-shell product (pin-picked), and placed into lots for aflatoxin and minimum quality testing. A ''lot'' is any quantity of pistachios that is segregated for testing.

During the sorting process, the inshell pistachios are separated by the color of the shells and the amount of staining on the shells. On average, approximately 95 percent of the harvested inshell pistachios are placed into lots designated as non-stained or light-stained pistachios. Such pistachios are typically marketed without any treatment to cover or remove the stains. The remaining 5 percent are placed into lots consisting primarily of dark-stained inshell pistachios. Handlers typically dye or color-coat the dark-stained inshell pistachios to cover the stains because they are generally not marketable in their natural state.

The color-coating process usually consists of applying a white coating or a flavoring to the shells of the pistachios. The dyeing process consists of applying a dye to the shells.

Prior to placing pistachios into the domestic channels of commerce on August 1, 2005, or later, handlers will

be required to draw or have drawn a sample and test or have tested each sample for aflatoxin, quality, and size requirements, unless exempted under §§ 983.41 or 983.70 of the order.

Under the regulatory requirements of the order, one test sample will be drawn per lot and divided into two portions—one for aflatoxin testing and the other for minimum quality and size testing. Handlers will draw this sample while the pistachios are in their natural state (prior to dyeing or color-coating) because false positive test results may occur when dyed or color-coated pistachios are used in conducting aflatoxin tests. When handlers believe that lots of natural condition pistachios exceed the maximum permissible 3 percent by weight tolerance for dark stain under the existing voluntary minimum quality requirements of the U.S. Grade Standards for Pistachios in the Shell (7 CFR 51.2540 through 51.2549), or the minimum quality requirements under the order, they will have the natural condition portion of the sample designated for aflatoxin testing tested. If the sample meets the aflatoxin requirements, handlers then return the sample portion designated for the minimum quality and size testing to the lot, dye or color-coat the lot, and draw or have drawn a second representative dyes or color-coated sample to be tested for minimum quality and size. This second sample is taken after the pistachios have been dyed or color-coated to assure that the color is uniform and adequately covers the staining.

Because the inspection requirements do not provide for sampling and inspections at this stage of the process, the committee, on December 15, 2004, recommended modifying the order's sampling procedures and establishing a new section entitled ''§ 983.138 Samples for testing.'' The vote was unanimous.

The first alternative considered was to leave the order provisions unchanged, but this alternative was not adopted, as handlers, producers, and consumers would benefit from permitting the orderly marketing of pistachios containing edible nutmeats that fail minimum quality for external cosmetic reasons.

The committee also considered providing handlers with more flexibility in removing dark-stained inshell pistachios from lots, but decided that modifying the sampling procedures for lots intended for dyeing or color-coating would allow handlers to market these dark-stained pistachios without having to implement lengthy and costly removal processes.

The committee estimated that the total 2005–06 inshell pistachio crop will be approximately 200 million pounds and that approximately 5 percent (6 million pounds or 600 lots) of all inshell pistachios marketed domestically would be dyed or color-coated to cover dark-stained shells.

While this modification to sampling procedures under the order is expected to result in a slight increase in inspection costs for lots which are dyed or color-coated, the improvement in the marketability of these pistachios is expected to offset the additional costs. When the dark-stained pistachios are shelled out, the kernels are expected to have an approximate value of $1.00 per pound, which is substantially less than the $2.00 per pound value of dyed or color-coated inshell pistachios.

Accordingly, producers, handlers, and consumers would benefit, as dyeing and color-coating dark-stained inshell pistachios results in nuts with a more pleasing appearance. Covering the dark stain would permit these edible pistachios to meet minimum quality requirements under the order and also make the pistachios more appealing to retailers and consumers. Retailers are expected to be willing to pay on average $2.00 per pound for these nuts that were previously unmarketable as inshell nuts. This increased value also is expected to contribute to improved or maintained producer returns and offset the slight increase in inspection costs.

Reinspection

Sections 983.38 and 983.39 of the order specify maximum aflatoxin requirements, and minimum quality and size requirements, respectively.

Section 983.39(e) of the pistachio order provides minimum quality testing and inspection procedures and requires that each lot of pistachios to be certified, uniquely identified, and traceable from testing through shipment by the handler.

Section 983.41 of the pistachio order provides handlers who handle more than a 1,000 pounds and less than a million pounds of assessed weight (dried weight) pistachios per production year (September 1–August 31) with certain aflatoxin testing options and allows such handlers to apply to the committee for an exemption from minimum quality testing. Handlers granted an exemption must pull the samples and maintain these samples in their handling facilities for 90 days for review and audit by the committee when requested. Handlers who are not granted an exemption from minimum quality testing must test all lots for aflatoxin, quality, and size requirements under the order.

Section 983.42 of the pistachio order provides that handlers may commingle aflatoxin and minimum quality certified lots with other certified lots.

Section 983.43 of the pistachio order provides authority for the committee to recommend the establishment of rules and regulations to specify conditions under which pistachios would be subject to reinspection.

Section 983.70 of the pistachio order exempts handlers who handle 1,000 pounds or less of dried weight pistachios during any marketing year (dried to 5 percent moisture) within the production area from all aflatoxin and minimum quality requirements.

As mentioned earlier, during the production year handlers typically hull and dry pistachios and place the nuts into storage containers. These nuts usually remain in storage until sold. When the nuts are removed from storage, handlers have the option of testing the nuts for aflatoxin prior to further processing (*i.e.*, sorting, sizing, grading, pin-picking (segregating the split- and closed-shell nuts)), or placing the nuts into lots for aflatoxin and minimum quality and size testing after these processes have been completed.

Typically, handlers who handle a million or more pounds of assessed weight pistachios per marketing year further process the nuts prior to testing for aflatoxin and quality requirements. Such handlers, pursuant to § 983.38(d) are required to uniquely identify each lot so that it can be traced from the point of testing through shipment.

After certification for aflatoxin, quality and size or pulling and retaining required samples, the majority of these lots are shipped directly into the channels of commerce. However, some certified lots are readied and retained in the handler's facility in anticipation of future orders.

When handlers receive new orders, they typically either resort or resize existing certified lots of inshell pistachios or create new lots from uncertified stored nuts. When existing certified lots are used, they generally have to be reworked to meet specific buyer needs. For instance, light-stained nuts, dark-stained nuts, insect infested nuts, smaller- or larger-sized nuts, closed shell, or open shell nuts may have to be removed via hand-sorting, color-sorting, pin-picking and/or resizing. Removal of these nuts results in new lots which no longer have representative inspection certificates. Such lots would be considered to have been ''materially changed''.

Pistachio handlers who handle less than a million pounds of assessed weight pistachios per marketing year and whose pistachios pass aflatoxin testing requirements would not have to comply with the traceability procedures set forth in § 983.38(d). Furthermore, pursuant to § 983.41(a) of the order, such handlers may test their entire inventory (maximum lot size of 150,000 pounds) or segregate receipts into various sized lots and have an inspector sample and have each specified lot tested for aflatoxin and may also, pursuant to § 983.41(b) of the order, apply to the Committee for exemption from minimum quality and size testing.

Because it is more economical for smaller handlers to test larger lots for aflatoxin and to be exempt from minimum quality testing, it is expected that the majority, if not all such handlers, will apply for the exemption from minimum quality and size testing.

Thus, those exempted handlers, who handle more than 1,000 pounds and less than a million pounds of assessed weight pistachios per marketing year, would draw or have one sample drawn per lot. This sample would be divided into two portions, one for aflatoxin and one for minimum quality testing. Typically, when such handlers receive notice that the lots have passed aflatoxin testing requirements, they return the sample portion designated for minimum quality testing to the lot. Such lots are then further processed (sized, sorted, air-legged, pin-picked, and graded). Handlers would then draw a new quality sample, which is required to be maintained for 90 days at the handler's facilities and made available for review or auditing by the committee.

Those handlers who handle more than 1,000 pounds and less than a million pounds and who are not granted such an exemption by the committee are required to meet the traceability procedures as specified in § 983.38(d) of the order and the aflatoxin, quality, and size requirements under the order for each lot of pistachios.

Thus, the committee at its November 3, 2004, meeting, unanimously recommended establishing a new section entitled ''§ 983.143—Reinspection'' to define the term ''materially changed'' and to specify handler reinspection requirements.

The committee, at its April 12, 2005, meeting, reconsidered and further clarified its previous recommendation. The committee unanimously recommended that, effective August 1, 2005, lots which are color-sorted, hand-sorted, pin-picked, and/or resized after being initially certified for aflatoxin, quality, and size requirements under the order be considered ''materially changed'' and that any portion of a lot (the portion resorted and resized to meet buyer specifications or the portion that was removed from the original lot) be inspected as new lots. The committee clarified that § 983.42 which provides that previously certified lots can be commingled with other certified lots, does not apply to portions of lots which are materially changed under the order, as such newly formed lots may no longer contain the same quantity or quality of inshell pistachios as the original lots.

Lastly, the committee recommended that some handlers be exempt from reinspection requirements under the order. As previously mentioned, § 983.70 of the pistachio order exempts handlers who handle 1,000 pounds or less of dried weight pistachios during any marketing year (dried to 5 percent moisture) from all aflatoxin and minimum quality requirements. Thus, the committee recommended that such handlers also be exempt from any reinspection requirements under the order.

Additionally, § 983.41 of the pistachio order provides that handlers who handle less than 1 million pounds of assessed weight (dried weight) pistachios per production year (September 1–August 31) with certain aflatoxin testing options and allows such handlers to apply to the committee for an exemption from minimum quality and size testing. The order further provides that handlers, who are granted an exemption, shall pull and maintain for 90 days representative lot samples of any lots intended to be shipped into the domestic channels of commerce for review and audit by the committee as requested.

The committee recommended exempting such handlers from reinspection requirements, as typically such handlers pull or have pulled representative lot samples immediately prior to shipment, do not materially change the lots, and ship such lots directly into the domestic channels of commerce and because the committee believed such smaller handlers could be negatively impacted by the additional cost of reinspection.

However, because such handlers could materially change their lots prior to shipment into the domestic channels of commerce, USDA is requiring such handlers to pull or have pulled representative samples of the materially changed lots to assure both the aflatoxin and quality of the pistachios, and to keep the sampling and inspection procedures consistent with order authority. As noted in this document, the costs for reinspection are expected to be small compared to the benefit of assuring the quality of the pistachios entering commercial channels.

Such representative lot samples would be divided into two parts, one part would be retested for aflatoxin and the other part would be maintained for 90 days at the handler's facilities. Such samples would be stored in the handler's facility and should not add to the handler's cost. Additionally, handlers would be required to make those samples maintained for 90 days available for auditing by the committee.

While handlers who handle more than 1,000 pounds and less than a million pounds may apply to the committee for a minimum quality testing exemption, there may be occasions when the committee does not grant these handlers such an exemption. The committee unanimously recommended that such handlers and any handler who handles more than a million pounds of assessed weight pistachios during the marketing year and who materially changes any lot of pistachios shall test or have tested such lots for aflatoxin and minimum quality and size requirements under the order before shipping such pistachios into the domestic channels of commerce, when the order requirements took effect on August 1, 2005.

The committee also discussed alternatives to this change, including not establishing these reinspection requirements, but believes that consumers should be provided with assurance of a certified high quality product that does not currently exist when a certified lot is ''materially changed''. Also, the committee discussed but decided not to include the following processes in the definition of ''materially changed'': (1) Roasting, salting, flavoring, dyeing, color-coating, were discussed but not included in the definition as these processes do not alter a lot's minimum quality or maximum aflatoxin levels; (2) cleaning was considered but not included because cleaning typically is accomplished prior to the initial inspection; and (3) air-legging which is performed to remove loose shells, was considered but not included because this process does not significantly change a lot.

Lastly, the committee discussed whether tracing a lot would provide assurance that materially changed lots would continue to meet the order's maximum aflatoxin and minimum quality requirements and believed that it would not provide such assurance. It is of the view that the best way to assure the quality of materially changed lots was through resampling and retesting.

The committee also discussed the slight increase in the cost of inspection and the benefits of this action for handlers, consumers, and producers. Typically, nuts removed from materially changed lots are blended into other lots of uninspected inshell pistachios, shelled out into kernels, dyed or color-coated, or discarded. Very few inshell pistachios are discarded, as handlers typically further process the nuts to obtain as many marketable nuts as possible.

Closed-shell pistachios that are not blended into other uninspected lots are typically shelled out into kernels. Kernels are marketed on average of $1.00 per pound on the domestic market and can be marketed in some export markets for $2.00 to $3.00 per pound. Ordinarily, the dark-stained pistachios that are not blended into other uninspected lots are dyed or color-coated and are marketed for $2.00 per pound in the domestic market, slightly less than the price received for natural condition, inshell pistachios. Dyed or color-coated nuts occasionally can be marketed in export markets, as well. The committee mentioned that the cost of resorting and resizing lots varies from lot to lot, and that such costs are dependent upon whether the product is hand sorted or mechanically sorted, the size of the lot, the percentage of the lot removed, and other similar factors. The committee believes that the overall handler cost for resorting and/or resizing such lots is typically insignificant compared to the prices received for better quality lots.

In reviewing inspection costs, the committee believes that a typical initial aflatoxin certification costs approximately $70 per lot and an initial minimum quality inspection costs $100 per lot. Buyers and consumers are willing to pay more for more appealing pistachios. Therefore, the committee expects that handlers will market these materially changed lots at prices that will offset the combined costs of initial inspection, reprocessing, and reinspection.

Thus, this action is expected to benefit handlers, buyers, and consumers. Handlers and buyers would be able to offer higher quality lots, and consumers would receive more appealing, higher-quality pistachios. These higher quality lots should also contribute to improved grower returns.

The committee does not foresee any industry problems that may result from implementation of this final rule.

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

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule. Further, the public comments received concerning the proposed rule did not address the initial regulatory flexibility analysis.

In addition, the committee's meetings were widely publicized throughout the pistachio industry and all interested persons were encouraged to attend the meetings and participate in the committee's deliberations on all issues. Like all committee meetings, the November 3, 2004; December 15, 2004; and April 12, 2005; meetings, were public meetings and all entities, both large and small, were encouraged to express their views on these issues.

A proposed rule concerning this action was published in the **Federal Register** on August 25, 2005 (70 FR 49885). Copies of the rule were provided to all the committee members and pistachio handlers. Finally, the rule was made available through the Internet by USDA and the Office of the Federal Register. A seven-day comment period ending September 1, 2005, was provided to allow interested persons to respond to the proposal.

One comment was received during the comment period in response to the proposal. The commenter, representing the Administrative Committee for Pistachios, was concerned that the committee's recommendation on reinspection had been misinterpreted in the proposed rule. The commenter expressed concerns that the rule requires reinspection of lots of pistachios for handlers who handle more than a 1,000 pounds and less than a million pounds of pistachios after ''further processing'' pistachios, and that the costs of this would burden smaller handlers. The commenter went on to recommend a change to § 983.143(b)(1) which would include an exemption from reinspection requirements if a handler was exempt from minimum quality testing under § 981.41(b).

We disagree. In promulgating § 983.41 of the order concerning the testing of minimal quantities, the procedures for aflatoxin testing were separated from those concerning minimum quality. The consideration given in § 983.41(b) applies solely to testing for minimum quality and size requirements, rather than for aflatoxin. As required under § 983.41, handlers handling less than a million pounds of pistachios are afforded the option of utilizing two methods of aflatoxin testing. Thus, the impact of this change should be minimal especially given the potentially small number of handlers and pistachios that could be affected. The committee estimates that 14 handlers could be affected and they handle less than 1 percent of the inshell pistachios produced in California. The quantities handled of all 14 (except one) fall well short of one million pounds.

This rule requires reinspection only if the lot is ''materially changed'' (pin-picked, hand-sorted, color-sorted, and/or resized) after sampling and inspection. If other further processing (sizing, sorting, roasting, salting, *etc.*) occurs, reinspection is not required.

Accordingly, no changes will be made to the rule, as proposed, based on the comment received.

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

After consideration of all relevant matters presented, including the information and recommendations 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after the publication in the **Federal Register** (5 U.S.C. 553) because the 2005 harvest has begun and this rule should be in place as soon as possible so that it can be applied to the pistachios handled in this production year. Further, handlers are aware of this rule, which was discussed in a public meeting. Also, a seven-day comment period was provided for in the proposed rule, and the comment received has been considered.

List of Subjects in 7 CFR Part 983

Pistachios, Marketing agreements and orders, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 983 is amended as follows:

PART 983—PISTACHIOS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 983 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In part 983, Subpart—Rules and Regulations is amended by adding new § 983.138 to read as follows:

§ 983.138 Samples for testing.

Prior to testing, a sample shall be drawn from each lot and divided into two subsamples to be used to test pistachios for aflatoxin and for minimum quality. The lot subsamples shall be of sufficient weight to comply with Tables 1 and 2 of § 983.38 and Table 4 of § 983.39: *Provided,* That lots of pistachios which are intended for dyeing or color-coating shall be sampled for minimum quality after the dyeing or color-coating process.

■ 3. In part 983, Subpart—Rules and Regulations is amended by adding § 983.143 to read as follows:

§ 983.143 Reinspection.

(a) Any lot of inshell pistachios that is pin-picked, hand-sorted, color-sorted, and/or resized is considered to be ''materially changed.'' Pistachios which are roasted, salted, flavored, air-legged, dyed, color-coated, cleaned, and otherwise subjected to similar processes are not considered to be materially changed.

(b) Each handler who handles pistachios shall cause any lot or portion of a lot initially certified for aflatoxin, quality, and size requirements, and subsequently materially changed, to be reinspected for aflatoxin, quality, and size, and certified as new lots: *Provided,* That:

(1) Pursuant to § 983.41(b) handlers exempted from minimum quality testing shall pull or have pulled representative lot samples for aflatoxin testing of any materially changed lots intended to be shipped into the domestic channels of commerce. Such representative lot samples shall be divided into two parts, one part shall be retested for aflatoxin and the other part shall be maintained for 90 days at the handler's facilities. Handlers shall make the samples maintained for 90 days available for auditing by the Administrative Committee for Pistachios; and

(2) Handlers exempted from order requirements under § 983.70 are exempted from all reinspection requirements.

Dated: October 18, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05–21167 Filed 10–20–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 04–068–3]

Tuberculosis in Cattle and Bison; State and Zone Designations; New Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the bovine tuberculosis regulations regarding State and zone classifications by removing New Mexico from the list of modified accredited advanced States, adding portions of two counties in New Mexico to the list of modified accredited advanced zones, and adding the remainder of the State to the list of accredited-free zones. We took this action based on our determination that New Mexico met the requirements of the regulations for zone recognition and that one of the zones met the criteria for designation as accredited-free.

EFFECTIVE DATE: The interim rule became effective on July 22, 2005.

FOR FURTHER INFORMATION CONTACT: Dr. M.J. Gilsdorf, Director, Ruminant Health Programs, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–6954.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on July 22, 2005 (70 FR 42259–42261, Docket No. 04–068–1), we amended the tuberculosis regulations in 9 CFR part 77 by removing New Mexico from the list of modified accredited advanced States in § 77.9(a), adding portions of two counties in New Mexico to the list of modified accredited advanced zones in § 77.9(b), and adding the remainder of the State to the list of accredited-free zones in § 77.7(b).

On August 12, 2005, we published a document in the **Federal Register** (70 FR 47078, Docket No. 04–068–2), correcting an error in the above-mentioned rule. When we set out the revised § 77.9(a) in the July 2005 interim rule, we inadvertently included California on the list of modified accredited advanced States. California was added to the list of accredited free States in § 77.7(a) in an interim rule published in the **Federal Register** on April 15, 2005 (70 FR 19877–19878, Docket No. 05–010–1). Our August 2005 document corrected that error by removing California from the list of modified accredited advanced States in § 77.9(a).

Comments on the interim rule were required to be received on or before September 20, 2005. We received one comment by that date. The comment was from a State agricultural agency. The commenter supported the interim rule. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

PART 77—TUBERCULOSIS

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 77 and that was published at 70 FR 42259–42261 on July 22, 2005, as corrected by the correcting amendment published at 70 FR 47078 on August 12, 2005.

Done in Washington, DC, this 17th day of October 2005.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–21082 Filed 10–20–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21086; Directorate Identifier 2004–NM–217–AD; Amendment 39–14344; AD 2005–21–06]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. This AD requires repetitive inspections of the aft pressure bulkhead web for fatigue cracks, crack indications, discrepant holes, and corrosion; and repair if necessary. This AD results from reports of fatigue cracks in the aft pressure bulkhead web. We are issuing this AD to detect and correct such fatigue cracks, which could result in a rapid decompression of the airplane.

DATES: This AD becomes effective November 25, 2005.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 25, 2005.

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

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

FOR FURTHER INFORMATION CONTACT: Howard Hall, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6430; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. That NPRM was published in the **Federal Register** on May 2, 2005 (70 FR 22620). That NPRM proposed to require repetitive inspections of the aft pressure bulkhead web for fatigue cracks, crack indications, discrepant holes, and corrosion; and repair if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Supportive Comments

Two commenters, including the manufacturer, support the proposed AD.

Request To Add Provision for Special Flight Permits

One commenter requests that the proposed AD be revised to include a phrase used in earlier ADs to permit the use of special flight permits. The commenter explains that, due to the number of work hours needed to gain access to the forward side of the aft pressure bulkhead, it needs to use the provisions for special flight permits. We infer that the commenter believes that because the proposed AD does not contain information on ferry flights, ferry flights are not allowed.

We do not agree with the commenter's request to add the special flight permit language, nor do we agree with the commenter's inference that special flight permits are not allowed by this AD. Special flight permits are allowed unless limitations or prohibitions are specifically identified in the AD. For this AD there are no limitations or prohibitions. On July 10, 2002, we 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 altered products, special flight permits (i.e., ferry flights), and alternative methods of compliance (AMOCs). Since we have now included this information 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. We have not changed the AD in this regard.

Request To Add Language That Advises Operators How To Address Pre-existing Repairs

Another commenter requests that the proposed AD be revised to include language advising operators how to treat pre-existing repairs in the inspection area of the aft pressure bulkhead. The commenter justifies the request by noting that the "* * * bulkhead is the subject of numerous other service bulletins and other ADs, any or all of which may have resulted in the installation of repairs in the inspection area," and that the absence of such advisory language would require AMOCs for each instance of pre-existing repairs. We infer that the commenter believes that the AD requires AMOCs for each pre-existing repair that prevents someone from complying with the requirements of the AD, and is requesting that the AD include specific language to provide relief for treating these pre-existing repairs.

We understand the commenter's concern about obtaining AMOCs for pre-existing repairs, especially since there are three ADs that cover the inspection area. We concur with the commenter in this regard. As noted in the reply to the previous comment on special flight permits, we issued a new version of 14 CFR part 39 on July 10, 2002. In section 39.17, it states, "If a change in a product affects your ability to accomplish the actions required by the airworthiness directive in any way, you must request FAA approval of an alternative method of compliance." This statement means that pre-existing repairs do not require AMOC approval unless they affect the operator's ability to accomplish the actions of the AD. Since we cannot anticipate the wide variety of possible repair configurations, this is best handled by requesting an AMOC for each repair. We have not changed the AD in this regard.

Request To Query Boeing for Availability of Parts

One commenter notes that certain repairs would require replacement of sections of curved structural members that are difficult for operators to fabricate on short notice. The commenter suggests that Boeing should be queried for availability of replacement materials in the event that an inspection finds the need for corrective action.

We agree that certain parts may be difficult for operators to fabricate on short notice (i.e., before further flight). We contacted Boeing about parts availability in regard to this AD, and have confirmed that a sufficient quantity of parts is available. We encourage operators to contact Boeing for specific information on parts availability. We have not changed the AD in this regard.

Request to Operator for Additional Repair Guidance

One commenter requests that Boeing provide additional repair guidance other than "contact Boeing." The commenter notes that the manufacturer has previous experience in addressing similar repairs in the area to be inspected in accordance with this AD. The commenter acknowledges that every repair is different, but believes that a repair drawing or structural-repair-manual-type of repair should be

made available. The commenter also states that it is impractical to contact Boeing in an airline's operational environment.

We acknowledge the commenter's request. We understand that general repair information applicable to this AD would help operators plan for any potential corrective action. We have coordinated this issue with Boeing. However, in this particular area, it is difficult to develop specific guidelines for the various conditions that an operator may encounter. Although no general repair information exists now (at time of publication), we remind operators that we may approve (if submitted and approved) repair drawings as allowed for in paragraph (i) of this AD, which describes ways to get approval of an alternative method of compliance (AMOC). We remind operators that they may apply for an AMOC in accordance with the provisions in paragraphs (i) and (g) of this AD. We have not changed the AD in this regard.

Conclusion

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

Explanation of Change Made to This AD

We have simplified paragraph (g) of this AD by referring to the ''Alternative Methods of Compliance (AMOCs)'' paragraph of this AD for repair methods.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this AD to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Costs of Compliance

There are about 978 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD:

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
LFEC and detailed inspection, per inspection cycle.	8	$65	None	$520 per inspection cycle ..	630	$327,600 per inspection cycle.
HFEC and detailed inspection (in lieu of LFEC and detailed inspection), per inspection cycle.	2	65	None	$130 per inspection cycle ..	630	$81,900 per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

2005–21–06 Boeing: Amendment 39–14344. Docket No. FAA–2005–21086; Directorate Identifier 2004–NM–217–AD.

Effective Date

(a) This AD becomes effective November 25, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports of fatigue cracks in the aft pressure bulkhead web. We are issuing this AD to detect and correct such fatigue cracks, which could 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.

Inspections

(f) At the applicable ''Inspection Threshold'' in the table in Part 1.E. ''Compliance'' of Boeing Alert Service Bulletin 737–53A1248, dated September 9, 2004, or within 18 months after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed the applicable ''Inspection Repeat Interval'' in that table: Do the inspections (i.e., detailed inspection and either high- or low-frequency eddy current inspections) of the aft pressure bulkhead web for fatigue cracks, crack indications, discrepant holes, and corrosion, in accordance with the Accomplishment Instructions of the service bulletin.

Corrective Action Difference

(g) If any fatigue crack, crack indication, discrepant hole, or corrosion is found during any inspection required by this AD, before further flight, repair the fatigue crack, crack indication, discrepant hole, and corrosion according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

No Reporting

(h) Although the service bulletin references a reporting requirement in the Accomplishment Instructions, that reporting is not required by this AD.

Alternative Methods of Compliance (AMOCs)

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

(2) An AMOC that provides an acceptable level of safety may be used for corrective actions, 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) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Material Incorporated by Reference

(j) You must use Boeing Alert Service Bulletin 737–53A1248, dated September 9, 2004, 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 October 13, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–20966 Filed 10–20–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–48–AD; Amendment 39–14343; AD 2005–21–05]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for Rolls-Royce Deutschland Ltd & Co KG (RRD) (formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH) models BR700–710A1–10 and BR700–710A2–20 turbofan engines. That AD currently requires initial and repetitive visual and ultrasonic inspections of fan discs, part numbers (P/Ns) BRR18803, BRR19248, and BRR20791 for cracks, and if necessary, replacement with serviceable parts. This ad requires those same inspections for discs having old design P/N fan blades installed, and, extends the inspection interval for fan discs having new design P/N fan blades installed. Also, this AD adds as optional terminating action to the inspections, installation of certain P/N new fan discs, certain P/N new fan blades, and engine fan speed (N1) Keep Out Zone software. This AD results from a revised RRD service bulletin (SB) that introduces relaxed inspection intervals for certain P/N combinations of fan discs and fan blades, and introduces improved design fan discs and fan blades.

DATES: This AD becomes effective November 25, 2005. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of November 25, 2005. The Director of the Federal Register previously approved the incorporation by reference of certain other publications as listed in the regulations as of April 28, 2003 (68 FR 17727, April 11, 2003).

ADDRESSES: Contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, 15827 Blankenfelde-Mahlow, Germany, telephone: 011 49 (0) 33–7086–1768, fax: 011 49 (0) 33–7086–3356, for the service information identified in this AD.

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

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

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) (formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH) models BR700–710A1–10 and BR700–710A2–20 turbofan engines. We published the proposed AD in the **Federal Register** on July 5, 2005 (70 FR 38627). That action proposed to require initial and repetitive inspections for cracks in fan discs P/Ns BRR18803, BRR19248, BRR20791, BRR24829, and FW33929. That action also proposed as optional terminating action to the repetitive inspection requirements, installation of a new fan disc P/N FW33927, new fan blades P/N FW33513 or P/N FW33980, and N1 Keep Out Zone software.

Examining the AD Docket

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

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request To Cancel Inspections

One commenter, RRD, requests we cancel the inspections in paragraphs (f)(1), (g)(1), (f)(3), and (g)(3), as these inspections have been conducted on all hardware in service, and are no longer needed. We disagree. Mandatory actions that published in the superseded AD need to be carried forward in the superseding AD. The operator can then determine if the affected engine is in compliance with all mandatory actions.

Add Applicable Fan Blade Part Numbers to Paragraph (h)

The same commenter requests that we add the applicable fan blade part numbers in paragraph (h), for clarity, as we did in paragraph (g). We agree and have added fan blades P/N BRR20677 and BRR23178 to paragraph (h).

Request To Cover Engines That Had a New Disc Installed on, or After, January 1, 2002

The same commenter requests that we cover engines that had a new production fan disc installed on or after January 1, 2002, in a new paragraph in the compliance section. The commenter states that these fan discs already had a visual and ultrasonic inspection before delivery and installation, and only require initial inspection at 150 flight cycles-since-new. These engines are not appropriately covered by the proposed AD. We agree and have added a paragraph to the compliance section to cover these engines.

Request To Directly Identify Requirements

The same commenter requests that we clarify paragraphs (i) and (j) by directly identifying the requirements, instead of referring to other paragraphs. We agree and have changed paragraphs (i) and (j) to identify the requirements.

Request To Change Repetitive Inspection Interval

The same commenter requests that in paragraphs (k)(1) and (k)(2), we change the inspection interval time requirement from flight hours, to A-Check. The commenter states that the proposed AD does not reflect the requirements of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005. The visual and ultrasonic inspections were always aligned with the scheduled airplane maintenance A-Check. The commenter further states that the A-Check occurs every 500-to-550 flight hours. We partially agree. We consider the A-Check to occur at an indefinite interval that can vary from operator to operator. However, in this case, we have changed the compliance in paragraph (k)(1) to perform a visual and ultrasonic inspection before accumulating 550 flight hours-since-new. We also changed paragraph (k)(2) to perform a visual and ultrasonic inspection at every A-Check but not to exceed 550 hours-since-the last visual and ultrasonic inspection.

Request To Remove Inspection Requirements From the AD and Reference the Time Limits Manual

The same commenter requests that we remove the inspection requirements from paragraph (l) of the proposed AD, which is for engines with fan disc P/N BRR20791, BRR24829, or FW33929 installed, and fan blades P/N FW33513, FW33980, FW33925, FW34114, or FW34776 installed. The commenter requests that we refer to the applicable RRD Time Limits Manual that mandates the inspections for these fan disc-and-blade-engine configurations. We agree and have changed that paragraph in the AD.

Request To Clarify the Optional Terminating Action

The same commenter requests that in the optional terminating action paragraph, we change the phrase ''is optional terminating action to the repetitive inspections required by this AD'' to ''is optional terminating action to any inspection required by this AD''. The commenter states that once the parts and the Keep Out Zone software referenced in the optional terminating action paragraph are installed, none of the inspections in the AD are required. We agree and have made that change in the AD.

Request To Reference the Latest Service Bulletin

The same commenter requests that we reference the latest service bulletin in the Inspection Reporting Requirements paragraph, which is RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005. We agree and have made that change in the AD.

Conclusion

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

Costs of Compliance

There are about 500 RRD models BR700–710A1–10 and BR700–710A2–20 turbofan engines of the affected design in the worldwide fleet. We estimate that 400 engines installed on airplanes of U.S. registry are affected by this AD. We also estimate that it will take about 7 work hours per engine to perform the inspections, and that the average labor rate is $65 per work hour. We estimate the total labor cost for performing one inspection of the U.S. fleet to be $182,000. New design fan discs and fan blades will cost about $150,000 per engine. Based on these figures, the total cost of the AD on U.S. operators is estimated to be $60,182,000. The manufacturer has stated that it may provide the new fan disc and new fan blades at no cost to operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 2000–NE–48–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–13107 (68 FR 17727, April 11, 2003) and by adding a new airworthiness directive, Amendment 39–14343, to read as follows:

2005–21–05 Rolls-Royce Deutschland Ltd & Co KG (formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH): Amendment 39–14343. Docket No. 2000–NE–48–AD.

Effective Date

(a) This AD becomes effective November 25, 2005.

Affected ADs

(b) This AD supersedes AD 2003–07–11, Amendment 39–13107.

Applicability

(c) This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) (formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH) models BR700–710A1–10 and BR700–710A2–20 turbofan engines. These engines are installed on, but not limited to, Bombardier Inc. BD–700–1A10, BD–700–1A11, and Gulfstream Aerospace Corp. G–V series airplanes.

Unsafe Condition

(d) This AD results from a revised RRD service bulletin (SB) that introduces relaxed inspection intervals for certain P/N combinations of fan discs and fan blades, and introduces improved design fan discs and fan blades. The actions specified in this AD are intended to detect and prevent cracks in the fan disc that could result in an uncontained engine failure and damage to the airplane.

Compliance

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

Initial Inspection

Engines With Fan Disc P/N BRR18803 or BRR19248 Installed and Fan Blades P/N BRR20677 or BRR23178 Installed

(f) For engines with fan disc P/N BRR18803 or BRR19248 installed, and fan blades P/N BRR20677 or BRR23178 installed, do the following:

(1) If the last fan disc inspection was a visual inspection performed using RRD SB No. SB–BR700–72–900229, Revision 3, dated July 12, 2001; Revision 4, dated December 20, 2001; Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005, visually or ultrasonically inspect fan disc within 25 flight cycles-since-last inspection (CSLI). Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(2) If the last fan disc inspection was an ultrasonic inspection performed using RRD SB No. SB–BR700–72–900229, Revision 3, dated July 12, 2001; Revision 4, dated December 20, 2001; Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005, visually or ultrasonically inspect fan disc within 75 CSLI. Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(3) For engines that have not yet been inspected, visually or ultrasonically inspect fan disc within 25 flight cycles after the effective date of this AD. Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(4) If any cracks are found, remove the disc from service and replace with a serviceable disc.

Engines With Fan Disc P/N BRR20791 Installed, and Fan Blades P/N BRR20677 or BRR23178 Installed

(g) For BR700–710A1–10 engines with serial numbers (SNs) 11452 and lower, and BR700–710A2–20 engines with SNs 12352 and lower, with fan disc P/N BRR20791 installed, and fan blades P/N BRR20677 or BRR23178 installed, do the following:

(1) If the last fan disc inspection was a visual inspection performed using RRD SB No. SB–BR700–72–900229, Revision 3, dated July 12, 2001; Revision 4, dated December 20, 2001; Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005, visually or ultrasonically inspect fan disc within 25 CSLI. Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(2) If the last fan disc inspection was an ultrasonic inspection performed using RRD SB No. SB–BR700–72–900229, Revision 3, dated July 12, 2001; Revision 4, dated December 20, 2001; Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005, visually or ultrasonically inspect fan disc within 150 CSLI. Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(3) For engines that have not yet been inspected, visually or ultrasonically inspect fan disc within 25 flight cycles after the effective date of this AD. Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 6, dated February 23, 2005 to do the inspection.

(4) If any cracks are found, remove the disc from service and replace with a serviceable disc.

(h) For BR700–710A1–10 engines with SNs 11453 and higher, and BR700–710A2–20 engines with SNs 12353 and higher with fan discs P/N BRR20791 installed, and fan blades P/N BRR20677 or BRR23178 installed, do the following:

(1) Visually or ultrasonically inspect fan discs within 150 flight cycles-since-new (CSN). Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005 to do the inspection.

(2) If any cracks are found, remove the disc from service and replace with a serviceable disc.

Engines With New Production Fan Discs

(i) For engines with new production fan discs P/N BRR20791 installed on or after January 1, 2002, and fan blades P/Ns BRR20677 or BRR23178 installed, do the following:

(1) Visually or ultrasonically inspect fan discs within 150 flight CSN. Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005 to do the inspection.

(2) If any cracks are found, remove the disc from service and replace with a serviceable disc.

Repetitive Inspections

Engines With Fan Disc P/N BRR18803 or BRR19248 Installed, and Fan Blades P/N BRR20677 or BRR23178 Installed

(j) For engines with fan disc P/N BRR18803 or BRR19248 installed, and fan blades P/N BRR20677 or BRR23178 installed, do the following:

(1) Perform repetitive visual or ultrasonic inspections within every 75 CSLI. Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005 to do the inspection.

(2) Perform a visual and ultrasonic inspection before accumulating 550 flight hours-since-new. Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 5, dated January 8, 2003, or Revision 6, dated February 23, 2005 to do the inspection.

(3) Thereafter, perform a visual and an ultrasonic inspection at every A-Check but not to exceed 550 flight hours-since-the last visual and ultrasonic inspection.

Engines With Fan Disc P/N BRR20791 Installed, and Fan Blades P/N BRR20677 or BRR23178 Installed

(k) For engines with fan disc P/N BRR20791 installed, and fan blades P/N BRR20677 or BRR23178 installed, do the following:

(1) Perform repetitive visual or ultrasonic inspections within every 150 CSLI. Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005 to do the inspection.

(2) Perform a visual and ultrasonic inspection before accumulating 550 flight hours-since-new. Use paragraphs A. through F. of the applicable Part 1 or Part 2 of the Accomplishment Instructions of RRD SB No. SB–BR700–72–900229, Revision 5, dated January 8, 2003, or Revision 6, dated February 23, 2005 to do the inspection.

(3) Thereafter, perform a visual and an ultrasonic inspection at every A-Check but not to exceed 550 flight hours-since-the last visual and ultrasonic inspection.

Engines With Fan Disc P/N BRR20791, BRR24829, or FW33929 Installed, and Fan Blades P/N FW33513, FW33980, FW33925, FW34114, or FW34776 Installed

(l) For engines with fan disc P/N BRR20791, BRR24829, or FW33929 installed, and fan blades P/N FW33513, FW33980, FW33925, FW34114, or FW34776 installed, initial and repetitive inspections are mandated in RRD Time Limits Manual T–710–1BR, Chapter 05–10–01 (BR700–710A1–10), and RRD Time Limits Manual T–710–2BR, Chapter 05–10–01 (BR700–710A2–20).

Optional Terminating Action

(m) Installation of a new fan disc P/N FW33927, new fan blades, P/N FW33513, or P/N FW33980, and N1 Keep Out Zone software with EEC P/Ns 1501KDC02–010, or 1501KDC03–010, or 1501KDC05–010, or 1520KDC05–010, or 1520KDC05R–010, or 1520KDC07–010, or 1520KDC08–010, is optional terminating action to any inspection required by this AD.

Inspection Reporting Requirements

(n) Report defects in accordance with the applicable Part 1 or Part 2 of RRD SB No. SB–BR700–72–900229, Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005. Reporting requirements have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 2120–0056.

Alternative Methods of Compliance

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

Related Information

(p) LBA airworthiness directive 2000–348, Revision 6, dated March 31, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(q) You must use Rolls-Royce Deutschland Ltd & Co KG Service Bulletin No. SB–BR700–72–900229, Revision 5, dated January 8, 2003; or Revision 6, dated February 23, 2005, to perform the actions required by this AD. The Director of the Federal Register approved the incorporation by reference of Revision 6 of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The Director of the Federal Register approved the incorporation by reference of Revision 5 of this service bulletin as of April 28, 2003 (68 FR 17727, April 11, 2003). Contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, 15827 Blankenfelde-Mahlow, Germany, telephone: 011 (0) 33–7086–1768, fax: 011 49 (0) 33–7086–3356, for a copy of the service information. You can review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on October 11, 2005.

Ann C. Mollica,

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

[FR Doc. 05–20780 Filed 10–20–05; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and 81

[R04–OAR–2005–KY–0001–200521(w); FRL–7985–9]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of the Christian County, Kentucky Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment for Ozone; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to adverse comment, EPA is withdrawing the direct final rule published September 22, 2005, (70 FR 55550) approving the redesignation of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment for Ozone. EPA stated in the direct final rule that if EPA received adverse comment by October 24, 2005, the rule would be withdrawn and not take effect. EPA subsequently received adverse comment. EPA will address the comment in a subsequent final action based upon the proposed action also published on September 22, 2005 (70 FR 55613). EPA will not institute a second comment period on this action.

DATES: The direct final rule is withdrawn as of October 21, 2005.

FOR FURTHER INFORMATION CONTACT: Stacy DiFrank, Air Planning Branch, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Ms. DiFrank can be reached via phone at (404) 562–9042 or via electronic mail at *difrank.stacy@epa.gov*.

List of Subjects in 40 CFR Part 52

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

Dated: October 4, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Accordingly, the amendments to 40 CFR 52.919 and 52.920 (which published in the **Federal Register** on September 22, 2005, at 70 FR 55550) is withdrawn as of October 21, 2005.

[FR Doc. 05–20982 Filed 10–20–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 166

[OPP–2004–0038; FRL–7739–6]

RIN 2070–AD36

Pesticides; Emergency Exemption Process Revisions; Notification to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: This document notifies the public that the Administrator of EPA has forwarded to the Secretary of Agriculture a draft final rule as required by section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). As described in the Agency's semi-annual Regulatory Agenda, the draft final rule will make several improvements to the pesticide emergency exemption process under section 18 of FIFRA. EPA has established regulations under section 18 of FIFRA which allow a Federal or State agency to apply for an emergency exemption to allow an unregistered use of a pesticide for a limited time when such use is necessary to alleviate an emergency condition.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number OPP–2004–0038. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket/.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Joseph Hogue, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–308–9072; e-mail address: *hogue.joe@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. It simply announces the submission of a draft proposed rule to the U.S. Department of Agriculture and does not otherwise affect any specific entities. This action may, however, be of particular interest to Federal, State, or Territorial government agencies that petition EPA for FIFRA section 18 emergency use authorization for a pesticide, not otherwise registered for the use, to address an emergency pest situation. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (*http://www.epa.gov/edocket/*), you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.* A frequently updated electronic version of 40 CFR part 180 is available on E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/.*

II. What Action is EPA Taking?

Section 25(a)(2) of FIFRA requires the Administrator to provide the Secretary of Agriculture with a copy of any final regulation at least 30 days before signing it for publication in the **Federal Register**. The draft final rule is not available to the public until after it has been signed by EPA. If the Secretary comments in writing regarding the draft final rule within 15 days after receiving it, the Administrator shall include the comments of the Secretary, if requested by the Secretary, and the Administrator's response to those comments in the final rule when published in the **Federal Register**. If the Secretary does not comment in writing within 15 days after receiving the draft final rule, the Administrator may sign the final rule for publication in the **Federal Register** anytime after the 15–day period.

III. Do Any Statutory and Executive Order Reviews Apply to this Notification?

No. This document is not a rule, it is merely a notification of submission to the Secretary of Agriculture. As such, none of the regulatory assessment requirements apply to this document.

IV. Will this Notification be Subject to the Congressional Review Act?

No. This action is not a rule for purposes of the Congressional Review Act (CRA), 5 U.S.C. 804(3), and will not be submitted to Congress and the Comptroller General. EPA will submit the final rule to Congress and the Comptroller General as required by the CRA.

List of Subjects in Part 166

Environmental protection, Pesticides, Emergency exemptions.

Dated: October 13, 2005.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. 05–21092 Filed 10–20–05; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

[Docket No. 050520137–5268–03; I.D. 050905F]

RIN 0648–AT10

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 17

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

ACTION: Final rule; delay of effective date.

SUMMARY: This final rule clarifies certain requirements and delays the effective date for the implementation of some of the measures specified in Framework 17 to the Atlantic Sea Scallop Fishery Management Plan (Framework 17), which was developed and submitted by the New England Fishery Management Council (Council) and approved by NMFS. The measures require that vessels issued a general category scallop permit, and that land or intend to land over 40 lb (18.14 kg) of shucked or 5 bu (176.2 L) of unshucked scallops, install and operate vessel monitoring systems (VMS) in order to provide more complete monitoring of the general category scallop fleet. Delay of the October 21, 2005, effective date is necessary to allow sufficient time for vessel owners to purchase, install, and activate VMS required under Framework 17. The new effective date is December 1, 2005.

DATES: The amendments in this rule are effective December 1, 2005. The effective date of the amendments to 50 CFR 648.4(a)(2)(ii), 648.9(c)(1) and (c)(2), 648.10(b)(1)(iv), and 648.14(i)(11) and (12), 648.52(c), and 15 CFR 902.1 published August 22, 2005, at 70 FR 48860, is delayed until December 1, 2005.

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted to Patricia A. Kurkul, Regional Administrator (RA), NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Management and Budget (OMB) by e-mail at *David_Rostker@omb.eop.gov* or by fax to (202) 395–7285.

Copies of Framework 17, its Regulatory Impact Review (RIR), including the Initial Regulatory Flexibility Analysis (IRFA), and the Environmental Assessment (EA) are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at *http://www.nefmc.org*.

FOR FURTHER INFORMATION CONTACT: Peter Christopher, Fishery Policy Analyst, (978) 281–9288, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

Framework 17 was adopted by the Council on February 1, 2005, and submitted to NMFS on March 11, 2005, with a supplement submitted on April 4, 2005. A proposed rule for Framework 17 was published in the **Federal Register** on June 2, 2005 (70 FR 32282), with a comment period ending on June 17, 2005. The final rule for Framework 17 was published in the **Federal Register** on August 22, 2005 (70 FR 48860). Details about the measures established through Framework 17 are discussed in detail in those documents and are not repeated here.

Framework 17 requires all general category vessels that land, or intend to land, more than 40 lb (18.14 kg) of shucked or 5 bu (176.2 L) of unshucked scallops, to install and operate a VMS onboard the vessel. The use of VMS is expected to assist NMFS monitor general category vessel activity and facilitate the enforcement of the possession limit regulations. Because of the cost of installing and operating VMS, the requirement may also help NMFS distinguish the active fleet of general category vessels that target scallops from the inactive fleet of permitted vessels. Since VMS will provide better data for fishery management, the data is of particular importance to help identify areas that are more frequently targeted by small vessels fishing outside of the typical scallop fishing areas (e.g., inshore areas of the Gulf of Maine). The transmission of location information through VMS could also assist U.S. Coast Guard search and rescue operations by automatically tracking vessel position.

In order to administer and effectively enforce the new VMS requirement for general category vessels, Framework 17 established a new general category scallop permit designation under NMFS's Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), section 305(d) authority. Framework 17 requires vessel owners requesting general category scallop permits to determine whether they will fish under the non-VMS general category vessel permit, which authorizes the possession of up to 40 lb (18.14 kg) of shucked or 5 bu (176.2 L) of unshucked scallops, or under the VMS general category vessel permit, which authorizes the possession of up to 400 lb (181.44 kg) of shucked or 50 bu (17.62 hL) of unshucked scallops. Vessel owners who have not submitted a completed application for a VMS general category vessel permit by December 1, 2005, will be issued a non-VMS general category vessel permit at that time. Vessel owners may change from one general scallop permit category to another within 45 days of the issuance of the new general category vessel permit.

The response by general category scallop vessels for purchase and installation of VMS units has been higher than expected by the Council and NMFS. Marine electronics dealers that install VMS units are reportedly having difficulty meeting the higher than expected purchase and installation demand. In order to provide a reasonable period of time for vessel owners to come into compliance with the new requirements, and to avoid a disruption in fishing activity by general category scallop vessels, this action delays the effective date of the provisions related to the new VMS requirements until December 1, 2005. The prior effective date of October 21, 2005, did not allow sufficient time to come into compliance. Without an extension of the effective date, vessels intending to fish for more than 40 lb (18.14 kg) of shucked scallops or 5 bu (176.2 L) of unshucked scallops would be prohibited from doing so until they are able to install and activate a VMS, or be subject to an enforcement action through no fault of their own. This rule also clarifies that, in order to be issued the VMS general category vessel permit, a vessel owner is required to either submit a copy of the vendor's installation receipt or provide verification of vendor activation from a NMFS-approved VMS vendor.

Classification

The RA determined that Framework Adjustment 17 is necessary for the conservation and management of the Atlantic sea scallop fishery and is consistent with the Magnuson-Stevens Act and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The AA had determined that good cause exists to waive prior notice and opportunity for public comment pursuant to 5 U.S.C 553(b)(B) because it would be impracticable and contrary to the public interest. Given the imminence of the effective date, seeking prior public comment on this temporary stay would have been impracticable, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. Since electronics dealers cannot meet the higher than expected demand for VMS units, vessels would not be able to comply with the VMS requirements by the October 21, 2005, effective date. Through no fault of their own, vessels that would have otherwise complied with the October 21, 2005, effective date, but could not acquire VMS units, would be prohibited from fishing for more than 40 lb (18.14 kg) of shucked scallops or 5 bu (176.2 L) of unshucked scallops or would be subject to enforcement action. In addition, the revised regulatory text in this rule clarifies that vessel owners can install VMS units themselves as long as activation of the VMS through the vendor is verified. In conversations with owners who have sought installation from a vendor, but have not yet been able to get their VMS units installed, NMFS has learned that some owners are able to install the units themselves. Accordingly, the revised regulatory text in this rule clarifies that vessel owners can install VMS units themselves as long as approved vendors subsequently provide proof of activation. This will speed up the process of allowing all vessels seeking VMS units to have them installed in the most timely fashion, and may move vessel owners who cannot self-install up in the queue, thereby ensuring that all affected vessels are in compliance in the shortest timeframe possible. Any delay of this clarification will undermine its purpose of bringing the most vessels into compliance in the shortest time possible.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This final rule modifies the effective date for new collection-of-information requirements approved by OMB under the Paperwork Reduction Act (PRA). These new requirements apply to general category scallop vessels only (the requirements already exist for and/or do not apply to other scallop vessels). Public reporting burdens for these collections of information are estimated to average as follows:

1. Purchase and installation of VMS units, OMB control number 0648–0529 (1 hr per response);

2. Verification of VMS units, OMB control number 0648–0529 (5 min per response);

3. Notification and application for appropriate general category permit designation, OMB control number 0648–0529 (30 min per response);

4. VMS power-down notification, OMB control number 0648–0529 (2 min per response); and

5. VMS re-power and trip notification, OMB control number 0648–0529 (2 min per response).

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: October 18, 2005.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.4, paragraphs (a)(2)(ii)(B) through (E) are revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(2) * * *

(ii) * * *

(B) *VMS general scallop permit.* To possess or land more than 40 lb (18.14 kg) of shucked meats or 5 bu (176.2 L) of in-shell scallops, but no more than 400 lb (181.44 kg) of shucked meats, or 50 bu (17.62 hL) of in-shell scallops, a vessel must apply for and be issued a VMS general scallop permit. Issuance of a VMS general scallop permit requires the vessel owner to submit a copy of the vendor's installation receipt or provide verification of vendor activation from a NMFS-approved VMS vendor as described in § 648.9.

(C) *Vessels without general scallop permits.* No scallop permit is required for a vessel that possesses or lands up to 40 lb (18.14 kg) of shucked meats or 5 bu (176.2 L) of in-shell scallops per trip, provided such scallops are not, or are not intended to be, sold, traded or bartered.

(D) *General scallop permit category designation.* The owner of a vessel issued a general scallop permit for the 2005 fishing year is required to complete and submit an application to the Regional Administrator for the permit specified in paragraph (a)(2)(ii)(B) of this section. There is a 30-day processing period for vessel permit applications, thus, to ensure that permits are issued by the effective date of these requirements, such applications should be submitted by November 1, 2005. Vessels shall be issued the appropriate permit category by December 1, 2005, based on the application submitted by the vessel owner. Initial general scallop permit category designations are effective December 1, 2005. A vessel owner who fails to submit either a copy of the vendor's installation receipt from a NMFS-approved VMS vendor as described in 648.9 or provide proof of vendor activation of the VMS unit by December 1, 2005, shall automatically be issued the non-VMS general scallop permit. If no application is received by December 1, 2005, for vessels previously issued a general scallop permit for the 2005 fishing year, such vessels shall be reissued non-VMS general scallop permits. Vessel owners may request a change in permit category for their general category vessel no later than January 15, 2006. Requests to change categories must include a complete application as described above.

(E) *General scallop permit restrictions.* A vessel may be issued a general scallop permit in only one category during a fishing year. The owners of a vessel issued a general scallop permit must elect a permit category upon the vessel's permit application and shall have one opportunity to request a change in its permit category by submitting an application to the Regional Administrator within 45 days of the effective date of the vessel's permit. After that date, the vessel must remain in that permit category for the duration of the fishing year.

* * * * *

[FR Doc. 05–21179 Filed 10–19–05; 11:56 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 050819225–5257; I.D.080505A]

RIN 0648–AS59

Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement the annual harvest guideline for Pacific mackerel in the U.S. exclusive economic zone (EEZ) off the Pacific coast. The Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and its implementing regulations require NMFS to set an annual harvest guideline for Pacific mackerel based on the formula in the FMP. This action adopts allowable harvest levels for Pacific mackerel off the U.S. Pacific coast.

DATES: Effective November 21, 2005.

ADDRESSES: The report *Assessment of the Pacific Mackerel (Scomber japonicus) Stock for U.S. Management in the 2005–2006 Season* may be obtained from Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802. A regulatory impact review/regulatory analysis may be obtained at this same address.

FOR FURTHER INFORMATION CONTACT: Tonya L. Wick, Southwest Region, NMFS, (562) 980–4036.

SUPPLEMENTARY INFORMATION: The CPS FMP, which was implemented by a final

rule published in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into the categories of actively managed and monitored. Harvest guidelines of actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

At a public meeting each year, the biomass for each actively managed species is reviewed by the Pacific Fishery Management Council's (Council) CPS Management Team (Team). The biomass, harvest guideline, and status of the fisheries are then reviewed at a public meeting of the Council's CPS Advisory Subpanel (Subpanel). This information is also reviewed by the Council's Scientific and Statistical Committee (SSC). The Council reviews reports from the Team, Subpanel, and SSC, then, after providing time for public comment, makes its recommendation to NMFS. The annual harvest guideline and season structure is published by NMFS in the **Federal Register** as soon as practicable. The Pacific mackerel season begins on July 1 of each year and ends on June 30 of the following year.

The Team meeting took place at the office of the NMFS, Southwest Fisheries Science Center, in La Jolla, CA, on May 18, 2005. The Subpanel and SSC meetings took place in conjunction with the June 13–18, 2005, Council meeting in Foster City, CA.

The size of the Pacific mackerel population was estimated using a newly modified version of the integrated stock assessment model called Age-structured Assessment Program (ASAP). Use of this new ASAP model was recommended by the Coastal Pelagic Species Stock Assessment Review panel meeting held on June 16, 2004, in La Jolla, CA. This new ASAP model replaces the old modified virtual population analysis stock assessment model used in previous years known as the ADEPT model. The ADEPT model, used for Pacific mackerel assessment from 1994 to 2004, was a more traditional 'Virtual Population Analysis' (VPA) model. The ASAP model is a more modern approach to population analysis termed 'statistical catch-at-age'. Moreover, the ASAP model is written in the powerful and highly flexible Auto-Differentiation Model Builder (ADMB) language (as opposed to Fortran),so it is amenable to modification as needed. ASAP is implemented through the NMFS Toolbox (NFT), and has received internal agency review (NFT Steering Committee) and external review by the CPS Stock Assessment Review(STAR)Panel in 2004. ASAP is a flexible forward-simulation that allows for the efficient and reliable estimation of a large number of parameters. ASAP uses parameters such as fishery dependent (commercial and recreational landings) and fishery independent (e.g., aerial spotter survey index, commercial passenger fishing vessel logbook catch per unit effort, and California Cooperative Oceanic Fisheries Investigations surveys) data to obtain annual estimates of Pacific mackerel abundance, year-class strength, and age-specific fishing mortality for 1983 through 2004. The biomass was calculated through the end of 2004, then estimated for the fishing season that begins July 1, 2005, based on (1) the number of Pacific mackerel estimated to comprise each year class at the beginning of 2005, (2) modeled estimates of fishing mortality during 2004, (3) assumptions for natural and fishing mortality through the first half of 2005, and (4) estimates of age-specific growth. Based on this approach, the biomass for July 1, 2005, would be 101,147 metric tons (mt). Applying the formula in the FMP results in a harvest guideline of 17,419 mt, which is 32 percent greater than last year but similar to low harvest guidelines of recent years.

The formula in the FMP uses the following factors to determine the harvest guideline:

1. *The biomass of Pacific mackerel.* For 2005, this estimate is 101,147 mt.

2. *The cutoff.* This is the biomass level below which no commercial fishery is allowed. The FMP established the cutoff level at 18,200 mt. The cutoff is subtracted from the biomass, leaving 82,947 mt.

3. *The portion of the Pacific mackerel biomass that is in U.S. waters.* This estimate is 70 percent, based on the historical average of larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of fish-spotters. Therefore, the harvestable biomass in U.S. waters is 70 percent of 82,947 mt, that is, 58,063 mt.

4. *The harvest fraction.* This is the percentage of the biomass above 18,200 mt that may be harvested. The FMP established the harvest fraction at 30 percent. The harvest fraction is multiplied by the harvestable biomass in U.S. waters (58,063 mt), which results in 17,419 mt.

Information on the fishery and the stock assessment are found in the report *Assessment of the Pacific Mackerel (Scomber japonicus) Stock for U.S. Management in the 2005–2006 Season*, which may be obtained by mail from Rodney R. McInnis, Regional Administrator (see **ADDRESSES**).

For the last 3 years, the fishing industry has recommended dividing the harvest guideline into a directed fishery and an incidental fishery, reserving a portion of the harvest guideline for incidental harvest in the Pacific sardine fishery so that the Pacific sardine fishery is not hindered by a prohibition on the harvest of Pacific mackerel. At its meeting on June 15, 2005, the Subpanel recommended for the 2005–2006 fishing season that a directed fishery of 13,419 mt and an incidental fishery of 4,000 mt be implemented. An incidental allowance of 40 percent of Pacific mackerel in landings of any CPS would become effective if the 13,419 mt of the directed fishery is harvested. The Subpanel also recommended allowing up to 1 mt of Pacific mackerel to be landed during the incidental fishery without the requirement to land any other CPS. This provision provides Pacific mackerel for small specialty markets. The Subpanel recommended that an inseason review of the Pacific mackerel season be completed for the March 2006 Council meeting, with the possibility of reopening the directed fishery if a sufficient amount of the harvest guideline reserved for the incidental fishery remains unharvested. At that time, the NMFS Southwest Regional Administrator will review the fishery to assess whether there is a sufficient unharvested portion of the harvest guideline (i.e., anything in excess of the amount needed to support incidental harvest) to warrant a reopening of the directed fishery. As of June 7, 2005, approximately 4,808 mt of Pacific mackerel had been landed; therefore, an incidental fishery was not necessary for the 2004–2005 fishing season.

At its June 2005 meeting, the Council made these recommendations to NMFS. A proposed rule containing the Council's recommendations was published August 29, 2005 (70 FR 51004). The public comment period ended on September 13, 2005. No public comments were received.

After a review of the available information, NMFS approved the Council's recommendation and hereby implements the following measures for the July 1, 2005, through June 30, 2006, fishing season:

Based on the estimated biomass of 101,147 mt and the formula in the FMP, a harvest guideline of 17,419 mt will be in effect for the fishery which began on July 1, 2005. This harvest guideline applies to Pacific mackerel harvested in

the U.S. EEZ off the Pacific coast from 12:01 a.m. on July 1, 2005, through 11:59 pm on June 30, 2006, unless the harvest guideline is attained and the fishery is closed before June 30, 2006. All landings made after July 1, 2005, will be counted toward the 2005–2006 harvest guideline of 17,419 mt. There shall be a directed fishery of 13,419 mt, followed by an incidental fishery of 4,000 mt. An incidental allowance of 40 percent of Pacific mackerel in landings of any CPS will become effective after the date when 13,419 mt of Pacific mackerel is estimated to have been harvested. A landing of 1 mt of Pacific mackerel per trip will be permitted during the incidental fishery for trips in which no other CPS is landed.

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule for this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule. No comments were received regarding the certification or the economic impacts of this action. As a result, no regulatory analysis is required and none was prepared.

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

Dated: October 17, 2005.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 05–21090 Filed 10–20–05; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 203
Friday, October 21, 2005

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1219

[Doc. No. FV–05–703–ANPR]

Hass Avocado Promotion, Research, and Information Order; Definition of ''Substantial Activity''

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Advance notice of proposed rulemaking; request for public comments.

SUMMARY: The Agricultural Marketing Service (AMS) invites comments from producers, importers, first handlers and other interested persons on a possible change to the definition of ''substantial activity'' under the Hass Avocado Promotion, Research, and Information Order (Order). The definition relates to the eligibility of importers to serve on the Hass Avocado Board (Board).

DATES: Written suggestions, views or pertinent information relative to this action will be considered if received by December 20, 2005.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to: Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, SW., Washington, DC 20250–0244. Comments should be submitted in triplicate and will be made available for public inspection at the above address during regular business hours. Comments may also be submitted electronically to: *marlene.betts@usda.gov* or Internet: *http://www.regulations.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this rule may be found at: *http://www.ams.usda.gov/fv/rpb.html.*

FOR FURTHER INFORMATION CONTACT: Marlene Betts, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535–S, Washington, DC 20250–0244, telephone (202) 720–9915, fax (202) 205–2800, e-mail *Marlene.Betts@usda.gov.*

SUPPLEMENTARY INFORMATION: The Hass Avocado Promotion, Research, and Consumer Information Order (Order) is issued under the Hass Avocado Promotion, Research, and Information Act of 2000 (Act) [7 U.S.C. 7801–7813].

Executive Order 12866

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

In determining who is eligible to serve as an importer member of the Board, the Act provides for a substantial activity test. In order to implement this provision, the Order needs to provide criteria to enable the Department to measure substantial activity. The Department determined that basing a person's eligibility on the person's business activity and which industry function (producing or importing) predominates was a reasonable measure that gave a clear and understandable benchmark (67 FR 7290). In order to serve as an importer member on the Board, an importer is defined as a person who is involved in, as a substantial activity, the importation of Hass avocados for sale or marketing in the United States. Section 1219.30(d) of the Order states that a substantial activity means that the volume of a person's Hass avocado imports must exceed the volume of the person's production or handling of domestic Hass avocados.

This advance notice of proposed rulemaking invites comments on a possible change to this definition of substantial activity under the Order to better measure substantial activity. AMS is seeking information pertaining to the definition of substantial activity and on the impact such rulemaking might have on the number of importers eligible to serve on the Board. All other views, suggestions or comments relative to the proposal in general also are sought.

The Order provision being considered for amendment governs the eligibility of importers to serve on the Board and is authorized under the Hass Avocado Promotion, Research, and Information Order (Order). The Act provides that changes to the Order will become effective if approved in referenda by eligible producers and importers.

Background

Section 1219.30 of the Hass Avocado Promotion, Research, and Information Order provides that a substantial activity means that the volume of a person's Hass avocado imports must exceed the volume of the person's production or handling of domestic Hass avocados.

After the Order was implemented, the Department of Agriculture (Department) conducted the initial nomination process for importer positions on the Board. At that time, only six nominees were received, although the Order provided for 16 nominees.

Since the initial nomination process in 2002 there has been significant changes in the industry. For example, the number of states and the months of the year that the Mexican Hass avocado industry can bring avocados in the United States has changed which can affect importer eligibility on the Board.

Currently, the Department is in the process of appointing 2 importer members to the Board, which would fill all 4 importer positions on the Board. However, nominations were not forthcoming from the industry for the alternate importer positions.

Further, the Department believes that it would be appropriate to publish an advance notice of rulemaking so that the industry can provide comments and any other pertinent information prior to the Department considering any change to the definition of substantial activity.

A proposed rule was published in the **Federal Register** March 18, 2003 [68 FR 12881], which would have terminated the definition of substantial activity under the Order. Comments were requested by May 19, 2003. Nine comments were received in a timely manner by the deadline. Seven commenters were importers of Hass avocados. Two commenters were Hass avocado industry organizations, one being the Hass Avocado Board created by the Act. Seven of the nine commenters opposed change to the Order, while two were in support of the proposed rule change.

On that rulemaking, opposing commentors raised a number of issues

including whether other factors limited the number of nominees in the earlier selection process rather than the definition of substantial activity. The commenters stated that the size and pool of the eligible importers (200) was more than adequate to fill the vacancies on the Board. Concern was expressed as to the relationship of producers and importers on the Board.

The supporting commentors were of the view that the substantial activity requirement unnecessarily limited the potential pool of nominees for service on the Board and denied some of the most significant and most qualified individuals in the avocado industry to serve on the Board

In a separate publication in the **Federal Register**, the proposed rule was withdrawn without being finalized after taking into account the above.

Comments and Information Requested

Information, suggestions, and comments pertaining to the proposal are sought. Examples of specific information that would assist AMS in determining if this recommendation should be proposed are:

1. Specific recommendations for the definition—including volume of imports relative to the volume of domestic production—that would allow the Department to measure substantial activity as is required by the Act.
2. Data relative to the number of importers that would become eligible to serve on the Hass Avocado Board if the definition changed.
3. Data relative to the number of importers that would become eligible to serve on the Hass Avocado Board if the definition was not changed.

Summary

In conclusion, the AMS is soliciting the views of interested persons as to amending the definition of substantial activity to enable the Department to better measure substantial activity as is required by the Act. Specifically, the AMS is interested in the points mentioned previously in this advance notice as well as statistical information, suggestions, and comments pertaining to the definition of substantial activity and the impact on the number of eligible importers to serve on the Board. All views are solicited, however, so that every aspect of this potential amendment may be studied prior to formulating a proposed rule, if such is deemed warranted by the AMS.

This request for public comments does not constitute notification that the recommendation to change the regulations described in this document is or will be proposed or adopted.

A 60-day comment period is provided to allow interested persons the opportunity to respond to this request for information and comments. All written comments timely received will be considered before any subsequent rulemaking action is undertaken.

Authority: 7 U.S.C. 7801–7813.

Dated: October 18, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05–21081 Filed 10–20–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22748; Directorate Identifier 2005–NM–127–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 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 Fokker Model F.28 Mark 0070 and 0100 airplanes. This proposed AD would require modifying the passenger door and installing new placards. This proposed AD results from reports of the airstairs-type passenger door opening during flight. We are proposing this AD to prevent rapid decompression of the airplane, or ejection of a passenger or crew member out the door during flight.

DATES: We must receive comments on this proposed AD by November 21, 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.
- 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 Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands.

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

SUPPLEMENTARY INFORMATION:

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 in the **ADDRESSES** section. Include the docket number ''FAA–2005–22748; Directorate Identifier 2005–NM–127–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of 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 Docket

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

Discussion

The Civil Aviation Authority—The Netherlands (CAA–NL), which is the airworthiness authority for the Netherlands, notified us that an unsafe condition may exist on certain Fokker Model F.28 Mark 0070 and 0100 airplanes. The CAA–NL advises of several cases of the airstairs-type passenger door opening during flight on a Model F.28 Mark 0100 airplane. Investigators in all cases concluded that the incidents were not caused by defects in the design of the operating mechanism or the warning system, but probably resulted from incorrect use of the locking handle. Opening of the passenger door during flight could result in rapid decompression of the airplane, or a passenger or crew member being ejected out the door during flight.

The passenger door operating mechanism and warning system is the same on both Model F.28 Mark 0100 and 0700 airplanes. Therefore, both of these airplane models are subject to the identified unsafe condition.

Relevant Service Information

Fokker Services B.V. has issued Service Bulletin SBF100–52–069, Revision 3, dated December 18, 2002; including Manual Change Notification—Operational Documentation MCNO–F100–031, dated December 3, 2001, and Manual Change Notification—Maintenance Documentation MCNM–F100–064, Revision 2, dated December 18, 2002; and including the drawings listed in the following table. (To conform to certain Office of the Federal Register requirements for incorporating these materials by reference, the table identifies the date of the service bulletin for undated drawings.)

DRAWINGS INCLUDED IN SERVICE BULLETIN SBF100–52–069

Fokker drawing	Sheet	Issue	Date
W41074	065	DB	December 18, 2002.
W41418	003	L	December 18, 2002.
W41418	005	E	December 18, 2002.
W41418	006	E	December 18, 2002.
W41418	007	E	December 18, 2002.
W41418	008	M	December 18, 2002.
W42310	001	D	August 14, 2000.
W42310	002	B	August 14, 2000.
W42310	003	F	June 11, 2001.
W59243	024	AU	June 12, 2001.
W59261	017	W	August 9, 2002.
W59261	025	S	July 3, 2001.

The service bulletin describes procedures for modifying the passenger door. The modification involves installing additional door status indicators above the door, including relays and a flasher, a door status LED indicator, a circuit breaker, and electrical wiring; and making a cut-out in the cover above the passenger door. The service bulletin also describes procedures for installing improved placards at the handle and on the door. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA–NL mandated the service information and issued Dutch airworthiness directive 2002–057, dated April 29, 2002, to ensure the continued airworthiness of these airplanes in the Netherlands.

FAA's Determination and Requirements of the Proposed AD

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

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Modify door and install placards	17–18	$65	$2,645	$3,750–3,815	2	$7,500–7,630

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 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, 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Fokker Services B.V.: Docket No. FAA–2005–22748; Directorate Identifier 2005–NM–127–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by November 21, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Fokker Model F.28 Mark 0070 and 0100 airplanes, certificated in any category, as identified in Fokker Service Bulletin SBF100–52–069, Revision 3, dated December 18, 2002.

Unsafe Condition

(d) This AD results from reports of the airstairs-type passenger door opening during flight. We are issuing this AD to prevent rapid decompression of the airplane, or ejection of a passenger or crew member out the door during flight.

Compliance

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

Installation

(f) Within 30 months after the effective date of this AD, modify the passenger door and install new placards, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–52–069, Revision 3, dated December 18, 2002; including Manual Change Notification—Operational Documentation MCNO–F100–031, dated December 3, 2001, and Manual Change Notification—Maintenance Documentation MCNO–F100–064, Revision 2, dated December 18, 2002; and including the drawings listed in Table 1 of this AD. To conform to certain Office of the Federal Register requirements for incorporating these materials by reference, the table identifies the date of the service bulletin for undated drawings.

TABLE 1.—DRAWINGS INCLUDED IN SERVICE BULLETIN SBF100–52–069

Fokker drawing	Sheet	Issue	Date
W41074	065	DB	December 18, 2002.
W41418	003	L	December 18, 2002.
W41418	005	E	December 18, 2002.
W41418	006	E	December 18, 2002.
W41418	007	E	December 18, 2002.
W41418	008	M	December 18, 2002.
W42310	001	D	August 14, 2000.
W42310	002	B	August 14, 2000.
W42310	003	F	June 11, 2001.
W59243	024	AU	June 12, 2001.
W59261	017	W	August 9, 2002.
W59261	025	S	July 3, 2001.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(h) Dutch airworthiness directive 2002–057, dated April 29, 2002, also addresses the subject of this AD.

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

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–21054 Filed 10–20–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 382

[Docket No. OST–2005–22298]

RIN 2105–AC29

Nondiscrimination on the Basis of Disability in Air Travel—Medical Oxygen and Portable Respiration Assistive Devices

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Extension of comment period on proposed rule.

SUMMARY: The Department is extending through January 30, 2006, the period for interested persons to submit comments to its proposed rule on medical oxygen and portable respiration assistive devices.

DATES: Comments must be received by January 30, 2006. Comments received after this date will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by the docket number [OST–2005–22298] by any of the following methods: (1) Federal eRulemaking Portal: *http://www.regulations.gov* (follow the instructions for submitting comments); (2) Web site: *http://dms.dot.gov* (follow the instructions for submitting comments on the DOT electronic docket site); (3) Fax: 1–202–493–2251; (4) Mail: Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001; or (5) Hand Delivery: To the Docket Management System; Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

You must include the agency name and docket number [OST–2005–22298] or the Regulatory Identification Number (RIN) for this notice at the beginning of your comment. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act section of this document. You may view the public docket through the Internet at *http://dms.dot.gov* or in person at the Docket Management System office at the above address.

FOR FURTHER INFORMATION CONTACT: Blane A. Workie, Office of Assistant General Counsel for Aviation Enforcement and Proceedings, 400 7th Street, SW., Room 4116, Washington DC 29590. Phone: 202–366–9342. TTY: 202–366–0511. Fax: 202–366–7152. E-mail: *blane.workie@dot.gov.*

SUPPLEMENTARY INFORMATION: On September 7, 2005, the Department of Transportation (DOT or Department) issued a notice of proposed rulemaking (NPRM) that proposed to require airlines to provide in-flight medical oxygen without charge, to test certain respiratory assistive devices and to permit their use if safe. *See* 70 FR 53108. The NPRM would apply to certain U.S. and foreign air carriers operating to and from the U.S. The original comment closing date is November 7, 2005.

The Air Carrier Association of America (ACAA), the Air Transport Association (ATA), the National Air Carrier Association (NACA), and the Regional Airline Association (RAA) jointly requested an extension of the comment period to consider ''the enormous technical, operational and cost issues raised by the multiple actions required by the NPRM.'' They requested an extension of more than sixty days to January 30, 2006, at least partially because an extension of sixty days in this rulemaking would place the close of the comment period in the holiday season. This request was supported by comments from the International Air Transport Association (IATA), which further explained that IATA has begun the process of gathering comments from its in-flight, dangerous goods, passenger services, operations, medical and regulatory contacts but that gathering and collating such feedback is a significant task that requires time.

The Department concurs that an extension of the comment period is necessary to allow members of industry sufficient time to analyze the impact of the proposed rule and believes that this extension would result in more thorough comments to the docket than might otherwise be possible without delaying final action in the rulemaking proceeding. We do not anticipate the need for any further extensions. Accordingly, the Department finds that good cause exists to extend the comment period on the proposed rule from November 7, 2005, to January 30, 2006.

Issued in Washington, DC this 17th day of October, 2005, under authority assigned to me by 14 CFR 385.17(c).

Neil Eisner,

Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation.

[FR Doc. 05–21078 Filed 10–20–05; 8:45 am]

BILLING CODE 4910–62–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 158

[OPP–2005–0415; FRL–7734–2]

RIN 2070–AD51

Pesticides; Data Requirements for Biochemical and Microbial Pesticides; Notification to the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: This document notifies the public that the Administrator of EPA has forwarded to the Secretary of Agriculture a draft proposed rule as required by section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). As described in the Agency's semi-annual Regulatory Agenda, the draft proposed rule updates and revises data requirements for the registration of microbial and biochemical pesticide products to reflect current scientific knowledge and understanding. These data requirements and those already codified in part 158 of title 40 of the Code of Federal Regulations (CFR), are intended to provide EPA with data and other information necessary for the registration of biochemical and microbial pesticide products.

ADDRESSES: EPA has established a docket for this action under Docket identification (ID) number OPP–2005–0415. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Candace Brassard, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460–0001; telephone number: 703–305–6598; e-mail address: *brassard.candace@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. It simply announces the submission of a draft proposed rule to USDA and does not otherwise affect any specific entities. This action may, however, be of particular interest to producers or registrants of a biochemical or microbial pesticide product. This proposal also may affect

any person or company who might petition the Agency for new tolerances for biochemical or microbial pesticides, or hold a pesticide registration with existing tolerances, or any person or company who is interested in obtaining or retaining a tolerance in the absence of a registration, that is, an import tolerance for biochemical or microbial pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of This Document and Other Related Information?

In addition to using EDOCKET (*http://www.epa.gov/edocket/*), you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at E–CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

II. What Action Is EPA Taking?

Section 25(a)(2) of FIFRA requires the Administrator to provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days before signing it for publication in the **Federal Register.** The draft proposed rule is not available to the public until after it has been signed by EPA. If the Secretary comments in writing regarding the draft proposed rule within 30 days after receiving it, the Administrator shall include the comments of the Secretary and the Administrator's response to those comments in the proposed rule when published in the **Federal Register.** If the Secretary does not comment in writing within 30 days after receiving the draft proposed rule, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30-day period.

III. Do Any Statutory and Executive Order Reviews Apply to This Notification?

No. This document is not a proposed rule, it is merely a notification of submission to the Secretary of Agriculture. As such none of the regulatory assessment requirements apply to this document.

IV. Will This Notification Be Subject to the Congressional Review Act?

No. This action is not a rule for purposes of the Congressional Review Act (CRA), 5 U.S.C. 804(3), and will not be submitted to Congress and the Comptroller General. EPA will submit the final rule to Congress and the Comptroller General as required by the CRA.

List of Subjects in 40 Part 158

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 13, 2005.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. 05–21093 Filed 10–20–05; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register

Vol. 70, No. 203

Friday, October 21, 2005

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 17, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Egg, Chicken, and Turkey Surveys.

OMB Control Number: 0535–0004.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. Thousands of farmers, ranchers, agribusinesses and others voluntarily respond to nationwide surveys about crops, livestock, prices, and other agricultural activities. Estimates of egg, chicken, and turkey production are in an integral part of this program. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204. This statue specifies the ''The Secretary of Agriculture shall procure and preserve all information concerning agriculture which she can obtain * * * by the collection of statistics * * * and shall distribute them among agriculturists''. Information published from the surveys in this docket is needed by USDA economists and government policy makers to ensure the orderly marketing of broilers, turkeys and eggs.

Need and Use of the Information: Statistics on these poultry products contribute to a comprehensive program of keeping the government and poultry industry abreast of anticipated changes. All of the poultry reports are used by producers, processors, feed dealers, and others in the marketing and supply channels as a basis for their production and marketing decisions.

Description of Respondents: Farms; Business or other for profit.

Number of Respondents: 3,714.

Frequency of Responses: Reporting: Weekly; Monthly; Annually.

Total Burden Hours: 4,013.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–21080 Filed 10–20–05; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ochoco and Deschutes National Forests; OR; Invasive Plant Treatment Project.

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: On February 23, 2004 the original Notice of Intent to prepare an Environmental Impact Statement to ''* * * document and disclose the potential environmental effets of proposed invasive plant treatment activities on the Ochoco and Deshutes National Forests.'' appear in the **Federal Register**. The original Notice Intent appeared in **Federal Register** Volume 69, No. 35/February 23, 2004 on page 8174. Due to the extensive length of time between that publication in the **Federal Register** and the initiation of the analysis for this project, a Revised Notice of Intent is being published. Comments need not be re-submitted if they were submitted in 2004 for this proposed action.

The USDA Forest Service will prepare an Environmental Impact Statement (EIS) to document and disclose the potential environmental effects of proposed invasive plant treatment activities on the Deschutes National Forest, Ochoco National Forest and the Crooked River National Grassland. This project evaluates site-specific treatments of invasive plants; including manual, mechanical, cultural, biological and herbicide treatment methods as well as the use of prescribed fire. Forest Plan direction, including amendments identified in the Pacific Northwest Region Invasive Plant Program Environmental Imact Statement, will be incorporated into all alternatives, including the Proposed Action.

DATES: A Draft EIS is expected to be available in January, 2005, and the final EIS in April, 2006.

ADDRESSES: Submit written comments (i.e., letter or fax) to Lorri Health, Invasive Plant EIS Team Leader, Deschutes National Forest, SW., 1001 Emkay Drive, Bend, OR. Fax number is 541–383–5531. Submit email comments to: *comments-pacificnorthwest-deschutes@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: If you have questions or need more information about this project, contact Lorri Heath, Invasive Plant EIS Team Leader, Deschutes National Forest, 1001 SW Emkay Drive, Bend, OR 97702 (541–383–5738). Maps of the proposed treatment sites are available at the Deschutes NF Supervisor Office, Ochoco NF Supervisor Office, Bend/Ft. Rock Ranger District Office, Crescent Ranger District Office, Sisters Ranger District Office, Lookout Mountain Ranger District Office, Paulina Ranger District Office and the Crooked River National Grassland Office, Location and contact information for these offices can be obtained from Lorri Heath, Invasive Plant EIS Team Leader, Deschutes National Forest, 1001 SW., Emkay Drive, Bend, OR 97702 (541–383–5738).

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

Approximately 60,000 acres of the total 3 million acres of forest and grasslands on the Ochoco National Forest, Deschutes National Forests and Crooked River National Grassland are degraded by infestations of invasive, non-native plants. These infestations have been identified on approximately 2,000 individual locations or sites. These infestations have a high potential to expand and further degrade forests and grasslands. Infested areas represent potential seed sources for further invasion onto neighboring lands.

Invasive plants create a host of adverse environmental effects which are harmful to native ecosystem processes. Examples of these effects include: Displacement of native plants; reduction in functionality of habitat and forage for wildlife and livestock; loss of threatened, endangered, and sensitive species; increased soil erosion and reduced water quality; alteration of physical and biological properties of soil, including reduced soil productivity; changes to the intensity and frequently of wildfires; budget impacts that limit or reduce land management opportunities due to high costs or dollars spent for controlling invasive plants; and loss of recreational opportunities. Without action, invasive plant populations will continue to grow; compromising our ability to manage for healthy functioning ecosystems.

Proposed Action

The USDA Forest Service; Deschutes National Forest, Ochoco National Forest, and Crooked River National Grassland propose to treat areas currently identified with invasive plant infestations and to provide timely treatments for expanded and newly identified invasive plant sites. Treatments, depending upon the species of invasive plants and site characteristics, would include the use of prescribed fire; manual, and mechanical, cultural, chemical and biological control methods. The proposed treatments would enhance our ability to protect native ecosystems from invasive, non-native plants. Some of the infested areas are small in size, while others are extensive.

Invasive plant treatments are proposed on approximately 12,000 acres that are known to be infested by invasive plants. The Proposed Action will also analyze treatments for the likely expansion of these existing sites, and for new (unidentified) invasive plant sites in areas most susceptible to new introductions.

Treatment methods are based upon information such as the biology of a particular invasive plant species, invasive plant site location, site type, and size of the infestation. Long-term site goals would be established for infested areas. Site goals are based upon treatment options, monitoring and revegetation potential. Prescriptions are based upon Integrated Pest Management principles. Integrated Pest Management (IPM) is a process by which one selects and applies a combination of management techniques (Example: Prevention then manual or mechanical treatments, followed by biological treatments) that, together, control a particular invasive plant species or infestation efficiently and effectively. IPM seeks to combine two or more management techniques which interact to provide better control than any one of the actions might provide along. It is typically species-specific, site-specific and designed to be practical; with minimum risk to non-target species or the surrounding environment, including wildlife species and human health.

Invasive plant treatments are proposed on approximately 12,000 acres that are known to be infested by invasive plants. The Proposed Action will also analyze treatments for the likely expansion of these existing sites, and for new (unidentified) invasive plant sites in areas most susceptible to new introductions. In addition to the known 12,000 acres of invasive plants, an estimated additional 960 acres (based on 8% rate of spread) of expanded and new sites will be treated per year for the life of this plan. Actual annual treatment acres associated with these future sites would likely vary because of variations in invasive plant spread and occurrence of new invasive plant introductions. Actual annual treatment will likely decline over the life of this plan because of the effectiveness of these treatment actions.

Based upon currently known sites with weed infestations, the Proposed Action includes approximately 100 acres of biological control treatment, approximately 500 acres of herbicide only treatment, approximately 6,000 acres of herbicides plus manual treatments, approximately 1,000 acres of manual only treatment, approximately 500 acres of cultural plus herbicide treatments, approximately 700 acres of manual plus mechanical treatments, approximately 100 acres of mechanical plus herbicide treatments and approximately 2,500 acres of prescribed fire treatments.

Proposed Scoping

Public participation is an important part of this analysis. The Forest Service is seeking information, comments, and assistance from Federal, State and local agencies; Native American Tribes; and other individuals or organizations who may be interested in or affected by the proposed action. Comments submitted during the scoping process should be in writing. They should be specified to the action being proposed and should describe as clearly and completely as possible any issues that commenter has with the proposal. This input will be used in preparation of the Draft EIS.

In addition to inviting public comments, the public may visit Forest Service officials familiar with this project, at any time during the analysis and prior to the decision. To facilitate public participation, additional opportunities may include: a scoping letter, public meetings and/or field trips. Dates of meetings and field trips are yet to be determined.

Comments

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful, and alerts any agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519.553 (1978)). Also, environmental objectives that could be raised at the draft EIS stage but that are not raised until after the completion of the final EIS may be waived or dismissed by the courts (*City of Angoon* v. *Hodel*, 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritage, Inc.* v. *Harris,* 490 F. Supp. 1334 (E.D.Wis. 1980)). Because of these court rulings, it is very important that

those interested in this proposed action participate by the close of the 45-day comment period, so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if the comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or merits of alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provision of the National Environmental Policy Act (40 CFR 1503.3) in addressing these points.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments may not have standing to appeal the subsequent decision under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be award that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

Comments on the draft EIS will be analyzed, considered, and responded to by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed in April 2006. There will be two responsible officials for this multi-Forest EIS. Duties of the Responsible Official will be shared between Leslie Weldon, Forest Supervisor of the Deschutes National Forest, and Larry Timchak, Forest Supervisor of the Ochoco National Forest. They will consider comments, responses, and environmental consequences discussed in the final EIS, and applicable laws, regulations, and policies in making a decision regarding this proposed action. The responsible officials will document the decision and rationale for the decision in the Record of Decision. It will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: September 26, 2005.

Leslie Weldon,

Supervisor, Deschutes National Forest.

Dated: September 27, 2005.

K.J. Silverman,

Acting Supervisor, Ochoco National Forest & Crooked River National Grasslands.

[FR Doc. 05–20672 Filed 10–20–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Availability of an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of an Environmental Assessment for public review.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) proposes to prepare an Environmental Assessment related to possible financial assistance to Georgia Transmission Corporation (GTC) for the construction of approximately 4.4 miles of 230 kilovolt transmission line, a 230/25 kilovolt transmission substation, and a 230 kilovolt switching station. The proposed 230-kilovolt transmission line and substation projects would be located in Gwinnett County, Georgia. GTC is requesting RUS provide financing for the proposed project.

A less than 0.1 acre portion of the project will be located in a wetland. Alternatives, including no action, were considered; however, no practicable alternatives were identified that would avoid having an impact on the wetland. Comments or suggestions for mitigating impacts to the wetland are welcome.

DATES: Written comments on this Notice must be received on or before November 21, 2005.

ADDRESSES: Written comments may be sent to: Stephanie Strength, Environmental Protection Specialist, USDA, Rural Development, Utilities Programs, Engineering and Environmental Staff, 1400 Independence Avenue, SW., Stop 1571, Washington, DC 20250–1571. Telephone: (202) 720–0468 or e-mail *stephanie.strength@wdc.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Stephanie Strength, Environmental Protection Specialist, USDA, Rural Development, Utilities Programs, Engineering and Environmental Staff, 1400 Independence Avenue, SW., Stop 1571, Washington, DC 20250–1571. Telephone: (202) 720–0468 or e-mail *stephanie.strength@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: Georgia Transmission Corporation proposes to construct a 230 kilovolt transmission line between the Jim Moore Substation (located on Auburn Road (SR324), 3.2 miles north of Dacula, Georgia, and 14.3 miles northwest of Auburn, Georgia) to the Old Freeman Mill Road Switching Station (located 2 miles northeast of Dacula, Georgia and 0.2 miles south of State Highway 29 (Winder Highway) on Old Freemans Mill Road. The transmission line connects the Old Freeman Mill switching station in-line with the existing Lawrenceville-Winder Primary 230 kilovolt Transmission Line to the proposed Jim Moore Road 230/25 kilovolt transmission substation. Concrete or steel poles ranging in height from 85 to 115-feet would support the conductors and would require a right-of-way of 25 to 100 feet. The approximate length of the transmission line is 4.4 miles. It is anticipated that the transmission line and substations would be in service by the summer of 2006.

Alternatives considered by RUS and Georgia Transmission Corporation include: (a) No action, (b) alternative transmission improvements, and (c) alternative transmission line corridors. An environmental report, which describes the project further and discusses anticipated environmental impacts thereof has been prepared by Georgia Transmission Corporation.

The Rural Utilities Service (RUS) has accepted the ER as its environmental assessment (EA) of the project and is available for public review. The Report is available for public review at RUS at the address provided in this notice, or at the Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30084.

Questions and comments should be sent to RUS at the address provided. RUS should receive comments on the EA in writing by November 21, 2005 to ensure that they are considered in the environmental impact determination.

Should RUS determine, based on the Environmental Assessment of the project, that the impacts of the construction and operation of the transmission projects would not have a significant environmental impact, it will prepare a Finding of No Significant Impact. Public notification of a Finding

of No Significant Impact would be published in the **Federal Register** and in newspapers with a circulation in the project area.

Any final action by RUS related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal, State and local environmental laws and regulations and completion of the environmental review requirements as prescribed in the RUS Environmental Policies and Procedures (7 CFR part 1794).

Dated: October 17, 2005.

Glendon D. Deal,

Director, Engineering and Environmental Staff, USDA/Rural Development/Utilities Programs.

[FR Doc. 05–21083 Filed 10–20–05; 8:45 am]

BILLING CODE 3410–15–P

ANTITRUST MODERNIZATION COMMISSION

Notice of Public Hearings

AGENCY: Antitrust Modernization Commission.

ACTION: Notice of public hearings.

SUMMARY: The Antitrust Modernization Commission will hold public hearings on November 8 and November 17, 2005. The topics of the hearings are Antitrust and the New Economy, and Merger Enforcement.

DATES: November 8, 2005, 9:30 to 11:30 a.m. and 12:45 to 2:45 p.m. November 17, 2005, 9:30 to 11:30 a.m. and 12:45 p.m. to 5 p.m. Interested members of the public may attend. Registration is not required.

ADDRESSES: Federal Trade Commission, Conference Center, 601 New Jersey Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew J. Heimert, Executive Director & General Counsel, Antitrust Modernization Commission: telephone: (202) 233–0701; e-mail: *info@amc.gov.* Mr. Heimert is also the Designated Federal Officer (DFO) for the Antitrust Modernization Commission.

SUPPLEMENTARY INFORMATION: The purpose of these hearings is for the Antitrust Modernization Commission to take testimony and receive evidence regarding Antitrust and the New Economy, and Merger Enforcement. The hearing on Antitrust and the New Economy will consist of two panels, and will be held on November 8, 2005. The first panel will begin at 9:30 a.m. and conclude at 11:30 a.m. The second panel will begin at 12:45 p.m. and conclude at 2:45 p.m. The hearing on Merger Enforcement will consist of three panels, and will be held on November 17, 2005. The first panel will begin at 9:30 a.m. and conclude at 11:30 a.m. The second panel will begin at 12:45 p.m. and conclude at 2:45 p.m. The third panel will begin at 3 p.m. and conclude at 5 p.m. Materials relating to the hearings, including lists of witnesses and the prepared statements of the witnesses, will be made available on the Commission's Web site (*www.amc.gov*) in advance of the hearings.

Interested members of the public may submit written testimony on the subject of the hearing in the form of comments, pursuant to the Commission's request for comments. See 70 FR 28902 (May 19, 2005). Members of the public will not be provided with an opportunity to make oral remarks at the hearings.

The AMC is holding this hearing pursuant to its authorizing statute. Antitrust Modernization Commission Act of 2002, Pub. L. 107–273, § 11057(a), 116 Stat. 1758, 1858.

Dated: October 17, 2005.

By direction of the Antitrust Modernization Commission.

Andrew J. Heimert,

Executive Director & General Counsel, Antitrust Modernization Commission.

[FR Doc. 05–21058 Filed 10–20–05; 8:45am]

BILLING CODE 6820–YH–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletion

AGENCY: Committee for Purchase From People Who are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List products to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a product previously furnished by such agencies.

EFFECTIVE DATE: November 20, 2005.

ADDRESSES: Committee for Purchase From People Who are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On August 19, and August 26, 2005, the Committee for Purchase From People Who are Blind or Severely Disabled published notice (70 FR 48667, and 50299) of proposed additions to the Procurement List.

The following comments pertain to Stamp 2000 Plus and Accustamp 7520–00–419–5949 & 7529–01–324–6955:

Comments were received from 21 persons in support of the nonprofit agency, urging addition of these products to the Procurement List, as they consider the addition to be critical to the nonprofit agency's plan to expand services for people with disabilities. The Committee agrees with these commenters that this addition will create jobs for such people.

Comments were also received from one of the current contractors for these stamps. The commenter claimed that the stamps the nonprofit agency will be providing under the Committee's program are made in China, as opposed to the stamps the commenter assembles in the U.S. from components made in Japan and China, and that the Committee should not permit its program to displace U.S. products with Chinese products. The commenter claimed that it has been a Government supplier of the stamps for over 30 years, and has become reliant on these sales, which constitute a small minority of its total sales. The same contractor claimed the nonprofit agency's stamps are inferior to its own. The commenter asked the Committee to consider whether it could create more jobs by having workers with disabilities package the commenter's stamps rather than those it intends to produce.

Contrary to the commenter's claims, the nonprofit agency will be using its employees with severe disabilities to assemble and package the stamps in the U.S. from components made in Austria, which is a designated country under the Trade Agreements Act, 19 U.S.C. 2501 *et seq.* Like the workers they may displace, the persons with severe disabilities who will produce the stamps are U.S. workers, but with an unemployment rate which is well above other groups, so the Committee believes that creating jobs for them, which is the mission of the Committee's program, is justified in this situation.

The commenter, which claimed a long-term reliance on Government sales of these stamps, failed to provide the Committee with total sales data which would enable the Committee to assess the severity of impact of this Procurement List addition, despite being cautioned that the Committee

would interpret a failure to provide data as an indication that the contractor did not consider the impact severe. As for the commenter's claim that the nonprofit agency's stamps are inferior, the nonprofit agency has shown the Committee that its stamps meet Government specifications. At this time, it is not feasible for the Committee to require the nonprofit agency to replace its stamp component supplier, as the commenter suggests.

The following comments pertain to Stamp Pad Ink and Accustamp (Applies to all other identified stamp NSNs not listed above:

Comments were received from 21 persons in support of the nonprofit agency, urging addition of these products to the Procurement List, as they consider the addition to be critical to the nonprofit agency's plan to expand services for people with disabilities. The Committee agrees with these commenters that this addition will create jobs for such people.

Comments were also received from a stamp manufacturer. The commenter claimed that the stamps the nonprofit agency will be providing under the Committee's program are made in China, as opposed to the stamps the commenter assembles in the U.S. from components made in Japan and China, and that the Committee should not permit its program to displace U.S. products with Chinese products. The commenter claimed that it has been a Government supplier of the stamps for over 30 years, and has become reliant on these sales, which constitute a small minority of its total sales. The same contractor claimed the nonprofit agency's stamps are inferior to its own. The commenter asked the Committee to consider whether it could create more jobs by having workers with disabilities package the commenter's stamps rather than those it intends to produce.

Contrary to the commenter's claims, the nonprofit agency will be using its employees with severe disabilities to assemble and package the stamps in the U.S. from components made in Austria, which is a designated country under the Trade Agreements Act, 19 U.S.C. 2501 *et seq*. Like the workers they may displace, the persons with severe disabilities who will produce the stamps are U.S. workers, but with an unemployment rate which is well above other groups, so the Committee believes that creating jobs for them, which is the mission of the Committee's program, is justified in this situation.

The commenter, which claimed a long-term reliance on Government sales of these stamps, failed to provide the Committee with total sales data which would enable the Committee to assess the severity of impact of this Procurement List addition, despite being cautioned that the Committee would interpret a failure to provide data as an indication that the contractor did not consider the impact severe. As for the commenter's claim that the nonprofit agency's stamps are inferior, the nonprofit agency has shown the Committee that its stamps meet Government specifications. At this time, it is not feasible for the Committee to require the nonprofit agency to replace its stamp component supplier, as the commenter suggests.

The following material pertains to all of the items being added to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

Product/NSN: Accustamp (For GSA Global Supply ONLY).
NSN: 7520–01–207–4108—COPY—Red.
NSN: 7520–01–207–4116—DRAFT—Red.
NSN: 7520–01–207–4226—RECEIVED—Blue.
NSN: 7520–01–207–4119—SECRET—Red.
NSN: 7520–00–264–3718—Rubber Stamp Printing Set.
NSN: 7520–01–207–4111—COMPLETED—Red.
NSN: 7520–01–324–6955—COMPLETED—Blue.
NSN: 7520–01–419–5949—CONFIDENTIAL—Red.
Product/NSN: Custom Stamp (For GSA Global Supply ONLY).
NSN: 7510–00–386–2444—Custom Stamps.
Product/NSN: Stamp 2000 Plus (For GSA Global Supply ONLY).
NSN: 7520–01–352–3019—Black.
NSN: 7520–01–352–3018—Red.
Product/NSN: Stamp Pad Ink (For GSA Global Supply ONLY).
NSN: 7510–00–782–6257—Black 8 oz.
NSN: 7510–00–161–4240—Red 2 oz/roll-on.
NSN: 7510–01–316–7516—Black 2 oz/roll-on.
NSN: 7510–00–161–4237—Black 2 oz/roll-on.
NPA: The Arbor School, Houston, Texas.
Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, NY.
Product/NSN: Shirt, Woman's, Short Sleeve, Tuck-in.
NSN: 8410–01–414–6979—4 Regular.
NSN: 8410–01–414–6980—6 Regular.
NSN: 8410–01–414–6981—8 Regular.
NSN: 8410–01–414–7023—10 Regular.
NSN: 8410–01–414–7105—12 Regular.
NSN: 8410–01–414–7113—14 Regular.
NSN: 8410–01–414–7116—16 Regular.
NSN: 8410–01–414–7118—18 Regular.
NSN: 8410–01–414–7120—20 Regular.
NSN: 8410–01–414–7186—22 Regular.
NSN: 8410–01–414–7232—24 Regular.
NSN: 8410–01–414–7233—26 Regular.
NPA: Middle Georgia Diversified Industries, Inc., Dublin, Georgia.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, Pennsylvania.

Deletion

On August 26, 2005, the Committee for Purchase From People Who are Blind or Severely Disabled published notice (70 FR 50299) of proposed deletion to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the product listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-

O'Day Act (41 U.S.C. 46–48c) in connection with the product deleted from the Procurement List.

End of Certification

Accordingly, the following product is deleted from the Procurement List:

Product

Product/NSN: Pencil, Mechanical.
NSN: 7520–00–724–5606—Pencil, Mechanical.
NPA: San Antonio Lighthouse, San Antonio, Texas.
Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, NY.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–5799 Filed 10–20–05; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

Comments Must be Received on or Before: November 20, 2005.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions: If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: Folder, File, Hanging (GSA Global Supply ONLY)
NSN: 7530–01–316–1639—Letter size folders 1/5-cut tabs, assorted colors
NPA: L.C. Industries For The Blind, Inc., Durham, North Carolina
Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, NY

Product/NSN: Pad, Writing Paper (Repositionable) Neon Colors (GSA Global Supply ONLY)
NSN: 7530–01–393–0103—2″ x 3″ Assorted Neon Colors (Unruled)
NSN: 7530–01–286–5121—3″ x 4″ Yellow Color (Unruled)
NPA: Association for the Blind & Visually Impaired & Goodwill Industries of Greater Rochester, Rochester, New York.
Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, NY

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for deletion from the Procurement List.

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

Product/NSN: Brush, Wire, Scratch
NSN: 7920–00–246–8501—Brush, Wire, Scratch
NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, Texas

Product/NSN: Carpet Concentrate
NSN: 7930–00–NIB–0341—H2Orange2 Crystal Carpet Concentrate
Product/NSN: Cleaner/Degreaser
NSN: 7930–00–NIB–0326—H2Orange2 Concentrate 117 Cleaner/Degreaser
Product/NSN: Grout Safe
NSN: 7930–00–NIB–0327—H2Orange2 Grout Safe
Product/NSN: Mineral Shock Cleaner
NSN: 7930–00–NIB–0353—H2Orange2 Mineral Shock Cleaner
Product/NSN: Spot Remover
NSN: 7930–00–NIB–0342—H2Orange2 Quick Spot Crystal Carpet Spot Remover
Product/NSN: Ultimate Cleaner/Degreaser
NSN: 7930–00–NIB–0163—H2Orange2 Ultimate Cleaner/Degreaser
NPA: Blind Industries & Services of Maryland, Baltimore, Maryland
Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, NY.

Product/NSN: Cloth, High Performance
NSN: 7920–01–482–6037—Cloth, High Performance
NSN: 7920–00–NIB–0397—Cloth, High Performance
NPA: L.C. Industries For The Blind, Inc., Durham, North Carolina
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, Texas

Product/NSN: Label, Pressure-Sensitive Adhesive
NSN: 7530–00–007–2165—Label, Pressure-Sensitive Adhesive
NPA: North Central Sight Services, Inc., Williamsport, Pennsylvania
Contracting Activity: Office Supplies & Paper Products Acquisition Center, New York, NY.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E5–5800 Filed 10–20–05; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: Commission on Civil Rights.

DATE AND TIME: Monday, October 31, 2005, 2 p.m.

PLACE: U.S. Commission on Civil Rights, 624 9th Street, NW., Washington, DC 20425, Via Teleconference, Public Call-In number: 1–800–377–4872, Access Code Number: 45318301, Federal Relay Service: 1–800–877–8339.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of October 7, 2005, Meeting
III. State Advisory Committees Issues
• Working Group on SAC Reform
IV. Future Agenda Items

FOR FURTHER INFORMATION CONTACT: Terri Dickerson, Press and Communications (202) 376–8582.

Kenneth L Marcus,

Staff Director, Acting General Counsel.

[FR Doc. 05–21236 Filed 10–19–05; 3:22 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NMFS Alaska Region Observer Providers.

Form Number(s): None.

OMB Approval Number: 0648–0318.

Type of Request: Regular submission.

Burden Hours: 1,959.

Number of Respondents: 205.

Average Hours Per Response: 30 minutes for industry request for assistance in improving observer data quality issues; 60 hr for new permit application for observer provider; 15 minutes for update to provider information; 15 minutes for observer candidates college transcripts and disclosure statements, observer candidate; 15 minutes for observer candidates college transcripts and disclosure statements, observer provider; 5 minutes for notification of observer physical examination, observer provider; 2 hours for observer physical examination; 7 minutes for projected observer assignment; 7 minutes for briefing registration; 12 minutes for certificate of insurance; 15 minutes for copies of contracts; 7 minutes for weekly deployment/logistics reports; 7 minutes for debriefing registration; 2 hours for reports of problems; 40 hours for observer provider permit expiration or denial of permit appeals; and 20 hours for appeals for denial of observer certification, certification suspension, or decertification.

Needs and Uses: NMFS North Pacific Groundfish Observer Program was implemented in early 1990. Observers in this Program collect and disseminate catch, bycatch, and biological data necessary to support in-season monitoring and stock assessment. Alaska Fisheries Science Center in Seattle, Washington, provides the operational oversight of the program, certification training, definition of observer sampling duties and methods, debriefing of observers, and management of the data. Owners of vessels, shoreside processors, or stationary floating processors required to carry observers must arrange for observer services from an observer provider. A list of observer providers is available at *http://www.afsc.noaa.gov/refm/observers/observer_providers.htm.*

The name of this collection is changed from ''Observer Providers of the North Pacific'' to read ''NMFS Alaska Region Observer Providers.''

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: October 17, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–21085 Filed 10–20–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Knowledge, Attitudes, and Perceptions of Management Strategies and Regulations in the Florida Keys National Marine Sanctuary.

Form Number(s): None.

OMB Approval Number: None.

Type of Request: Regular submission.

Burden Hours: 490.

Number of Respondents: 245.

Average Hours Per Response: 2.

Needs and Uses: This is a ten-year replication of the Knowledge, Attitudes, and Perceptions of the management strategies and regulations of the Florida Keys National Marine Sanctuary (FKNMS) for three user groups; commercial fishermen, dive shop owners/operators, and members of local environmental groups. The original study was done in 1995–96 and was adopted as providing baselines for the Socioeconomic Research and Monitoring Program for the FKNMS. Since 1995–96 much has happened, so the study will also provide new baselines for new management strategies and regulations. The most important management strategies and regulations assessed in both the baseline and replication are those related to the special zones created in the FKNMS, especially the no-take areas. The information is important to support the ''adaptive management'' process in the FKNMS and to support education and outreach efforts.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: One time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: October 17, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–21086 Filed 10–20–05; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Processing Equipment Technical Advisory Committee; Notice of Open Meeting

The Materials Processing Equipment Technical Advisory Committee (MPETAC) will meet on November 3, 2005 at 9 a.m. in Room 3884 of the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

1. Opening Remarks and Introductions.
2. Presentation of Papers and Comments by the Public.
3. Report on September Wassenaar Experts Meeting.
4. Report on proposed changes to the Export Administration Regulation.
5. Comments on Machine Tool Export.
6. Other Business.

The meeting will be open to the public and a limited number of seats will be available. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to Yvette Springer at *Yspringer@bis.doc.gov.*

For more information, please contact Ms. Springer at 202–482–4814.

Dated: October 14, 2005.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 05–21065 Filed 10–20–05; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

A–427–801, A–559–801, A 412–801, A–588–804

Antifriction Bearings and Parts Thereof from France, Singapore, the United Kingdom, and Japan: Notice of Rescission and Partial Rescission of Antidumping Duty Administrative Reviews

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

SUMMARY: On June 30, 2005, the Department of Commerce published a notice of initiation of antidumping and countervailing duty administrative reviews. The notice covered ball bearings and spherical plain bearings (SPBs) and parts thereof from France, Singapore, the United Kingdom, and Japan for the period May 1, 2004, through April 30, 2005. The Department is now rescinding the review of the orders on SPBs from France and ball bearings from Singapore and partially rescinding the review of the orders on ball bearings from the United Kingdom and Japan.

EFFECTIVE DATE: October 21, 2005.

FOR FURTHER INFORMATION CONTACT: Lyn Johnson at (202) 482–5287 or Richard Rimlinger at (202) 482–4477, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S., Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department published in the **Federal Register** the antidumping duty orders on ball bearings and SPBs and parts thereof from France (54 FR 20902), ball bearings and parts thereof from Singapore (54 FR 20907), ball bearings and parts thereof from the United Kingdom (54 FR 20910), and ball bearings and parts thereof from Japan (54 FR 20904). On May 2, 2005, the Department published a notice of opportunity to request a review of these orders for the period May 1, 2004, through April 30, 2005. See *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 70 FR 22631 (May 2, 2005). On May 25, 2005, NSK Europe, Ltd., NSK Bearings Europe Ltd. and NSK Corporation (collectively, NSK), requested an administrative review of its exports of ball bearings from the United Kingdom. On May 26, 2005, Asahi Seiko Co., Ltd. (Asahi), requested an administrative review of its exports of ball bearings from Japan. On May 27, 2005, NMB Singapore Ltd., Pelmec Industries (Pte.) Ltd. and NMB Technologies Corporation (collectively, NMB/Pelmec), requested an administrative review of their exports of ball bearings from Singapore. On May 31, 2005, SKF USA Inc., a domestic producer and importer of the subject merchandise and SKF France S.A. and Sarma, producers and exporters of the subject merchandise (collectively, SKF), requested an administrative review of SKF's exports of ball bearings and SPBs from France. Accordingly, the Department published a notice of initiation of these antidumping duty administrative reviews on June 30, 2005, in accordance with section 751(a) of the Tariff Act of 1930 as amended (the Act). See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 37749 (June 30, 2005).

NSK submitted a letter to the Department on July 27, 2005, withdrawing its request for a review of its exports of ball bearings from the United Kingdom. NMB/Pelmec submitted a letter to the Department on September 23, 2005, withdrawing its request for a review of its exports of ball bearings from Singapore. Asahi submitted a letter to the Department on September 26, 2005, withdrawing its request for a review of its exports of ball bearings from Japan. Finally, SKF submitted a letter to the Department on August 22, 2005, withdrawing its request for a review of its exports of SPBs from France.

Rescission of Administrative Reviews

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party withdraws its request for a review within 90 days of the date of publication of the notice of initiation of the requested review. NSK, NMB/Pelmec, Asahi, and SKF withdrew their requests for review within 90 days of the date the initiation notice was published and no other party requested a review of these companies. There were no other requests for review of the orders on SPBs from France and ball bearings from Singapore. Therefore, pursuant to 19 CFR 351.213(d)(1), the Department is rescinding the reviews of the orders on SPBs from France and ball bearings from Singapore for the period May 1, 2004, through May 30, 2005. Because there are still ongoing reviews of the orders on ball bearings from the United Kingdom and ball bearings from Japan, the Department is rescinding

these reviews in part. Pursuant to 19 CFR 351.213(d)(1), the Department is rescinding the reviews of the order on ball bearings from the United Kingdom which were produced or exported by NSK and the order on ball bearings from Japan which were produced or exported by Asahi during the period May 1, 2004, through May 30, 2005.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of these proceedings. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is published in accordance with section 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: October 17, 2005.

Gary Taverman,

Acting Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E5–5829 Filed 10–20–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A–559–801, A–412–801]

Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Ball Bearings and Parts Thereof from Japan

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

SUMMARY: On September 16, 2005, the Department of Commerce published in the **Federal Register** the final results of the administrative reviews of the antidumping duty orders on ball bearings and parts thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom. The period of review is May 1, 2003, through April 30, 2004. Based on the correction of certain ministerial errors, we have changed the margins for Nippon Pillow Block Co., Ltd., and NSK Ltd. for the administrative review of ball bearings and parts thereof from Japan.

EFFECTIVE DATE: October 21, 2005.

FOR FURTHER INFORMATION CONTACT: Dunyako Ahmadu, Fred Aziz, Jeff Frank, or Thomas Schauer, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On September 16, 2005, the Department of Commerce (the Department) published in the **Federal Register** the final results of the administrative reviews of the antidumping duty orders on ball bearings and parts thereof (ball bearings) from France, Germany, Italy, Japan, Singapore, and the United Kingdom (70 FR 54711) (*Final Results*).

We received timely allegations of ministerial errors from Nippon Pillow Block Co., Ltd., (NPB), NSK Ltd. (NSK), NTN Corporation (NTN), and Nankai Seiko Co. Ltd. (SMT). In its comments dated September 16, 2005, NSK alleged that the Department erred in that it inadvertently assigned the incorrect level of trade for certain home–market sales. We agree with the alleged error and have amended the final results to correct the error.

In its comments dated September 19, 2005, NPB alleged that the Department erred in that it inadvertently used the incorrect code to designate housed bearings sold in the United States. We agree with the alleged error and have amended the final results to correct the error.

In its comments dated September 19, 2005, NTN alleged that the Department should correct the draft liquidation instructions it prepared for NTN to reflect the correct importer of record. Although we agree with the alleged error and have corrected the draft liquidation instructions accordingly, this error does not affect our calculation of NTN's margin.

In its comments dated September 19, 2005, SMT alleged that the Department made a ministerial error by treating contemporaneity as a more important tie–breaker than the difference–in-merchandise adjustment. We do not agree that we made an error. Furthermore, SMT's comments of an alleged error were not ministerial in nature as defined by 19 CFR § 351.225(f). Therefore, we have not changed our calculation of SMT's margin. For a complete discussion of our response to SMT's allegation, please see the memorandum to Laurie Parkhill dated October 14, 2005.

Amended Final Results of Review

As a result of the correction of clerical errors, the following weighted–average margins exist for exports of ball bearings by NPB and NSK for the period May 1, 2003, through April 30, 2004:

Company	Margin (percent)
NPB	23.57
NSK Ltd.	8.25

The Department will determine, and the U.S. Bureau of Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. We will issue appropriate assessment instructions directly to CBP within 15 days of publication of these amended final results of review. Where the importer-/customer–specific assessment rate or amount is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer or for that customer.

We will also direct CBP to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the *Final Results* and at the rates as amended by this notice. The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date these amended final results are published in the **Federal Register**.

We are issuing and publishing these determinations and notice in accordance with sections 751(a)(1) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR § 351.224(e).

Dated: October 14, 2005.

Joseph A. Spetrini,

Acting Assistant Secretaryfor Import Administration.

[FR Doc. E5–5821 Filed 10–20–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–850]

Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan: Notice of Rescission of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: October 21, 2005.

SUMMARY: On July 15, 2005, the Department of Commerce (the

Department) published in the **Federal Register** a notice announcing the initiation of an administrative review of the antidumping duty order on certain large diameter carbon and alloy seamless standard, line, and pressure pipe from Japan, covering the period June 1, 2004, through May 31, 2005. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part* 70 FR 42028 (July 15, 2005) (*Initiation Notice*). The review was requested by United States Steel Corporation (the petitioner). We are now rescinding this review as a result of the petitioner's withdrawal of its request for an administrative review.

FOR FURTHER INFORMATION CONTACT: Constance Handley or David Layton, at (202) 482–0631 or (202) 482–0371, respectively, AD/CVD Operations Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 19 CFR 351.213(b), on June 30, 2005, the petitioner requested an administrative review of the antidumping duty order for JFE Steel Corporation, Nippon Steel Corporation, NKK Tubes, and Sumitomo Metal Industries, Ltd. on certain large diameter carbon and alloy seamless standard, line, and pressure pipe from Japan. None of the respondents requested a review. On July 15, 2005, in accordance with 19 CFR 351.221(c)(1)(i), we published the initiation of an administrative review of this order for the period June 1, 2004, through May 31, 2005. *See Initiation Notice*. On September 20, 2005, the petitioner timely withdrew its request for an administrative review of certain large diameter carbon and alloy seamless standard, line, and pressure pipe from Japan.

Rescission of Review

The Department's regulations at 351.213(d)(1) provide that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws its request at a later date if the Department determines that it is reasonable to extend the time limit for withdrawing the request. The petitioner withdrew its request within the 90-day period and was the only party to request this review. Accordingly, we are rescinding this review. The Department will issue appropriate assessment instructions to U.S. Customs and Border Protection within 15 days of publication of this notice.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with 19 CFR 351.213(d)(4) and section 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: October 14, 2005.

Gary Taverman,

Acting Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E5–5828 Filed 10–20–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–818]

Notice of Amended Final Results of Antidumping Duty Administrative Review: Low Enriched Uranium from France

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

SUMMARY: On September 14, 2005, the Department of Commerce (the Department) published the final results of its second administrative review of the antidumping duty order on low enriched uranium (LEU) from France for the period February 1, 2003, through January 31, 2004. *See Notice of Final Results of Antidumping Duty Administrative Review: Low Enriched Uranium from France*, 70 FR 54359 (September 14, 2005). On September 14, 2005, in accordance with 19 CFR 351.224(c)(2), we received timely filed ministerial error allegations from respondent, Eurodif S.A., Compagnie Générale Des Matières Nucléaires, S.A. and COGEMA, Inc. (collectively, Eurodif/COGEMA), and the United States Enrichment Corporation and USEC Inc. (collectively, USEC or the petitioner). On September 19, 2005, we received rebuttal comments from Eurodif/COGEMA and the petitioner. Based on our analysis of the parties' comments, the Department has revised the antidumping duty margin for Eurodif/COGEMA. Accordingly, we are amending our final results.

EFFECTIVE DATE: October 21, 2005.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Elfi Blum, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2371 or (202) 482–0197, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The product covered by this order is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down–blending of highly enriched uranium).

Certain merchandise is outside the scope of this order. Specifically, this order does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this order. For purposes of this order, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of this order.

Also excluded from this order is LEU owned by a foreign utility end–user and imported into the United States by or for such end–user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end–user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re–exported within eighteen (18) months of entry of the LEU for consumption by the end–user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end- user.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Allegations of Ministerial Errors

On September 14, 2005, Eurodif/COGEMA and the petitioner each timely filed, pursuant to 19 CFR 351.224(c)(2), an allegation that the Department made one ministerial error in its final results of review. Respondent alleges that the Department made a ministerial error in the calculation of the constructed value (CV) profit. Petitioner alleges that the Department made a ministerial error in its application of the R&D adjustment factor to cost of manufacture (COM).

We have fully considered the parties' allegations and rebuttal comments. Our full analysis is contained in the Memorandum to Joseph A. Spetrini, Acting Assistant Secretary, from Gary Taverman, Acting Deputy Assistant Secretary, concerning the Amended Final Results of the Administrative Review of the Antidumping Duty Order on Low Enriched Uranium from France (2003–2004), Ministerial Error Allegations (October 14, 2005) which is on file in the Central Records Unit (CRU), room B–099 of the main Department building, and can be accessed directly on the Web at *http://ia..ita.doc.gov*. As a result of our analysis, we have corrected our calculations of CV profit.

Amended Final Results of Review

In accordance with 19 CFR 351.224(e), we have amended the final results of this administrative review to correct for the ministerial error. As a result of this correction, Eurodif/COGEMA's weighted–average margin has been amended as stated below.

Producer	Weighted–Average Margin (Percentage)
COGEMA/Eurodif	9.75

Assessment

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). The Department calculated importer–specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. The Department will not issue liquidation instructions for any entries of Eurodif/COGEMA merchandise until such time as the July 1, 2002, injunction issued by the Court of International Trade is lifted.

Cash Deposits

Furthermore, the following deposit requirements will be effective upon publication of these amended final results of this administrative review for all shipments of LEU from France entered, or withdrawn from warehouse, for consumption on or after the publication date of these amended final results, as provided by section 751(a) of the Tariff Act of 1930, as amended: (1) for companies covered by this review, the cash deposit rate will be the rate listed above; (2) for merchandise exported by producers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company–specific rate published in the most recent final results in which that producer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the producer is, the cash deposit rate will be that established for the producer of the merchandise in these final results of review or in the most recent final results that covered that producer; and (4) if neither the exporter nor the producer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 19.95 percent, the ''All Others'' rate established in the less–than-fair–value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Reimbursement

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred, and in the subsequent assessment of double antidumping duties.

These amended final results are issued and published in accordance with sections 751(a) and (h) of the Act and 19 CFR 351.224.

Dated: October 14, 2005.

Joseph A. Spetrini,

Acting Assistant Secretaryfor Import Administration.

[FR Doc. E5–5820 Filed 10–20–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Reporting of Sea Turtle Incidental Take in Virginia Chesapeake Bay Pound Net Operations

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 20, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Mary Colligan, Assistant Regional Administrator for Protected Resources, National Marine Fisheries Service (NMFS), One Blackburn Drive, Gloucester, MA 01930 (ph. 978–281–9116, fax 978–281–9394).

SUPPLEMENTARY INFORMATION:

I. Abstract

This action would continue the reporting measure requiring all Virginia Chesapeake Bay pound net fishermen to report interactions with endangered and threatened sea turtles, found both live and dead, in their pound net operations. When a live or dead sea turtle is discovered during a pound net trip, the Virginia pound net fisherman are required to report the incidental take to NMFS and, if necessary, the appropriate

rehabilitation and stranding network. This information will be used to monitor the level of incidental take in the state-managed Virginia pound net fishery and ensure that the seasonal pound net leader restrictions (50 CFR 223.206(d)(10)) are adequately protecting listed sea turtles. Based on the number of sea turtle takes anticipated in the Virginia pound net fishery, the number of responses anticipated on an annual basis has increased from 441 to 611, and the number of burden hours has increased from 74 to 102.

II. Method of Collection

Reports may be made either by telephone or fax.

III. Data

OMB Number: 0648–0470.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 53.

Estimated Time Per Response: 10 minutes.

Estimated Total Annual Burden Hours: 102.

Estimated Total Annual Cost to Public: $1,833.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 17, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–21084 Filed 10–20–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030602141–5264–27]

Availability of Grant Funds for Fiscal Year 2006

AGENCY: National Ocean Service (NOS), National Oceanic and AtmosphericAdministration (NOAA), Department of Commerce.

ACTION: Notice; extension of solicitation period.

SUMMARY: The National Oceanic and Atmospheric Administration, National Ocean Service, publishes this notice to amend the competitive solicitation for the Ecological Forecasting (ECOFORE) program to provide an opportunity for commercial entities to submit proposals and to extend the solicitation period to provide the public more time to submit proposals.

DATES: The new deadline for the receipt of proposals is November 18, 2005, for both electronic and paper applications.

ADDRESSES: The address for submitting Proposals electronically is: *http://www.grants.gov/* (Electronic submission is strongly encouraged). Paper submissions should be sent to the attention of ECOFORE 2006, Center for Sponsored Coastal Ocean Research (N/SCI2), National Oceanic and Atmospheric Administration, 1305 East-West Highway, SSMC4, 8th Floor Station 8243, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Elizabeth Turner, 603–862–4680, *elizabeth.turner@noaa.gov*

SUPPLEMENTARY INFORMATION: This program was originally solicited in the **Federal Register** on June 30, 2005, as part of the June 2005 NOAA Omnibus solicitation (70 FR 37766). The ECOFORE component of that Omnibus solicitation did not include commercial organizations as eligible applicants. NOAA has determined that expanding the pool of potential applicants to include commercial organizations would enhance the program's ability to make financial assistance awards to recipients with the highest level of expertise in atmospheric forecasting. The original deadline for receipt of proposals was 3 p.m. EST, on October 25, 2005. In order to allow the expanded pool of potential applicants to submit proposals, NOAA is extending the deadline for the receipt of applications to 3 p.m. EST on November 18, 2005, for both electronic and paper applications. All other requirements for this solicitation remain the same.

Limitation of Liability

Funding for this program is contingent upon the availability of Fiscal Year 2006 appropriations. Applicants are hereby given notice that funds have not yet been appropriated for the programs listed in this notice. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

Universal Identifier

Applicants should be aware that they are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number during the application process. See 67 FR 66177 (October 30, 2002) for additional information. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711 or via the internet (*http://www.dunandbradstreet.com*).

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA Federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA website: *http://www.nepa.noaa.gov/*, including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216_6_TOC.pdf*, and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm*. Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of

an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for not selecting an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389), are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF-LLL, and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: October 17, 2005.

Charles W. Challstrom,

Acting Assistant Administrator, National Oceanic and Atmospheric Administration, National Ocean Service.

[FR Doc. 05–21089 Filed 10–20–05; 8:45 am]

BILLING CODE 3510–JS–S

DEPARTMENT OF COMMERCE

Technology Administration

Proposed Information Collection; Comment Request; National Medal of Technology Nomination Application

ACTION: Notice.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 20, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 1401 Constitution Avenue, NW., Washington, DC 20230 or via the Internet (*dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Mildred Porter, Director, National Medal of Technology Program, Technology Administration, 1401 Constitution Avenue, NW., Room 4817, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection is critical for the Nomination Evaluation Committee to determine nomination eligibility and merit for selection of the Nation's leading technological innovators honored by the President of the United States. The National Medal of Technology Nomination Application solicits nominations that recognize an individual's or company's extraordinary leadership and innovation in technological achievement. The information is needed in order to comply with Pub. L. 96–480 and Pub. L. 105–309.

II. Method of Collection

The nomination forms and instructions are electronically posted on the National Medal of Technology Web site so interested parties can review criteria and informational requirements at their convenience. The nomination forms are available for electronic submission to the NMT office via e-mail to *NMT@technology.gov.*

III. Data

OMB Number: 0692–0001.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions; and Federal Government.
Estimated Number of Respondents: 102.
Estimated Time Per Response: 25 hours.
Estimated Total Annual Respondent Burden Hours: 2,550.
Estimated Total Annual Respondent Cost Burden: None.

IV. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: October 17, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–21087 Filed 10–20–05; 8:45 am]

BILLING CODE 3510–18–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 06–08]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/DBO/ADM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 06–08 with attached transmittal and policy justification.

October 17, 2005.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–M

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

14 OCT 2005
In reply refer to:
I-05/010147

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 06-08, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Colombia for defense articles and services estimated to cost $43 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

JEFFREY B. KOHLER
LIEUTENANT GENERAL, USAF
DIRECTOR

Enclosures:
1. **Transmittal**
2. **Policy Justification**

Same ltr to:

House	Senate
Committee on International Relations	Committee on Foreign Relations
Committee on Armed Services	Committee on Armed Services
Committee on Appropriations	Committee on Appropriations

Transmittal No. 06-08

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Colombia

(ii) **Total Estimated Value:**

Major Defense Equipment*	$30 million
Other	$13 million
TOTAL	$43 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** two UH-60L MEDEVAC BLACK HAWK helicopters with T700-GE-701C or 401C engines, spare and repair parts, communications and support equipment, publications and technical data, personnel training and training equipment, contractor engineering and technical support services and other related elements of logistics support.

(iv) **Military Department:** Army (UYD)

(v) **Prior Related Cases, if any:**
FMS case UUF - $143 million - 13Jun00
FMS case UTN - $116 million - 24Dec96
FMS case USI - $ 37 million - 28Dec93
FMS case ULY - $ 35 million - 29Jun89
FMS case UKZ - $ 36 million - 30Jul87

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** none

(viii) **Date Report Delivered to Congress:** 14 OCT 2005

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Colombia - UH-60L MEDEVAC BLACK HAWK Helicopters

The Government of Colombia has requested a possible sale of two UH-60L MEDEVAC BLACK HAWK helicopters with T700-GE-701C or 401C engines, spare and repair parts, communications and support equipment, publications and technical data, personnel training and training equipment, contractor engineering and technical support services and other related elements of logistics support. The estimated cost is $43 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force in the war on drugs.

The proposed helicopter sale will be of critical value in the establishment of the Colombian Army Search and Rescue/MEDEVAC Program. Colombia has no transportation for search, rescue, or evacuating injured personnel from the battlefield. Current personnel losses in the field can be directly attributed to the lack of helicopters for search and rescue. These helicopters will help greatly in preventing loss of life now being felt because their injured personnel cannot be moved rapidly from the battlefield. Colombia, which already has UH-60 model helicopters in its inventory, will have no difficulty absorbing the MEDEVAC helicopters.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Sikorsky Aircraft Corporation of Stratford, Connecticut. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Colombia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 05–21115 Filed 10–20–05; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meeting date change.

SUMMARY: On *Monday, August 22, 2005 (70 FR 48937)* the Department of Defense announced open meetings of the Defense Science Board (DSB) Task Force on Manufacturing Technology. The November 2005 meeting dates have been revised from November 2–3, 2005 to November 2, 2005 only. The task force will meet in closed session. The meeting will be held at Strategic Analysis Inc., 3601 Wilson Boulevard, Suite 600, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: LTC Scoot Dolgoff, USA, Defense Science Board, 3140 Defense Pentagon, Room 3C553, Washington, DC 20301–3140, via e-mail at *scott.dolgoff@osd.mil,* or via phone at (703) 571–0087.

Dated: October 17, 2005.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 05–21111 Filed 10–20–05; 8:45 am]
BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Missile Defense Agency; Membership of the Missile Defense Agency Senior Executive Service Performance Review Board

AGENCY: Missile Defense Agency, DoD.

ACTION: Notice of Membership of the Missile Defense Agency Senior Executive Service Performance Review Board.

SUMMARY: This notice announces the appointment of members to the Missile Defense Agency (MDA) Performance Review Board. The Performance Review Board provides a fair and impartial review of Senior Executive Service (SES) performance appraisals and makes recommendations to the Director, Missile Defense Agency, regarding final performance ratings and performance awards for MDA SES members.

EFFECTIVE DATE: October 21, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Siemsen, Director, Workforce Management, Missile Defense Agency, 7100 Defense Pentagon, Washington, DC 20301–7100, (703) 697–6538.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are the names and titles of MDA career executives appointed to serve as members of the MDA Performance Review Board. Appointees will serve one-year terms, effective upon publication of this notice.

BG Keith McNamara, USA, Deputy Director, MDA, Chairperson.
Mr. Terry Little, Executive Director, MDA, Member.
Ms. Patricia Sanders, Deputy Director, BMDS Integration, MDA, Member.
Brig Gen Chris Anzalone, USAF, Deputy for Test and Assessment, MDA Member.

Dated: October 17, 2005.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, DoD.

[FR Doc. 05–21114 Filed 10–20–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Non-Contact Respiration Monitor

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent Application No. 10/936,992 entitled ''Non-Contact Respiration Monitor,'' filed September 9, 2004. Foreign rights are also available (PCT/US02/29563). The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: This invention relates to non-contact monitoring devices, and more particularly, non-contact respiration monitoring devices. According to the invention there is provided a monitoring device having a body defining an air monitoring channel between an air inlet and an air outlet. Disposed in monitoring channel is a respiration detection means, such as a flap-valve, which operates with associated logic circuitry to report the presence or absence of respiration via visual and audible displays. The device may be configured to attached, or be integrally connected to, the air input orifice of an air filter canister of a gas mask or the like. Alternatively, the device may be associated with the air output orifices or valves of a gas mask or the like.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 05–21067 Filed 10–20–05; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Western Hemisphere Institute for Security Cooperation Board of Visitors; Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the meeting of the Board of Visitors (BoV) for the Western Hemisphere Institue for Security Cooperation (WHINSEC). Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463). This board was chartered on February 1, 2004 in compliance with the requirements set forth in Title 10 U.S.C. 2166.

Dates: December 1–2, 2005.

Time: 9 a.m. to 4:30 p.m. (December 1) and 9 a.m. to 12:30 p.m. (December 2).

Location: Building 35, 7011 Morrison Ave., Fort Benning, GA 31905.

Proposed Agenda: The WHINSEC BoV will receive new members and advisors, receive updates on the status of actions taken on past BoV recommendations and an update on new activities and efforts since December 2004; look into any matters it deems important; while meeting with groups of WHINSEC faculty and students

FOR FURTHER INFORMATION CONTACT: Chip Shelverton, WHINSEC Executive Liaison at (703) 693–2058 or LTC Alfred Brooks, Deputy DFO and Chief, Latin American Branch, Army G–3 at (703) 614–8414.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Please note that the Board members will arrive at various times on November 30 and may use available time for individual member reviews of special interest items and will convene in plenary session on December 1, 2005. On December 1, the Board will adjourn for lunch between 12 p.m. and 1:30 p.m. Public comment by individuals and organizations may be made from 11 a.m. and 12 p.m. on December 2. Public comment and presentations will be limited to two minutes each and members of the public desiring to make oral statements or presentations must inform the contact personnel, in writing. Requests must be received before Wednesday, November 23, 2005. Mail written presentations and requests to register to attend the public sessions to: Mr. Shelverton at HQDA, Army G–3, DAMO–SSR, 400 Army Pentagon, Washington, DC 20310. Public seating is limited, and is available on a first come, first serve basis.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 05–21069 Filed 10–20–05; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patents and Patent Applications Concerning Bacterial Superantigen Vaccines

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made

of the availability for licensing of U.S. Patent No. 6,399,332 entitled ''Bacterial Superantigen Vaccines,'' issued June 4, 2002; U.S. Patent No. 6,713,284 entitled ''Bacterial Superantigen Vaccines,'' issued March 30, 2004; U.S. Patent Application No. 10/757,687 entitled ''Bacterial Superantigen Vaccines,'' filed January 29, 2004, which is a divisional of U.S. Patent No. 6,713,284; and U.S. Patent Application No. 10/002,784 entitled ''Bacterial Superantigen Vaccines,'' filed November 26, 2001, which is a continuation in part of U.S. Patent No. 6,713,284. Foreign rights are also available (PCT/US98/16766 and PCT/US01/46540). The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Material Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The present invention relates to genetically attenuated superantigen toxin vaccines altered such that superantigen attributes are absent, however the superantigen is effectively recognized and an appropriate immune response is produced. The attenuated superantigen toxins are shown to protect animals against challenge with wild type toxin. Methods of producing and using the altered superantigen toxins are described.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 05–21068 Filed 10–20–05; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Joint Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report for the Port of Los Angeles Channel Deepening Project for Navigation Improvement Additional Disposal Capacity; Los Angeles County, CA

AGENCY: Department of the Army; U.S. Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (USACE) published in the **Federal Register** dated November 4, 2004 (69 FR 64280) a Notice of Intent (NOI) to initiate preparation of a Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (SEIS/SEIR) for additional disposal capacity needed to complete the Port of Los Angeles Channel Deepening Project for Navigation Improvement (Channel Deepening Project), Los Angeles Harbor, Los Angeles, California. Subsequent to the publishing of the NOI, several changes and additional considerations led to the publication of this Supplemental Notice of Intent (SNOI). The major changes and considerations include the designation of beneficial reuse of dredged material within the Port of Los Angeles as a project purpose, and consideration of reasonably foreseeable uses to disposal sites. This public notice also serves as the NOI to issue any Regulatory and other permits as may be required to implement the proposed project. The SEIS/SEIR will consider the potential impacts of the reasonably foreseeable use of proposed disposal sites for future port development. The assessment will entail the use of generalized assumptions in lieu of project-specific conditions that are not available at this time or within the scope of the Channel Deepening Project. It is emphasized that a Record of Decision (ROD) approving this SEIS/SEIR or approval of any landfill disposal option will not authorize any future development at landfill disposal sites. Future State and Federal environmental documents and permits may be required prior to any development of land created as a result of this project.

USACE began construction in October 2002 and is currently using disposal areas previously approved as part of the Channel Deepening Project. The Channel Deepening Project will improve the efficient use of Los Angeles Harbor by deepening the Inner Harbor Channels to accommodate the most modern vessels in the commercial container fleet. The current project also includes approved disposal areas that allow for the beneficial use of dredge material for environmental enhancement and potential port development. It has been determined that for reasons related to construction of the currently approved disposal facilities, project and contract modifications, and dredging and disposal operations, additional disposal capacity of approximately 4 million cubic yards (mcy) is needed to complete the Channel Deepening Project. Details regarding the genesis of the volume of material will be provided in the SEIS/SEIR. Disposal options identified to date that will be analyzed in the SEIS/SEIR include creation of new land that could be used for future port development, several environmental enhancement options, removal and capping of contaminated sediments at the Consolidated Slip, disposal at the existing Pier 400 Submerged Material Storage Site, and ocean disposal. Other options resulting from public and agency participation and resulting from further analyses will also be considered in the preparation and documentation of the SEIS/SEIR.

DATES: Submit comments on or before November 21, 2005.

ADDRESSES: U.S. Army Corps of Engineers, Los Angeles District, CESPL–PD–RN, Attn: Joy Jaiswal, P.O. Box 532711, Los Angeles, CA 90053–2325.

FOR FURTHER INFORMATION CONTACT: Ms. Joy Jaiswal, Chief, Ecosystem Planning Section, phone (213) 452–3851; or E-mail: *Jyotsna.I.Jaiswal@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

The initial NOI to solicit public comment and concerns on the proposed action and alternatives was issued in the **Federal Register** on November 4, 2004. A formal scoping meeting was held on November 30, 2004, at 6 p.m. at which the proposed action and alternatives were presented and information was exchanged with meeting attendees. Comments received on the November 2004 NOI and at the Public Scoping Meeting will be incorporated in the SEIS/SEIR. A scoping meeting will not be conducted for this Supplemental Notice of Intent. However, comments received within 30 days from the publication of this SNOI (October 21, 2005) in the **Federal Register** will be incorporated in the proposed SEIS/SEIR.

1. Authorization

The Port of Los Angeles Channel Deepening Project was authorized for construction by the Water Resources Development Act of 2000. Construction began in October 2002 and is currently continuing using previously approved disposal areas.

2. Background

The City of Los Angeles Harbor Department (LAHD) administers the Port of Los Angeles. The Port comprises 45 kilometers (28 mines) of waterfront and 3,035 hectares (7,500 acres) of land and water. LAHD administers automobile, container, omni, lumber, cruise ship, liquid and dry bulk

terminals, and commercial fishing facilities. For recreational activities the Port of Los Angeles provides slips for 5,000 pleasure craft, sport fishing boats, and charter vessels. Community facilities include a water front youth center, a boat launch ramp, and a public swimming beach. Educational facilities include the Cabrillo Marine Aquarium and the Los Angeles Maritime Museum.

The SEIS/SEIR will access environmental impacts associated with providing additional disposal capacity of approximately 4 mcy required to complete the previously approved Channel Deepening Project, including project and contract modifications. Additional disposal capacity is required to complete the deepening of the navigation channel and berthing areas to −53 feet Mean Lower Low Water (MLLW) at container terminals along the deepened channel and the removal of dredge material that was temporarily used as surcharge at the Southwest Slip. This project meets a public need for safe and efficient commercial navigation.

a. *Project Purpose and Need:* The purposes of the proposed action are to:

- Provide additional dredged material disposal capacity of approximately 4 mcy to complete the Channel Deepening Project, as a result of material generated from project and contract modifications; and
- Maximize beneficial use of dredged material by constructing additional lands for eventual terminal use and to provide environmental enhancements at various locations in the Port of Los Angeles.

The need for the proposed project is because disposal sites developed for the Channel Deepening Project and project and contract modifications are inadequate to provide disposal capacity for all of the dredged material that requires removal. Preserving the use of dredged materials to construct additional terminal capacity in the future at various locations would be considered to be a beneficial use of dredged materials and another purpose for the project.

b. *Project Site:* The project size is located at the southern end of the City of Los Angeles and includes portions of the Los Angeles Inner and Outer Harbors, San Pedro Bay.

c. *Proposed Action:* Proposed disposal options and additional work being considered for completion of the previously approved Channel Deepening Project as modified include: (1) Adding up to 40 acres of land adjacent to the existing Pier 300 expansion site; (2) creating approximately 20 acres of eelgrass habitat in Seaplane Lagoon or Seaplane Anchorage; (3) expanding of the Cabrillo Shallow Water Habitat by approximately 35 acres; (4) creating of up to 15-acres of land within or adjacent to the existing Cabrillo Shallow Water Habitat for use as a migratory bird nesting area; (5) using dredge material to cap contaminated sediments within the Consolidated Slip (approximately 20 acres and may include removal of some contaminated sediments prior to capping); (6) disposing dredged material in the Pier 400 Submerged Material Storage Site (approximately 120 acres) thereby reducing the water depth from −15 feet MLLW up to −10 feet MLLW; (7) filling two existing slips (approximately 8 acres) at Berths 243–245 by creating a confined disposal facility for contaminated material; (8) filling up to 5 acres of the North West Slip located in the West Basin between Berths 129–136; and/or (9) ocean disposal at LA–2 or LA–3. Prior to implementing option 5 above, the USACE and Port would need to coordinate with and receive approval from the U.S. Environmental Protection Agency (EPA). If EPA approval is not granted or received in the time necessary, the remaining material will be disposed of at LA–2 or LA–3 or any other options identified above. Prior to dredging and disposal of any contaminated sediments, a Contaminated Sediment Management Plan will be prepared to address disposal site design and contaminated sediment management requirements. The Contaminated Sediment Management Plan would be coordinated with EPA and other appropriate agencies. Dredging in areas containing contaminated materials would not occur until consultation is completed.

The SEIS/SEIR will assess potential impacts from reasonably foreseeable uses of the proposed landfills for consideration in selecting the project for additional disposal capacity to complete the Channel Deepening Project. The assessment will entail the use of generalized assumptions in lieu of project-specific conditions that are not available at this time or within the scope of the Channel Deepening Project. It is emphasized that a ROD approving this SEIS/SEIR or approval of any landfill disposal option discussed in it will not authorize any future development at landfill disposal sites. Future State and Federal environmental documents and permits may be required prior to any development of land created as a result of this project.

3. Alternatives

a. Five alternatives including the ''no action plan'' are currently being considered. Each of the four design alternatives consists of a combination of separate disposal sites and a range of port development purposes for the dredged materials that still require disposal. The proposed plan, viable project alternatives, and the ''no action'' plan will be carried forward for detailed analysis pursuant to the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, as amended), the California Environmental Quality Act (CEQA) of 1970 (Public Resources Code, Sections 21000–21177), and applicable environmental laws and regulations. Incorporated within each of the four design alternatives below are the following: (1) Prior to placement of material in the Consolidated Slip, the USACE and Port would need to coordinate with and receive approval from the EPA. If EPA approval is not granted or received in the time necessary, the remaining material will be disposed of at LA–2 or LA–3 or any other options identified above; and (2) prior to placing material at Berths 243–245, the USACE and Port would need to consult with the EPA, and dredging in areas containing contaminated materials would not occur until consultation is completed.

b. Alternatives initially being considered for the proposed project include the following:

Alternative 1—Port Development

Disposal at Pier 300 Expansion (40 acres), Berth 243–245 (8 acres), Consolidated Slip Cap (20 acres), North West Slip (5 acres), Eelgrass Restoration (20 acres), Cabrillo Shallow Water Habitat Expansion (35 acres), Ocean Disposal at LA–2 or LA–3 (remaining material).

Alternative 2—Limited Port Development

Disposal at Pier 300 Expansion (28 acres), Berth 243–245 (8 acres), Consolidated Slip Cap (20 acres), North West Slip (5 acres), Eelgrass Restoration (20 acres), Cabrillo Shallow Water Habitat Expansion (35 acres), Cabrillo Shallow Water Habitat Island (15 acres), Ocean Disposal at LA–2 or LA–3 (remaining material).

Alternative 3—Minimal Port Development

Disposal at Berth 243–245 (8 acres), Consolidated Slip Cap (20 acres), Cabrillo Shallow Water Habitat Expansion (35 acres), Cabrillo Shallow Water Habitat Island (15 acres), Pier 400 Submerged Material Storage Site (120 acres raised from −15′ to −10′ MLLW), Ocean Disposal at LA–2 or LA–3 (remaining material).

Alternative 4—Ocean Disposal/Minimal Port Development

Disposal at Berth 243–245 (8 acres), Consolidated Slip Cap (20 acres), Cabrillo Shallow Water Habitat Expansion (35 acres) and/or Cabrillo Shallow Water Habitat Island (15 acres); Ocean Disposal at LA–2 or LA–3 (remaining material).

Alternative 5—No Action

Complete the current project to the extent possible utilizing the disposal capacity and sites previously authorized.

4. Scoping Process

a. Potential impacts associated with the proposed action will be fully evaluated. Resource categories that will be analyzed are: Biology, air quality, hydrology/water quality, cultural resources, land use, geology, recreational, aesthetics, ground and vessel transportation, noise, public health and safety, utilities, socioeconomics (environmental justice), and cumulative impacts.

The USACE and the Port of Los Angeles (POLA) are preparing a joint SEIS/SEIR to address potential impacts associated with the proposed project. The USACE is the Lead Federal Agency for compliance with NEPA for the project, and the POLA is the Lead State Agency for compliance with CEQA for the non-Federal aspects of the project.

b. Participation of affected Federal, State, and local resources agencies, and concerned interest groups/individuals are encouraged in the scoping process. Public participation will be especially important in the environmental analysis by providing assistance in defining the scope of analysis in the SEIS/SEIR; identifying significant environmental issues and impact analysis in the SEIS/SEIR; and providing useful information such as published and unpublished data, personal knowledge of relevant issues, and recommending mitigation measures associated with the proposed action. Those wishing to provide information or data relevant to the environmental or social impacts that should be included or considered in the environmental analysis can furnish this information by writing to the point of contact indicated above.

c. The Draft SEIS/SEIR (DSEIS/SEIR) document will incorporate public concerns in the analysis of impacts associated with the Proposed Action and associated project alternatives. The DSEIS/SEIR will be sent out for a 45-day public review period, during which time both written and verbal comments will be solicited on the adequacy of the document. The Final SEIS/SEIR (FSEIS/SEIR) will address the comments received on the DSEIS/SEIR. In compliance with NEPA, the FSEIS will be sent out for a 30-day public review period. Copies of the FSEIS/SEIR will be furnished to all who commented on the DSEIS/SEIR, and to anyone that requests a copy. The final step involves, for the federal SEIS, preparing a ROD and, for the state SEIR, certifying the SEIR and adopting a Mitigation Monitoring and Reporting Plan. The ROD is a concise summary of the decisions made by the USACE from among the alternatives presented in the FSEIS/SEIR. A certified SEIR indicates that the environmental document adequately assesses the environmental impacts of the proposed projects with respects to CEQA. Any required permit would be issued concurrently or soon after the issuance of the ROD.

Dated: October 7, 2005.

Alex C. Dornstauder,

Colonel, U.S. Army, District Engineer.

[FR Doc. 05–21066 Filed 10–20–05; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The following inventions are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

U.S. Patent Number 6,625,896 entitled ''Electrolytic Tilt Sensor and Method for Manufacturing Same'', Navy Case Number 82938. U.S. Patent Number 6,802,132 entitled ''Electrolytic Tilt Sensor and Method for Manufacturing Same'', Navy Case Number 84300.

ADDRESSES: Requests for copies of the patents cited should be directed to the Space and Naval Warfare Systems Center, San Diego, Office of Research and Technology Applications, Code 2112, 83570 Silvergate Ave., RM 2302, San Diego, CA 92152–5048.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen H. Lieberman, Office of Research and Technology Applications, Space and Naval Warfare Systems Center, San Diego, Code 2112, 83570 Silvergate Ave., RM 2302, San Diego, CA 92152–5048, telephone 619–553–2778, E-Mail: *stephen.lieberman@navy.mil*

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: October 12, 2005.

S.K. Melancon,

Paralegal Specialist, Office of the Judge Advocate General, Alternate Federal Register Liaison Officer.

[FR Doc. 05–21039 Filed 10–20–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 21, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the

need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: October 17, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Annual Performance Reporting Forms for NIDRR Grantees (RERCs, RRTCs, FIRs, ARRTs, DBTACs, DRRPs, MSs, D&Us).

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 279.

Burden Hours: 4,464.

Abstract: Information collection to obtain annual program and performance data from NIDRR grantees on their project activities. The information collected will be used for monitoring grantees and for NIDRR program planning, budget development and reporting on Government Performance and Results Act (GPRA) indicators.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2836. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at her e-mail address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–21072 Filed 10–20–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 20, 2005.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 17, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: Evaluation of States' Monitoring and Improvement Practices Under IDEA: Site Visit Data Collection.

Frequency: Two times.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 440.

Burden Hours: 1,100.

Abstract: States' monitoring and improvement practices under the Individuals with Disabilities Education Act (IDEA) are vital to ensuring that students with disabilities receive a free appropriate public education and that infants and toddlers with disabilities and their families receive early intervention services. The purpose of this study is to evaluate states' monitoring and related improvement practices under IDEA. This study will describe the nature and scope of monitoring as implemented by the 50 states and the District of Columbia for Parts B and C of IDEA, assess the effect of the quality of states' monitoring and related improvement practices on key outcomes of Parts B and C of IDEA, and identify and develop recommendations for potential best practices in monitoring and identifying areas for ongoing technical assistance.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2909. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–21073 Filed 10–20–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 20, 2005.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 17, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: Adult ESL Explicit Literacy Impact Study.

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 55.

Burden Hours: 28.

Abstract: Data collection to identify adult education sites eligible to participate in the Adult ESL Explicit Literacy Impact Study. A sample of adult education program coordinators are the primary respondents.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2907. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–21074 Filed 10–20–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity (National Advisory Committee); Notice of Meeting Changes

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education.

SUMMARY: This notice advises interested parties of changes concerning the upcoming meeting of the National Advisory Committee and amends information provided in the original meeting notice published in the October 3, 2005 **Federal Register** (70 FR 57570).

FOR FURTHER INFORMATION CONTACT: Ms. Francesca Paris-Albertson, in the office of the Executive Director of the National Advisory Committee on Institutional Quality and Integrity, U.S. Department of Education, room 7107, 1990 K St., NW., Washington, DC 20006, telephone: (202) 502–7671, fax: (202) 219–7008, e-mail: *Francesca.Paris-Albertson@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

The changes to the agenda are as follows:

(1) On Wednesday, December 7, 2005, the National Advisory Committee is now scheduled to meet from 9:30 a.m. until 5:30 p.m. and on Thursday, December 8, 2005, the National Advisory Committee is now scheduled to meet from 8:30 a.m. until approximately 5 p.m. The National Advisory Committee will not meet on Friday, December 9, 2005.

(2) The agency listed below, which was originally scheduled for review during the National Advisory Committee's December 2005 meeting, will be postponed for review until a future meeting.

- American Bar Association, Council of the Section of Legal Education and Admissions to the Bar (Current and requested scope of recognition: The accreditation throughout the United States of programs in legal education that lead to the first professional degree in law, as well as freestanding law schools offering such programs.)

Any third-party written comments regarding this agency that were received by August 24, 2005, in accordance with the **Federal Register** notice published on July 25, 2005, will become part of the official record, and those comments will be considered by the National Advisory Committee when it reviews the agency's petition for continued recognition at a future meeting. In addition, prior to the meeting, another opportunity to provide written comments on the agency will be announced in a **Federal Register** notice.

(3) This notice amends the information previously provided for the agency listed below. In addition to reviewing the agency's request for renewal of recognition, the National Advisory Committee will review the agency's request for an expansion of its scope of recognition. This notice invites written comments on the agency's request for an expansion of scope.

• National Council for Accreditation of Teacher Education (Current scope of recognition: The accreditation throughout the United States of professional education units providing baccalaureate and graduate degree programs for the preparation of teachers and other professional personnel for elementary and secondary schools.) (Requested scope of recognition: The accreditation throughout the United States of professional education units providing baccalaureate and graduate degree programs for the preparation of teachers and other professional personnel for elementary and secondary schools, including programs offering distance education.)

Where Should I Submit My Comments?

Please submit your written comments by mail, fax, or e-mail no later than November 7, 2005 to Ms. Robin Greathouse, Accreditation and State Liaison. You may contact her at the U.S. Department of Education, room 7105, 1990 K Street, NW., Washington, DC 20006, telephone: (202) 219–7011, fax: (202) 219–7005, or e-mail: *Robin.Greathouse@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339.

How May I Obtain Electronic Access to This Document?

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/index.html.*

Authority: 5 U.S.C. Appendix 2.

Dated: October 17, 2005.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. 05–21077 Filed 10–20–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–559–002]

Algonquin Gas Transmission, LLC; Notice of Compliance Filing

October 14, 2005.

Take notice that on October 11, 2005, Algonquin Gas Transmission, LLC (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to become effective on the dates indicated.

Effective September 12, 2005

Substitute First Revised Sheet No. 518

Effective November 11, 2005

First Revised Sheet No. 518A

Algonquin states that it is making this filing in compliance with an order issued by the Commission in the captioned docket on September 9, 2005.

Algonquin states that copies of its filing have been served upon all affected customers of Algonquin and interested state commissions, and all parties on the official service list.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5818 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–18–001]

California Independent System Operator Corporation; Notice of Compliance Filing

October 17, 2005.

Take notice that on October 11, 2005, the California Independent System Operator Corporation in compliance with the Commission's Order issued July 26, 2005, tendered for filing a refund report.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on November 10, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5833 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP05–119–001 and CP05–121–001]

Cameron Interstate Pipeline, LLC; Notice of Application To Amend

October 14, 2005.

Take notice that on October 7, 2005, Cameron Interstate Pipeline, LLC (Cameron Interstate Pipeline), 101 Ash Street, San Diego, CA 92101, filed in the above referenced docket(s), an abbreviated application to amend its certificates of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act, and the Commission's regulations, 18 CFR Parts 157 and 284. In Docket No. CP05–119–001 Cameron Interstate Pipeline is seeking to amend its certificate to construct and operate its pipeline, and in Docket No. CP05–121–001 it is seeking to amend its blanket certificate to transport natural gas. The application is on file with the Commission and open for public inspection.

This filing is also accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Any questions regarding Cameron Interstate Pipeline's application should be directed to: Carlos F. Peña, Senior Regulatory Counsel, HQ13 101 Ash Street, San Diego, CA 92101, phone (619) 696–4320.

Cameron Interstate Pipeline requests authority: (i) Approving its requested pipeline design change allowing for the use of thicker walled pipe, (ii) approving the replacement *pro forma* Tariff attached at Exhibit P and canceling the tariff originally submitted, (iii) approving Cameron Interstate Pipeline's updated rates and rate schedules; and

(iv) clarifying that the pipeline facilities are certificated to transport natural gas at levels up to 1.5 Bcf per day.

Cameron Interstate Pipeline requests that the Commission approve its revised estimated cost of its facilities from $73.4 million, as originally approved, to $105.3 million; its previously approved annual cost-of-service from $12,729,701 to $28,600,026; and, its previously approved firm transportation reservation charge from $.7087 per Dth to $.5278 per Dth. Cameron Interstate Pipeline also asks that the Commission approve a revised capital structure and rate of return for the project. Finally, Cameron Interstate Pipeline has filed for approval an updated and revised *pro forma* FERC Gas Tariff which reflects only natural gas transportation services it will now be offering under its certificates.

Any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper, see, 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: November 4, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5806 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–23–008]

Consolidated Edison Company of New York, Inc. v. Public Service Electric & Gas Company, PJM Interconnection, LLC, and New York Independent System Operator; Notice of Compliance Filing

October 17, 2005.

Take notice that on September 30, 2005, Consolidated Edison Company of New York, Inc., (ConEd), and separately, Public Service Electric & Gas Company (PSE&G), PJM Interconnection, LLC and New York Independent System Operator, in compliance with Commission Order issued Mary 18, 2005 submit an informational report regarding the effectiveness of two contracts between ConEd and PSE&G.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on October 27, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5831 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1467–000]

DC Energy Midwest, LLC; Notice of Issuance of Order

October 14, 2005.

DC Energy Midwest, LLC (DC Energy) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for the sales of capacity, energy and ancillary services at market-based rates. DC Energy also requested waiver of various Commission regulations. In particular, DC Energy requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by DC Energy.

On October 12, 2005, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under Part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by DC Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protests is November 14, 2005.

Absent a request to be heard in opposition by the deadline above, DC Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of DC Energy, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of DC Energy's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5814 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–21–000]

Distrigas of Massachusetts LLC; Notice of Proposed Changes in FERC Gas Tariff

October 14, 2005.

Take notice that on October 11, 2005, Distrigas of Massachusetts LLC (DOMAC) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised Tariff sheets, proposed to be effective November 1, 2005:

Fifth Revised Sheet No. 29
Fourth Revised Sheet No. 38
Fourth Revised Sheet No. 39
Fourth Revised Sheet No. 40
Fourth Revised Sheet No. 41
Original Sheet No. 48A
Original Sheet No. 48B
Original Sheet No. 48C
Original Sheet No. 48D
Original Sheet No. 48E
Original Sheet No. 48F
Original Sheet No. 48G

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5825 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–623–003]

Dominion Transmission, Inc.; Notice of Compliance Filing

October 14, 2005.

Take notice that on October 11, 2005, Dominion Transmission, Inc. (DTI) tendered for filing supplemental information concerning its annual Transportation Cost Rate Adjustment filing made in 2003 (2003 TCRA).

DTI states the filing is being made in compliance with the Order on Rehearing issued in the captioned proceeding on September 20, 2005.

DTI states that copies of the filing were served on parties on the official service list.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on October 21, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5815 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–552–002]

East Tennessee Natural Gas, LLC; Notice of Compliance Filing

October 14, 2005.

Take notice that on October 11, 2005, East Tennessee Natural Gas, LLC (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets identified in Appendix A to the filing, to be effective September 12, 2005, and November 11, 2005, as reflected in Appendix A.

East Tennessee states that it is making this filing in compliance with an order issued by the Commission in the captioned docket on September 9, 2005.

East Tennessee states that copies of its filing have been served upon all affected customers of East Tennessee and interested state commissions, and all parties on the official service list.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5817 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–17–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 14, 2005.

Take notice that on October 11, 2005, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with a proposed effective date of October 1, 2005.

Fifty-Eighth Revised Sheet No. 7
Fifty-Eighth Revised Sheet No. 8

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5819 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No.CP06–1–000]

Florida Gas Transmission Company; Notice of Application

October 14, 2005.

Take notice that on October 5, 2005, Florida Gas Transmission Company (FGT), 5444 Westheimer Road, Houston, Texas 77056–5306, filed in Docket No. CP06–1–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA), for authorization to construct, own and operate facilities consisting of 32.6 miles of 36-inch pipeline, 9,800 horsepower of compression and appurtenant facilities. The proposed project will be completed in two phases to meet customer timing requirements, as more fully set forth in the Application which is on file with the Commission and open to public inspection. This filing may be also viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERCOnline Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Specifically, in phase one FGT proposes to: (i) Construct three 36-inch diameter pipeline loops totaling 17.3 miles of pipeline in Gilchrist, Levy, and Hernando Counties, Florida, (ii) install a total of 9,800 horsepower at two existing compressor stations (Station 24 in Gilchrist County, Florida and Station 26 in Citrus County, Florida), (iii) re-wheel two existing compressor units at Station 26, (iv) construct a new interconnect with Southern Natural Gas Company's proposed Cypress Pipeline in Clay County, Florida; and (v) install and modify various appurtenant facilities. FGT proposes an in-service date of May 1, 2007 for the phase one facilities. In phase two FGT proposes to: (i) construct two 36-inch diameter pipeline loops totaling 15.3 miles of pipeline in Levy and Hernando Counties, Florida, (ii) re-wheel two existing compressor units at Station 27 in Hillsborough County, Florida; and (iii) install appurtenant facilities. FGT proposes an in-service date of May 1, 2009 for the phase two facilities. The proposed project will create 160,000 MMBtu per day of additional firm Summer Season capacity. FGT estimates that the total cost of the project will be $105.52 million.

Any questions regarding this application should be directed to Stephen T. Veatch, Sr. Director, Certificates and Tariffs (713) 989–2024, Florida Gas Transmission Company, 5444 Westheimer Road, Houston, Texas 77056–5306.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: November 4, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5807 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–453–002]

Garden Banks Gas Pipeline, LLC; Notice of Compliance Filing

October 14, 2005.

Take notice that on October 11, 2005, Garden Banks Gas Pipeline, LLC (Garden Banks) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective November 10, 2005:

Substitute First Revised Sheet No. 64
Second Substitute Fourth Revised Sheet No. 137

Garden Banks states that the above-referenced tariff sheets are being filed in accordance with section 154.204 of the Commission's regulations in order to comply with the directives contained in Commission staff's telephone conversation on October 6, 2005.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory

Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5816 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–25–000]

Guardian Pipeline, L.L.C.; Notice of Tariff Filing

October 17, 2005.

Take notice that on October 11, 2005, Guardian Pipeline, L.L.C. (Guardian) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets to become effective November 10, 2005:

Fourth Revised Sheet No. 108
First Revised Sheet No. 361
Third Revised Sheet No. 396

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5830 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF06–3–000]

JMC Wind, LLC; Notice of Filing

October 17, 2005.

Take notice that on October 7, 2005, JMC Wind, LLC, 40853 Country Cross Road 2, Bingham Lake, MN 56118, filed with the Federal Energy Regulatory Commission an application for certification of a powered electric generating facility as a qualifying small power production facility pursuant to 18 CFR 292.207(b) of the Commission's regulations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on November 8, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5837 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC06–4–000 and ER06–20–000]

LG&E Energy LLC and Louisville Gas and Electric Company et al.; Notice of Filing

October 14, 2005.

Take notice that on October 7, 2005, LG&E Energy LLC, on behalf of its public utility operating company subsidiaries Louisville Gas and Electric Company and Kentucky Utilities Company (collectively, Applicants) pursuant to section 203 and 205 of the Federal Power Act and Parts 33 and 35 of the Rules of Practice and Procedures of the Commission's regulations, hereby tender for filing Commission's approval to change Applicants' method of: (1) Complying with Order Nos. 888 and 889, and certain conditions imposed by the Commission in the context of Applicants' prior mergers; and (2) achieving the goals of Order No. 2000.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on November 15, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5808 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER05–1105–000; ER05–1105–001 and ER05–1105–002]

LP and T Energy LLC; Notice of Issuance of Order

October 14, 2005.

LP and T Energy LLC (LP and T) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for the sale of capacity, and energy. LP and T also requested waiver of various Commission regulations. In particular, LP and T requested that the Commission grant blanket approval under 18 C.F.R. Part 34 of all future issuances of securities and assumptions of liability by LP and T.

On October 12, 2005, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under Part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by LP and T should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protests is November 14, 2005.

Absent a request to be heard in opposition by the deadline above, LP and T is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of LP and T, is compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of LP and T's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5812 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER04–55–001]

Maine Yankee Atomic Power Company; Notice of Compliance Filing

October 14, 2005.

Take notice that on December 3, 2004, Maine Yankee Atomic Power Company (Maine Yankee) tendered for filing its electric refund report, reflecting the revised decommissioning rates effective January 2, 2004.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on October 24, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5811 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–24–000]

Midwestern Gas Transmission Company; Notice of Tariff Filing

October 17, 2005.

Take notice that on October 11, 2005, Midwestern Gas Transmission Company (Midwestern) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective November 10, 2005:

Fifth Revised Sheet No. 495
Second Revised Sheet No. 406

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,
Secretary.
[FR Doc. E5–5839 Filed 10–20–05; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–20–000]

MIGC, Inc.; Notice of Proposed Changes in FERC Gas Tariff

October 14, 2005.

Take notice that on October 11, 2005, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fifth Revised Sheet No. 70, to become effective December 1, 2005.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,
Secretary.
[FR Doc. E5–5824 Filed 10–20–05; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–22–000]

Northern Border Pipeline Company; Notice of Tariff Filing

October 14, 2005.

Take notice that on October 11, 2005, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 484, to become effective November 10, 2005.

Northern Border states that the purpose of the filing is to revise Northern Border's Tariff to update the telephone and facsimile numbers for the Electronic Communication Agreement.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the

''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5826 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–19–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 14, 2005.

Take notice that on October 11, 2005, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective December 11, 2005:

Twelfth Revised Sheet No. 24
Fifth Revised Sheet No. 25
Third Revised Sheet No. 26
First Revised Sheet No. 27
First Revised Sheet No. 28
Ninth Revised Sheet No. 232
Third Revised Sheet No. 301
Third Revised Sheet No. 302
Second Revised Sheet No. 302–D
Second Revised Sheet No. 303–B
Original Revised Sheet No. 303–C

Northwest states that the purpose of this filing is to propose tariff modifications to: (1) add a standard unilateral evergreen provision for Rate Schedule TF–1 shippers; and (2) treat standardized contract-specific operational flow order provisions under Rate Schedule TF–1 as conforming contract provisions instead of as non-conforming contract provisions.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5823 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG05–100–000]

Ontelaunee Power Operating Company, LLC; Notice of Filing

October 14, 2005.

Take notice that on October 7, 2005, Ontelaunee Power Operating Company, LLC filed with the Commission a notice of non-material change in facts regarding its upstream ownership, pursuant to part 365 of the Commission's regulations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on October 21, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5809 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1389–000]

San Juan Mesa Wind Project, LLC; Notice of Issuance of Order

October 14, 2005.

San Juan Mesa Wind Project, LLC (San Juan) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for the sale of capacity, energy and ancillary services at market-based rates. San Juan also requested waiver of various Commission regulations. In particular, San Juan requested that the Commission grant blanket approval under 18 CFR part 34

of all future issuances of securities and assumptions of liability by San Juan.

On October 12, 2005, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under Part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by San Juan should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protests is November 14, 2005.

Absent a request to be heard in opposition by the deadline above, San Juan is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of San Juan, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of San Juan's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5813 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC06–3–000]

Saracen Energy LP, et al.; Notice of Filing

October 17, 2005.

Take notice that on October 5, 2005, Saracen Energy LP, Saracen Merchant Energy LP and Saracen Energy Power Advisors LP submitted an application pursuant to section 203 of the Federal Power Act for authorization for a change in their upstream ownership structure. The Applicants have requested privileged treatment of certain information and documentation submitted with the application.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on October 26, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5840 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–18–000]

Texas Eastern Transmission, LP; Notice of Cancellation of Rate Schedules

October 14, 2005.

Notice is hereby given that Texas Eastern Transmission, Inc. (Texas Eastern) filed a notice of cancellation stating that, effective November 11, 2005, Rate Schedules PTI and TS–2, constituting Sheet Nos. 261–264 and Sheet Nos. 451–453, respectively of the FERC Gas Tariff of Texas Eastern will be cancelled and associated tariff sheets will be modified, as reflected on Appendix A to the filing.

Texas Eastern states that the purpose of this filing is to remove from its tariff the rate schedules, pro forma service agreements and associated rate sheets for Rate Schedules PTI and TS–2, along with related provisions and references from the General Terms and Conditions. In addition, as related changes, Texas Eastern is proposing to modify the Table of Contents and the Index of Service Agreements to reflect the removal of these rate schedules.

Texas Eastern states that copies of its filing have been served upon all affected customers of Texas Eastern and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or

protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5822 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–23–000]

Viking Gas Transmission Company; Notice of Tariff Filing

October 17, 2005.

Take notice that on October 11, 2005, Viking Gas Transmission Company (Viking) tendered for filing to become part of Viking's FERC Gas Tariff, First Revised Volume No. 1, Fifth Revised Sheet No. 143, to become effective November 10, 2005.

Vikings states that the purpose of this filing is to revise Viking's Tariff to update the telephone and facsimile numbers for the Electronic Communication Agreement.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5805 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–23–000]

Viking Gas Transmission Company; Notice of Tariff Filing

October 17, 2005.

Take notice that on October 11, 2005, Viking Gas Transmission Company (Viking) tendered for filing to become part of Viking's FERC Gas Tariff, First Revised Volume No. 1, Fifth Revised Sheet No. 143, to become effective November 10, 2005.

Viking states that the purpose of this filing is to revise Viking's Tariff to update the telephone and facsimile numbers for the Electronic Communication Agreement.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5838 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL03–40–003; EL03–40–004; EL05–51–003; and EL05–51–004]

Wisconsin Public Service Corporation v. Midwest Independent Transmission System Operator, Inc.; Notice of Compliance Filing

October 17, 2005.

Take notice that on October 6, 2005, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing an amended compliance filing and withdrawal of an alternative request for rehearing or clarification of the Commission's July 22

Order approving the settlement among the Midwest ISO, Wisconsin Public Corporation, and Excel Energy Services.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on November 7, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5832 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–56–000]

Notice of Filing

October 17, 2005.

Connecticut Department of Public Utility Control, Complainant v. Bangor-Hydro Electric Company, Central Maine Power Company, NSTAR Electric & Gas Corporation on behalf of its affiliates: Boston Edison Company, Commonwealth Electric Company, Cambridge Electric Light Company, Canal Electric Company, New England Power Company, Northeast Utilities Service Company on behalf of its operating company affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company, Holyoke Water Power Company, The United Illuminating Company, Vermont Electric Power Company, Central Vermont Public Service Corporation, Green Mountain Power Corporation, Florida Power & Light Company—New England Division, Respondents

Take notice that on October 7, 2005, the Connecticut Department of Public Utility Control (CDPUC or Complainant) and the New England Transmission Owners (Respondents) filed an agreement between the parties setting forth the basis to resolve all issues raised by Complainant in the above-captioned proceeding.

This proceeding involves the CDPUC's complaint filed on January 14, 2005, and amended February 2, 2005, the CDPUC filed a complaint under section 206 of the Federal Power Act, seeking review of provisions of the currently-effective ISO New England Open Access Transmission Tariff governing the time at which capital additions are recovered through the rates for Regional Network Service. On May 19, 2005, Complainant and Respondents filed a joint motion informing the Commission that that they had reached a conceptual agreement on a proposal to address the issues raised by Complainant and requesting that the Commission suspend action in this proceeding to allow time for the development of new tariff language and completion of the stakeholder process. The October 7, 2005 filing is the Complainant's and Respondents' agreement regarding the issues raised by Complainant in this proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on October 27, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5834 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–3–000]

City of Vernon, California, Complainant v. Mirant Americas Energy Marketing, L.P., Respondent; Notice of Complaint

October 14, 2005.

Take notice that on October 12, 2005, the City of Vernon, California filed a Petition for an Order declaring that a termination payment demanded by Mirant Americas Energy Marketing, L.P., is unjust, unreasonable, contrary to the public interest, or not permitted under a rate schedule. In the alternative, pursuant to sections 205, 206, 306 and 309 of the Federal Power Act, section 1290 of the Energy Policy Act of 2005, and Rules 206 and 207 of the Rules of Practice and Procedure of the Commission, 18 CFR 385.206 and 385.207, the City of Vernon asks the Commission to consider this filing as a complaint against Mirant Americas Energy Marketing, L.P.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of

intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on November 1, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5810 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

October 14, 2005.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER02–137–003; ER06–16–000.

Applicants: Mohawk River Funding III, LLC.

Description: Mohawk River Funding III, LLC submits a notice of cancellation of market-based rate authority under Rate Schedule FERC Original Volume No. 1.

Filed Date: October 6, 2005.

Accession Number: 20051011–0063.

Comment Date: 5 p.m. Eastern Time on Thursday, October 27, 2005.

Docket Numbers: ER02–579–004.

Applicants: Capital District Energy Center Cogeneration Associates.

Description: Capital District Energy Center Cogeneration Associates submits an amendment to its FERC Electric Rate Schedule No. 1.

Filed Date: October 6, 2005.

Accession Number: 20051012–0016.

Comment Date: 5 p.m. Eastern Time on Thursday, October 27, 2005.

Docket Numbers: ER05–1179–003.

Applicants: Berkshire Power Company, LLC.

Description: Berkshire Power Co., LLC submits a modified Cost of Service Agreement with ISO New England LLC.

Filed Date: October 6, 2005.

Accession Number: 20051012–0012.

Comment Date: 5 p.m. Eastern Time on Thursday, October 27, 2005.

Docket Numbers: ER05–1315–001.

Applicants: NorthWestern Corporation.

Description: NorthWestern Corp submits a revised, unexectued amended Firm Point-to-Point Transmission Service Agreement No. 10–SD in compliance with FERC's September 21, 2005 Order.

Filed Date: October 6, 2005.

Accession Number: 20051011–0070.

Comment Date: 5 p.m. Eastern Time on Thursday, October 27, 2005.

Docket Numbers: ER05–1316–001.

Applicants: Kumeyaay Wind LLC.

Description: Kumeyaay Wind, LLC notifies FERC of a change in status as a result of a change in its upstream ownership.

Filed Date: October 7, 2005.

Accession Number: 20051012–0002.

Comment Date: 5 p.m. Eastern Time on Monday, October 17, 2005.

Docket Numbers: ER05–235–002.

Applicants: El Paso Marketing, L.P.

Description: El Paso Marketing LP submits an amendment to its Rate Schedule FERC No. 1.

Filed Date: October 6, 2005.

Accession Number: 20051012–0011.

Comment Date: 5 p.m. Eastern Time on Thursday, October 27, 2005.

Docket Numbers: ER06–10–000.

Applicants: Southern Company Services, Inc.

Description: Southern Company Services, Inc, agent for Alabama Power Co et al. submits an Amendment to Open Access Transmission Tariff, FERC Electric Tariff, Fourth Revised Volume No. 5.

Filed Date: October 3, 2005.

Accession Number: 20051007–0012.

Comment Date: 5 p.m. Eastern Time on Monday, October 24, 2005.

Docket Numbers: ER06–13–000; RM02–1–006.

Applicants: Aquila Inc.

Description: Aquila, Inc on behalf of Aquila Networks-MPS et al. submit revisions to each of its Open Access Transmission Tariffs in compliance with Order 2003–C.

Filed Date: October 6, 2005.

Accession Number: 20051011–0067.

Comment Date: 5 p.m. Eastern Time on Thursday, October 27, 2005.

Docket Numbers: ER06–14–000.

Applicants: Cleco Power LLC.

Description: Cleco Power, LLC's Notice of Cancellation of the Interconnection and Operating Agreement with Columbian Chemicals Co.

Filed Date: October 6, 2005.

Accession Number: 20051011–0068.

Comment Date: 5 p.m. Eastern Time on Thursday, October 27, 2005.

Docket Numbers: ER98–4289–003; –004, –005.

Applicants: Montana-Dakota Utilities Company.

Description: Montana-Dakota Utilities Co a Division of MDU Resources Group Inc submits Substitute Second Revised Sheet No. 2 et al. to FERC Electric Tariff, Original Volume No. 2.

Filed Date: October 6, 2005.

Accession Number: 20051011–0274.

Comment Date: 5 p.m. Eastern Time on Thursday, October 27, 2005.

Docket Numbers: ER99–2342–004, –005; ER01–931–008, –009; ER01–930–008, –009; ER96–1563–021, –022; ER99–415–007,–008; ER02–510–004, –005; ER02–507–004, –005; ER02–1000–005, –006.

Applicants: Tampa Electric Company; Panda Gila River, L.P.; Union Power Partners, L.P.; TECO EnergySource, Inc.; Commonwealth Chesapeake Company, L.L.C.; TPS Dell, LLC; TPS McAdams, LLC; TECO-PANDA Generating Company, L.P.

Description: Tampa Electric Co et al. submit an amendment to its compliance filing of September 12, 2005.

Filed Date: October 5, 2005.

Accession Number: 20051007–0110.

Comment Date: 5 p.m. Eastern Time on Wednesday, October 26, 2005.

Docket Numbers: ER99–3502–004.

Applicants: Berkshire Power Company, LLC.

Description: Berkshire Power, LLC submits revised market-based rate schedule in compliance with staff's request.

Filed Date: October 6, 2005.

Accession Number: 20051012–0015.

Comment Date: 5 p.m. Eastern Time on Thursday, October 27, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It

is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5802 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

October 14, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER00–2677–000; ER00–2684–000; ER05–1395–001.

Applicants: American Ref-Fuel Company of Delaware Valley, L.P.

Covanta Delaware Valley, L.P.

Description: Covanta Delaware Valley, LP submits corrections to its August 26, 2005 filing by updating Original Sheets 1, 5, and 6 to its FERC Electric Tariff, Original Volume No. 3 as a result of a name change.

Filed Date: October 7, 2005.

Accession Number: 20051012–0003.

Comment Date: 5 p.m. Eastern Time on Friday, October 28, 2005.

Docket Numbers: ER01–1302–000; ER05–1398–001.

Applicants: American Ref-Fuel Company of Niagara, L.P.

Covanta Niagara, L.P.

Description: Covanta Niagara, LP submits revised Original Sheets 1 and 5 to FERC Electric Tariff, Original Volume No.1 as a result of a name change.

Filed Date: October 7, 2005.

Accession Number: 20051012–0004.

Comment Date: 5 p.m. Eastern Time on Friday, October 28, 2005.

Docket Numbers: ER01–1710–008.

Applicants: Mill Run Windpower, LLC.

Description: Mill Run Windpower LLC submits its compliance filing in response to FERC's September 21, 2005 Letter Order.

Filed Date: October 7, 2005.

Accession Number: 20051012–0008.

Comment Date: 5 p.m. Eastern Time on Friday, October 28, 2005.

Docket Numbers: ER01–2139–009.

Applicants: Somerset Windpower, LLC.

Description: Somerset Windpower, LLC submits its compliance filing in response to FERC's September 21, 2005 Letter Order.

Filed Date: October 7, 2005.

Accession Number: 20051012–0007.

Comment Date: 5 p.m. Eastern Time on Friday, October 28, 2005.

Docket Numbers: ER04–127–004.

Applicants: FPL Energy Green Power Wind, LLC.

Description: FPL Energy Green Power Wind LLC submits changes to its Market-based Rate Tariff to include the Change of Status language promulgated in Order 652.

Filed Date: October 7, 2005.

Accession Number: 20051012–0009.

Comment Date: 5 p.m. Eastern Time on Friday, October 28, 2005.

Docket Numbers: ER05–1266–002; ER99–2602–004; ER96–1947–017.

Applicants: LS Power Development, LLC.

Description: LS Power Development, LLC on behalf of Onetelaunee Power Operating Co, LLC informs FERC of a change in status with regards to the characteristics that FERC previously relied upon in granting the LSP Entities market based rate authority.

Filed Date: October 7, 2005.

Accession Number: 20051012–0006.

Comment Date: 5 p.m. Eastern Time on Friday, October 28, 2005.

Docket Numbers: ER06–15–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc and Midwest ISO submit revisions to the Joint Operating Agreement & the Congestion Management Process, effective December 1, 2005.

Filed Date: October 6, 2005.

Accession Number: 20051011–0091.

Comment Date: 5 p.m. Eastern Time on Thursday, October 27, 2005.

Docket Numbers: ER06–17–000.

Applicants: New England Participating Transmission Owner.

Description: New England Participating Transmission Owners submits a proposal to modify the Regional Network Service rates set forth in the ISO New England, Inc. Open Access Transmission Tariff.

Filed Date: October 7, 2005.

Accession Number: 20051012–0001.

Comment Date: 5 p.m. Eastern Time on Friday, October 28, 2005.

Docket Numbers: ER06–18–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits proposed revisions to the Open Access Transmission and Energy Markets Tariff re its Cost Allocation Policy, effective February 4, 2006.

Filed Date: Octoberr 7, 2005.

Accession Number: 20051012–0168.

Comment Date: 5 p.m. Eastern Time on Friday, October 28, 2005.

Docket Numbers: ER06–27–000; ER05–1083–001; ER04–691–063; EL04–104–060.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest ISO Transmission Owners submits revisions to Schedule 24 of the Midwest Independent Transmission System Operator, Inc., Open Access Transmission & Energy Markets Tariff pursuant to FERC's August 5, 2005 Order.

Filed Date: October 4, 2005.

Accession Number: 20051013–0016.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 25, 2005.

Docket Numbers: ER99–3553–000; ER03–170–000; ER05–1396–001.

Applicants: American Ref-Fuel Company of Essex County

Convanta Essex Company.

Description: Covanta Essex Co submits the revised Original Sheets 1 and 6 to the tariff of its August 26, 2005 filing which have been modified as a result of name change.

Filed Date: October 7, 2005.

Accession Number: 20051012–0005.

Comment Date: 5 p.m. Eastern Time on Friday, October 28, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5803 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

October 17, 2005.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER02–2509–002.

Applicants: Kiowa Power Partners, LLC.

Description: Kiowa Power Partners, LLC's Triennial Updated Market Analysis and revised FERC Electric Rate Schedule No.1, Original Volume No. 1 pursuant to FERC's October 10, 2002 Letter Order.

Filed Date: October 11, 2005.

Accession Number: 20051013–0015.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 1, 2005.

Docket Numbers: ER05–649–002; RM02–1–006.

Applicants: South Carolina Electric & Gas Company.

Description: South Carolina Electric & Gas Co submits revised tariff sheets, Open Access Transmission Tariff, Second Revised Volume No. 5 pursuant to FERC's September 23, 2005 Order.

Filed Date: October 11, 2005.

Accession Number: 20051013–0007.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 1, 2005.

Docket Numbers: ER05–903–003.

Applicants: Consolidated Edison Energy of Massachusetts, Inc.

Description: Consolidated Edison Energy Massachusetts, Inc. submits a clean revised version of its Reliability Must Run Agreement *et al.*

Filed Date: October 11, 2005.

Accession Number: 20051014–0109.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 1, 2005.

Docket Numbers: ER05–938–002.

Applicants: Southern Company Services, Inc.

Description: Southern Company Services, Inc. as agent for Alabama Power Co et al submits its responses to FERC Staff's August 15, 2005 request for additional information.

Filed Date: October 11, 2005.

Accession Number: 20051013–0014.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 1, 2005.

Docket Numbers: ER06–24–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corp. submits an amendment to the responsible Participating Transmission Owner Agreement with Pacific Gas and Electric Co, to be effective December 1, 2005.

Filed Date: October 11, 2005.

Accession Number: 20051013–0080.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 01, 2005.

Docket Numbers: ER06–26–000.

Applicants: Wrightsville Power Facility, L.L.C.

Description: Wrightsville Power Facility, LLC cancels its FERC Electric Tariff, Original Volume No. 1, effective September 28, 2005.

Filed Date: October 11, 2005.

Accession Number: 20051013–0072.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 1, 2005.

Docket Numbers: ER06–28–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits revisions to Parts I and IV and Attachments N, N–1 & N–2 et al, and S of its Open Access Transmission Tariff.

Filed Date: October 11, 2005.

Accession Number: 20051014–0196.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 1, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an

eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5804 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

October 17, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No:* 10855–057.

c. *Date Filed:* September 22, 2005.

d. *Applicant:* Upper Peninsula Power Company, Michigan.

e. *Name of Project:* Dead River Hydroelectric Project.

f. *Location:* The project is located on the Dead River in Marquette County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Terry P. Jensky, Upper Peninsula Power Company, P.O. Box 130, Houghton, MI 49931–0130.

i. *FERC Contact:* Any questions on this notice should be addressed to Eric Gross, P.E. at (202) 502–6213, or e-mail address: *eric.gross@ferc.gov*.

j. *Deadline for filing comments and or motions:* November 18, 2005.

k. *Description of Request:* In their September 22, 2005 filing, Upper Peninsula Power Company proposes an amendment to delete a non-operational 1.0 MW turbine/generator unit at the Dead River (Hoist) Development from the license for the Dead River Project. The unit has been non-operational since before the project license was issued, however; the unit was included in the license and is counted towards the project's total authorized capacity. The licensed total authorized capacity of the Dead River Project is 12.2 MW. The proposed amendment to delete the unit would reduce the total authorized capacity to 11.2 MW.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E5–5836 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD05–13–000]

Joint Boards on Security Constrained Economic Dispatch; Notice Announcing Initial Joint Board Meetings

October 14, 2005.

In accordance with the Commission's September 30, 2005 order,[1] take notice that the following initial joint board meetings will be held pursuant to section 1298 of the Energy Policy Act of 2005,[2] which added section 223 of the Federal Power Act.[3] FPA section 223 requires the Commission to convene joint boards on a regional basis pursuant to FPA section 209 ''to study the issue of security constrained economic dispatch for the various market regions,'' ''to consider issues relevant to what constitutes 'security constrained economic dispatch' and how such a

[1] Joint Boards on Security Constrained Economic Dispatch, 112 FERC ¶ 61,353 (2005).

[2] Pub. L. No. 109–58, 1298, 119 Stat. 594, 986 (2005).

[3] 16 U.S.C. 824 *et seq.* (2000).

mode of operating * * * affects or enhances the reliability and affordability of service,'' and ''to make recommendations to the Commission.''

Region	Date	Time	Location
West	November 13, 2005	1 p.m.–5 p.m	Renaissance Esmeralda Resort and Spa 44–400 Indian Wells Lane, Indian Wells, CA 92210–9971.
South	November 13, 2005	1 p.m.–5 p.m	Renaissance Esmeralda Resort and Spa, 44–400 Indian Wells Lane, Indian Wells, CA 92210–9971. Chicago, IL (further details to be provided in a later notice). Boston, MA (further details to be provided in a later notice).
PJM/MISO	November 21, 2005	All day.	
Northeast	November 29, 2005	All day.	

The meetings are open for the public to attend. Additional details regarding these meetings will be announced soon in supplemental notices and posted on our Web site at *http://www.ferc.gov.*

Transcripts of the conference workshop will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646) for a fee. They will be available for the public on the Commission's eLibrary system seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening of the conference via the Internet or a Phone Bridge Connection for a fee. Interested persons should make arrangements as soon as possible by visiting the Capitol Connection Web site at *http://www.capitolconnection.gmu.edu* and clicking on ''FERC.'' If you have any questions contact David Reininger or Julia Morelli at the Capitol Connection (703–993–3100).

For more information about the conference, please contact Sarah McKinley at 202–502–8004 or *sarah.mckinley@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E5–5827 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at Meetings of Southwest Power Pool Board of Directors/Members Committee and Regional State Committee

October 17, 2005.

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool (SPP) Board of Directors/Members Committee and SPP Regional State Committee noted below. Their attendance is part of the Commission's ongoing outreach efforts.

SPP Board of Directors/Members Committee—October 25, 2005 (8 a.m.–2 p.m. MST): Inn and Spa at Loretto, 211 Old Santa Fe Trail, Santa Fe, NM, 505–988–5531.

SPP Regional State Committee—October 24, 2005, 12 p.m.–5 p.m. (Begins with Lunch): Inn and Spa at Loretto, 211 Old Santa Fe Trail, Santa Fe, NM, 505–988–5531.

The discussions may address matters at issue in the following proceedings:

Docket Nos. RT04–1 and ER04–48, Southwest Power Pool, Inc.

Docket No. ER05–109, *Southwest Power Pool, Inc.*

Docket No. ER05–652, *Southwest Power Pool, Inc.*

Docket No. ER05–562, *Southwest Power Pool, Inc.*

Docket No. ER05–666, *Southwest Power Pool, Inc.*

Docket No. ER05–688, *Southwest Power Pool, Inc.*

Docket No. EL05–52, *Entergy Services, Inc.*

Docket No. ER05–576, *Southwest Power Pool, Inc.*

Docket No. ER05–799, *Southwest Power Pool, Inc.*

Docket No. ER05–1065, *Entergy Services, Inc.*

Docket No. ER05–1118, *Southwest Power Pool, Inc.*

Docket No. ER05–1012, *Union Electric Company d/b/a AmerenUE*

Docket No. ER05–1049, *Union Electric Company d/b/a AmerenUE*

Docket No. ER05–1072, *American Electric Power Service Corporation*

Docket No. ER05–1087, *Southwest Power Pool, Inc.*

Docket No. ER05–1285, *Southwest Power Pool, Inc.*

Docket No. ER05–1352, *Southwest Power Pool, Inc.*

Docket No. ER06–15, *Southwest Power Pool, Inc.*

The meetings are open to the public.

For more information, contact Tony Ingram, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission at (501) 614–4789 or *tony.ingram@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E5–5835 Filed 10–20–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7987–1]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) response to Agency Clearance requests in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et. seq). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Susan Auby (202) 566–1672, or e-mail at *auby.susan@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 0002.12; National Pretreatment Program: Streamlining Final Rule; in 40 CFR 403.1–403.20; 40 CFR 437; 40 CFR 437.41; 40 CFR 105; 40 CFR 455.41; 40 CFR 123.24; 40 CFR 123.62; 40 CFR 122.42(b)(2); was approved 09/22/2005; OMB Number 2040–0009; expires 09/30/2007.

EPA ICR No. 1895.03; Microbial Rules (Renewal); in 40 CFR 141.21; 40 CFR 141.31(a)–(c) and (e); 40 CFR 141.33(a)–

(d); 40 CFR 141.75–141.76; 40 CFR 141.170–141.175(a)–(b); 40 CFR 141.530–141.536; 40 CFR 141.540–141.544; 40 CFR 141.550–141.553; 40 CFR 141.560–141.564; 40 CFR 141.570–141.571; 40 CFR 142.14(a); 40 CFR 142.15(a)(1) and (2); 40 CFR 142.15(c)(1)–(5); 40 CFR 142.16(b), (g), (i) and (j); was approved 09/21/2005; OMB Number 2040–0205; expires 09/30/2008.

EPA ICR No. 1597.07; Requirements and Exemptions for Specific RCRA Wastes (Final Rule for Adding Mercury-Containing Equipment to the Universal Waste Rule); in 40 CFR part 273; 40 CFR 266.230; 40 CFR 266.240; 40 CFR 266.245; 40 CFR 266.250; 40 CFR 266.345; 40 CFR 266.355; 40 CFR 266.360; was approved 10/05/2005; OMB Number 2050–0145; expires 02/29/2008.

EPA ICR No. 1688.05; RCRA Expanded Public Participation (Renewal); in 40 CFR 124.31; 40 CFR 124.32; 40 CFR 124.33; 40 CFR 270.62; 40 CFR 270.66; was approved 10/05/2005; OMB Number 2050–0149; expires 10/31/2008.

EPA ICR No. 0976.12; 2005 Hazardous Waste Report (Renewal); in 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); was approved 10/04/2005; OMB Number 2050–0024; expires 10/31/2007.

EPA ICR No. 0229.16; NPDES and Sewage Sludge Monitoring Reports (Renewal); in 40 CFR 122.21, 40 CFR 122.26(b)(14), 40 CFR 122.41(j)(1–2), 40 CFR 122.41(l)(4), 40 CFR 501.15(b), 40 CFR 503.16–503.18, 40 CFR 503.26–28, 40 CFR 503.46–48; was approved 09/13/2005; OMB Number 2040–0004; expires 09/30/2008.

EPA ICR No. 0270.42; Public Water System Supervision Program (Renewal); in 40 CFR 141.2; 40 CFR 141.4; 40 CFR 141.11–141.15; 40 CFR 141.22; 40 CFR 141.25; 40 CFR 141.27–141.30; 40 CFR 141.31(d); 40 CFR 141.32(a)–(g); 40 CFR 141.33(e); 40 CFR 141.41; 40 CFR 141.50–141.52; 40 CFR 141.60–141.63; 40 CFR 141.70–141.74; 40 CFR 141.100; 40 CFR 141.110; 40 CFR 141.140–141.144; 40 CFR 141.153–141.154; 40 CFR 141.155(a)–(g)(1) and (h); 40 CFR 141.175(c); 40 CFR 141.201–141.210; 40 CFR 142.2–142.3; 40 CFR 142.10–142.12; 40 CFR 142.14(b)–(d)(1) and (e)–(g); 40 CFR 142.15(a)–(b) and (d); 40 CFR 142.16(a), (c) and (f); 40 CFR 142.17–142.24; 40 CFR 142.41; 40 CFR 142.51; 40 CFR 142.56–142.57; 40 CFR 142.60–142.64; 40 CFR 142.70–142.78; 40 CFR 142.142.81; 40 CFR 142.306–142.308; 40 CFR 142.311–142.312; was approved 09/13/2005; OMB Number 2040–0090; expires 09/30/2008.

EPA ICR No. 1680.04; Combined Sewer Overflow Control Policy (Renewal); was approved 09/13/2005; OMB Number 2040–0170; expires 09/30/2008.

EPA ICR No. 1773.08; NESHAP for Hazardous Waste Combustors (Final Phase 1 Rule); in 40 CFR part 63, subpart EEE; was approved 09/14/2005; OMB Number 2050–0171; expires 09/30/2008.

EPA ICR No. 1944.03; Baseline Standards and Best Management Practices for the Coal Mining Point Source Category—Coal Remining Subcategory and Western Alkaline Coal Mining Subcategory (Renewal); in 40 CFR 434.72–434.75, 40 CFR 434.82–434.85; was approved 09/14/2005; OMB Number 2040–0239; expires 09/30/2008.

EPA ICR No. 2144.02; Standards and Practices for All Appropriate Inquires (Final Rule); in 40 CFR 312.20–312.31; was approved 09/15/2005; OMB Number 2050–0197; expires 09/30/2008.

EPA ICR No. 2152.02; Clean Air Interstate Rule to Reduce Interstate Transport of Fine Particle Matter and Ozone (Final Rule); in 40 CFR part 51; 40 CFR part 72; 40 CFR part 73; 40 CFR part 74; 40 CFR part 77; 40 CFR part 78; 40 CFR part 96; was approved 09/19/2005; OMB Number 2060–0570; expires 09/30/2008.

EPA ICR No. 0969.07; Final Authorization for Hazardous Waste Management; in 40 CFR part 271; was approved 09/20/2005; OMB Number 2050–0041; expires 09/30/2008.

EPA ICR No. 0160.08; Pesticide Registration Application, Notification and Report for Pesticide Producing Establishments (Renewal); in 40 CFR part 167; was approved 09/20/2005; OMB Number 2070–0078; expires 09/30/2008.

EPA ICR No. 1850.04; NESHAP for Primary Copper Smelters (Renewal); in 40 CFR part 63, subpart QQQ; was approved 09/20/2005; OMB Number 2060–0476; expires 09/30/2008.

EPA ICR No. 1608.04; State Program Adequacy Determination: Municipal Solid Waste Landfills (MSWLFs) and Non-municipal, Non-hazardous Waste Disposal Units that Receive Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste (Renewal); in 40 CFR part 239; was approved 09/19/2005; OMB Number 2050–0152; expires 09/30/2008.

EPA ICR No. 1985.03; NESHAP for Leather Finishing Operations (Renewal); in 40 CFR part 63, subpart TTTT; was approved 09/20/2005; OMB Number 2060–0478; expires 09/30/2008.

EPA ICR No. 2206.01; Small Partner Environmental Exchange Project; was approved 10/06/2005; OMB Number 2025–0005; expires 04/30/2006.

EPA ICR No. 2204.01; Expert Elicitation of the Association of PM2.5 Exposure and Mortality; was approved 10/11/2005; OMB Number 2060–0575; expires 04/30/2006.

Disapproved

EPA ICR No. 2169.01; Cooling Water Intake Structures at Phase III Facilities (Proposed Rule); was disapproved 09/13/2005 by OMB.

Comment Filed

EPA ICR No. 2195.01; Submission of Protocols and Study Reports for Environmental Research Involving Human Subjects (Proposed Rule); on 10/05/2005 OMB filed comment.

Dated: October 14, 2005.

Richard Westlund,

Acting Director, Collection Strategies Division.

[FR Doc. 05–21095 Filed 10–20–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[SFUND–2005–0007, FRL–7987–2]

Agency Information Collection Activities: Comment Request; EPA ICR Number 1426.07, OMB Control Number 2050–0105

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection. This ICR is scheduled to expire on 12/31/2005. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before December 20, 2005.

ADDRESSES: Submit your comments, referencing docket ID number SFUND–2005–0007, to EPA online using EDOCKET (our preferred method), by e-mail to *superfund.docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Office of Solid Waste and Emergency Response, 5202T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Sella M. Burchette, U.S. EPA Environmental Response Team, MS 101, Building 18, Edison, NJ 08837, 732–321–6726, or by e-mail at *burchette.sella@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number SFUND–2005–0007, which is available for public viewing at the Office of Solid Waste and Emergency Response Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Office of Solid Waste and Emergency Response Superfund Docket is (202) 566–0276. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 *FR* 38102 (May 31, 2002), or go to *www.epa.gov./edocket.*

Affected entities: Entities potentially affected by this action are those State and local employees engaged in hazardous waste operations and emergency response in the 27 States that do not have Occupational Safety and Health Administration (OSHA) approved State plans.

Title: EPA Worker Protection Standard for Hazardous Waste Operation and Emergency Response, OMB Control # 2050–0105, EPA ICR # 1426.07, Expiration 12/31/05. This is a request for renewal of a currently approved collection.

Abstract: Section 126(f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) requires EPA to set worker protection standards for State and local employees engaged in hazardous waste operations and emergency response in the 27 States that do not have Occupational Safety and Health Administration approved State plans. The EPA coverage, required to be identical to the OSHA standards, extends to three categories of employees: those engaged in clean-ups at uncontrolled hazardous waste sites, including corrective actions at Treatment, Storage and Disposal (TSD) facilities regulated under the Resource Conservation and recovery Act (RCRA); employees working at routine hazardous waste operations at RCRA TSD facilities, and employees involved in emergency response operations without regard to location. This ICR renews existing mandatory record keeping collection of ongoing activities including monitoring of any potential employee exposure at uncontrolled hazardous waste sites, maintaining records of employee training, refresher training, medical exams and reviewing emergency response plans. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: The annual recordkeeping burden for this collection will remain unchanged from previous estimates and is estimated to average 10.46 hours per site or event. The estimated number of respondents is approximated at 100 RCRA TSD facilities or uncontrolled hazardous waste sites: 23,900 State and local police departments, fire departments or hazardous materials teams. The estimated total burden hours on respondents: 255,427. The frequency of collection: continuous maintenance of records. Burden means to total time, effort, and 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.

Remit comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: October 17, 2005.

Charles H. Sutfin,

Deputy Director, Office of Superfund Remediation and Technology Innovation.

[FR Doc. 05–21096 Filed 10–20–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6668–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at

202–564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 1, 2005 (70 FR 16815).

Draft EISs

EIS No. 20050198, ERP No. D–AFS–L65485–WA, Growden Dam Sherman Creek Restoration Project, and Forest Plan Amendment #28, Implementation, Colville National Forest, Ferry County, WA.

Summary: EPA had concerns about potential impacts to wetlands and recommended that additional mitigation be developed.

Rating EC2.

EIS No. 20050292, ERP No. D–USA–K11038–HI, Makua Military Reservation (MMR) Project, Proposed Military Training Activities, 25th Infantry Division (Light) and U.S. Army, HI.

Summary: EPA expressed environmental concerns regarding the introduction of additional weapons-related contaminants to soil and water, existing pollutant migration. EPA recommended the Army take advantage of pollution prevention opportunities and preventing further contaminant migration by removing priority sources of contamination and controlling run-on/runoff from contaminated areas.

Rating EC1.

EIS No. 20050295, ERP No. D–AFS–K65288–CA, Bald Mountain Project, Proposes to Harvest Trees Using Group and Individual Trees Selection Methods, Feather River Ranger District, Plumas National Forest, Plumas and Butte Counties, CA.

Summary: EPA expressed concerns with the limited scope of the cumulative impacts analysis and the lack of specific information on monitoring, project actions, funding, and existing conditions. EPA recommended rapid implementation of road improvements, staggered scheduling of projects and additional information on the above informational issues.

Rating EC2.

EIS No. 20050339, ERP No. D–AFS–J65450–SD, Deerfield Project Area, Proposes to Implement Multiple Resource Management Actions, Mystic Ranger District, Black Hills National Forest, Pennington County, South Dakota.

Summary: EPA expressed concern about (1) unmitigated and nonquantified soil erosion, runoff, and sediment losses; (2) potential water quality impacts from timber harvest and roads; (3) wildlife impacts to sensitive species; and (4) targeted harvest of older ponderosa pines important to sensitive wildlife.

Rating EC2.

EIS No. 20050346, ERP No. D–AFS–K02012–NV, White Pine & Grant-Quinn Oil and Gas Leasing Project, Exploration and Development, Humboldt-Toiyabe National Forest, Ely Ranger District, White Pine, Nye and Lincoln Counties, NV.

Summary: EPA expressed concern about impacts to water quality and habitat. EPA requested appropriate lease stipulations to protect these resources be included in the ROD.

Rating EC2.

EIS No. 20050349, ERP No. DB–COE–E36167–FL, Central and Southern Florida Project, Tamiami Trail Modifications, Modified Water Deliveries to Everglades National Park, Authorized Flow of Water from WCA–3B and the L–29 Canal North of the Tamiami Trail, Dade County, FL.

Summary: EPA had no objections to the proposed project. Rating LO.

Final EISs

EIS No. 20050261, ERP No. F–IBR–K39090–CA, Cental Valley Project Long-Term Water Service Contract Renewals—American River Division, Proposes to Renew Long-Term Water Service Contracts, Sacramento, Placer and El Dorado Counties, CA.

Summary: EPA continued to have concerns regarding the environmental impacts of potential increased water diversions from the American River on water quality, fisheries, aquatic ecosystems, and overall CVP operations and cumulative impacts.

EIS No. 20050343, ERP No. F–BLM–J67031–ND, West Mine Area, Freedom Mine, Federal Coal Lease Application, Mercer County, ND.

Summary: EPA expressed continued concern about the need to provide additional mitigation to compensate for the loss of fens and peatland wetlands.

EIS No. 20050363, ERP No. F–NPS–E61076–00, Low Country Gullah Culture Special Resource Study, Gullah Culture Preservation and Protection Analysis to Consider the Suitability and Feasibility for Inclusion in the National Park Service System, SC, NC, GA, and FL.

Summary: EPA has no objections to the proposed action.

Dated: October 18, 2005.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 05–21102 Filed 10–20–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6668–5]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements.

Filed October 10, 2005 through October 14, 2005.

Pursuant to 40 CFR 1506.9.

EIS No. 20050429, Final EIS, BLM, UT, Castle Peak and Eightmile Flat Oil and Gas Expansion Project, Expansion of Crude Oil and Natural Gas Development and Production Programs, Right-of-Way Grant, Duchesne and Uintah Counties, UT, Wait Period Ends: 11/21/2005, Contact: Jean Nitschke-Sinclear 435–781–4437.

EIS No. 20050430, Final EIS, COE, PA, The Town of Bloomsburg, Columbia County, Pennsylvania Flood Damage Reduction Project, Implementation, Integrated Feasibility Report, Susquhanna River and Fishing Creek, Town of Bloomsburg, Columbia County, PA, Wait Period Ends: 11/21/2005, Contact: Jeff Trulick 410–962–6715.

EIS No. 20050431, Final EIS, FHW, NE, South Omaha Veterans Memorial Bridge Improvements, Across the Missouri River for Highway US–275 between the Cities of Omaha, Nebraska and Council Bluffs, Iowa, NPDES and U.S. Army COE Section 404 Permit, NE and IA, Wait Period Ends: 11/21/2005, Contact: Edward Kosola 402–437–5973.

EIS No. 20050432, Draft Supplement, FHW, GA, U.S. 411 Connector, From U.S. 411/GA–20 Interchange with U.S. 41 to U.S. 11 Interchange with I–75, Updated Information, Funding and U.S. Army COE Section 404 Permit, Bartow County, GA, Comment Period Ends: 12/05/2005, Contact: Robert Callan 404–562–3630.

EIS No. 20050433, Draft EIS, FHW, WI, U.S. Highway 12, Improvement from U.S. 12/WI–26 North Fort Atkinson Interchange to Whitewater Bypass, Funding, Rock and Jefferson Counties, WI, Comment Period Ends: 12/14/2005, Contact: Johnny Gerbitz 608–829–7500.

EIS No. 20050434, Final EIS, FHW, AR, Springdale Northern Bypass Project, U.S. Highway 412 Construction, Additional Information, Designation of a Preferred Alternative, Funding

and NPDES Permit Issuance, Benton and Washington Counties, AR, Wait Period Ends: 11/23/2005, Contact: Randal Looney 501–324–5625.

EIS No. 20050435, Draft EIS, NOA, 00, Snapper Grouper Fishery, Amendment 13C to the Fishery Management Plan, Phase Out Overfishing of Snowy Grouper, Golden Tilefish, Vermilion Snapper and Sea Bass, Implementation, South Atlantic Region, Comment Period Ends: 12/05/2005, Contact: Dr. Roy E. Crabtree 727–824–5301.

EIS No. 20050436, Draft EIS, NPS, MI, Isle Royale National Park Wilderness and Backcounty Management Plan, Implementation, MI, Comment Period Ends: 12/20/2005, Contact: Phyllis Green 906–482–0986.

EIS No. 20050437, Final EIS, AFS, NM, Tadjik Watershed Restoration Project, Proposes Fuel Reduction and Restore Forest Health, Cabala National Forest, Terrine County, NM, Wait Period Ends: 11/21/2005, Contact: Vicky Astride 505–847–2990.

EIS No. 20050438, Draft EIS, COE, SC, Charleston Naval Complex (CAC), Proposed Construction of a Marine Container Terminal, Cooper River in Charleston Harbor, City of North Charleston, Charleston County, SC, Comment Period Ends: 12/20/2005, Contact: Nathaniel I. Ball 843–329–8044.

Amended Notices

EIS No. 20050342, Draft EIS, NOA, 00, Consolidated Atlantic Highly Migratory Species Fishery Management Plan for Atlantic Tunas, Swordfish, and Shark and the Atlantic Billfish Fishery Management Plan, Implementation, Atlantic Coast, Caribbean and Gulf of Mexico, Comment Period Ends: 03/01/2006, Contact: Karyl Breasted Gauss 301–713–2347, Revision of Notice Published in FR: 08/19/2005, Comment Period Extended from 10/18/2005 to 03/01/2006.

EIS No. 20050369, Final EIS, FHW, MD, MD–32 Planning Study, Transportation Improvements from MD–108 to Interstate 70, Funding, Howard County, MD, Wait Period Ends: 11/11/2005, Contact: Caron Brookman 410–962–4440, Revision to FR Notice Published on 9/9/2005, Comment Period Extended from 10/11/2005 to 11/11/2005.

EIS No. 20050394, Draft EIS, FHW, IA, Council Bluffs Interstate System Improvements Project (Tier 1), Transportation Improvements from the Missouri River on I–80 east of the I–480 Interchange in Omaha, Podium County, IA and Douglas County, NE, Comment Period Ends: 02/28/2006, Contact: Philip Barnes 515–233–7300. This EIS was inadvertently refiled and published in 9/30/2005 FR. The Correct Notice was published in 12/23/2004 FR.

EIS No. 20050417, Final Supplement, COE, MD, Poplar Island Environmental Restoration Project, Habitat Restoration and Dredged Material Capacity, Chesapeake Bay, Talbot County, MD, Wait Period Ends: 11/07/2005, Contact: Mark Mendelsohn 410–962–9499. Revision of Notice Published FR: 10/07/2005. Correction to Contact Telephone Number.

Dated: October 18, 2005.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 05–21100 Filed 10–20–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7987–3]

Clean Air Act Advisory Committee (CAAAC): Notice of Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990, to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical scientific, and enforcement policy issues.

DATES: Open meeting notice; Pursuant to 5 U.S.C. App. 2 Section 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Thursday, November 17, 2005, from approximately 8:30 a.m. to 4:30 p.m. at the Camino Real Hotel in El Paso, Texas. Seating will be available on a first come, first served basis. Subcommittee meetings will be held on November 16, 2005 from approximately 8:30 a.m to 12 p.m. at the same location as the full Committee. The Mobile Source Technical Review subcommittee and the Air Quality Management subcommittee will not meet at this time. The agenda for the full committee meeting will be posted on the CAAAC Web site: *http://www.epa.gov/oar/caaac/*.

Inspection of Committee Documents: The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with CAAAC meeting minutes, will be available by contacting the Office of Air and Radiation Docket and requesting information under docket OAR–2004–0075. The Docket office can be reached by telephoning 202–260–7548; FAX 202–260–4400.

FOR FURTHER INFORMATION CONTACT: Concerning the CAAAC, please contact Pat Childers, Office of Air and Radiation, U.S. EPA (202) 564–1082, FAX (202) 564–1352 or by mail at U.S. EPA, Office of Air and Radiation (Mail code 6102 A), 1200 Pennsylvania Avenue, NW., Washington, DC 20004. For information on the Subcommittees, please contact the following individuals: (1) Permits/NSR/Toxics Integration—Debbie Stackhouse, (919) 541–5354; and (2) Air Quality Management—Jeff Whitlow, (919) 541–5523 (3) Economic Incentives and Regulatory Innovations—Carey Fitzmaurice, (202)564–1667 (4) Mobile Source Technical Review—Joseph Bachman, (202) 343–9373. Additional Information on these meetings, CAAAC and its Subcommittees can be found on the CAAAC Web site: *http://www.epa.gov/oar/caaac/*.

For information on access or services for individuals with disabilities, please contact Mr. Pat Childers at (202) 564–1082 or *childers.pat@epa.gov*. To request accommodation of a disability, please contact Mr. Childers, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated October 14, 2005.

Rob Brenner,

Director, Office of Policy, Analysis and Review, Office of Air and Radiation.

[FR Doc. 05–21097 Filed 10–20–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0347 FRL–7726–2]

Fluazifop-P-butyl; Tolerance Reassessment Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Tolerance Reassessment Decision (TRED) for the pesticide fluazifop-P-butyl. The

Agency's risk assessments and other related documents also are available in the fluazifop-P-butyl Docket. Through the tolerance reassessment program, EPA is ensuring that all pesticides meet current health and food safety standards.

FOR FURTHER INFORMATION CONTACT: Lance Wormell, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 603–0523; fax number: (703) 308–8041; e-mail address: *wormell.lance@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket ID number OPP–2004–0347. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

II. Background

A. What Action is the Agency Taking?

EPA has reassessed risks associated with use of the pesticide fluazifop-P-butyl, reassessed 37 existing tolerances or legal residue limits, and on September 13, 2005, reached a tolerance reassessment and risk management decision. Fluazifop-P-butyl is a selective, post-emergent herbicide registered for the control of perennial and annual grass weeds. Fluazifop-P-butyl is typically applied as a broadcast, banded, directed or spot treatment with groundboom sprayers and aerial equipment to asparagus, carrot, coffee, cotton, endive (escarole), garlic, macadamia nut, onion, pecan, pepper, rhubarb, soybeans, stone fruits, sweet potato, and yam; it is also registered for use on lawns/turf. The Agency is now issuing a Report on Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision for fluazifop-P-butyl, known as a TRED, as well as related technical support documents.

EPA must review tolerances and tolerance exemptions that were in effect when FQPA was enacted in August 1996, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard established by the new law. Tolerances are considered reassessed once the safety finding has been made or a revocation occurs. EPA has reviewed and made the requisite safety finding for the fluazifop-P-butyl tolerances included in this notice.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, fluazifop-P-butyl was reviewed through the modified 4–Phase public participation process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for fluazifop-P-butyl.

B. What is the Agency's Authority for Taking this Action?

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

Section 4(g)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended directs that, after submission of all data concerning a pesticide active ingredient, "the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration," before calling in product specific data on individual end-use products and either reregistering products or taking other "appropriate regulatory action."

List of Subjects

Environmental protection, Pesticides and pests.

Dated: October 11, 2005.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–20996 Filed 10–20–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7983–8; E–Docket ID No. ORD–2005–0021]

Additional Proposed Indicators for the U.S. EPA's 2007 Report on the Environment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: EPA is announcing a 30-day public review and comment period on several Additional Proposed Indicators—EPA ROE 2007. These proposed indicators are in addition to the proposed indicators that were the subject of a June 6, 2005, **Federal Register** notice (70 FR 32769) that announced both a public comment period and an independent peer-review workshop that was held on July 27–29, 2005. Several of these additional indicators were added in response to comments from the first peer-review regarding additional indicators needed. Others were evaluated during the first review but have changed substantially and therefore warrant re-review; and a few are indicators for which materials were not ready at the time of the initial review. In addition to the public comment period, this set of additional proposed indicators will also undergo independent expert peer-review. The peer-review for this smaller set will be conducted via letter review. ERG, an EPA contractor for external scientific peer-review, is conducting this independent, external, peer-review and will engage the same expert panel that reviewed the first set of proposed ROE 2007 indicators. This public comment period, however, provides an opportunity for all stakeholders to weigh in on the primary contents of the draft 2007 Report on the Environment (EPA ROE 2007) at an early stage. In preparing the EPA ROE 2007, EPA will consider ERG's report of the comments and recommendations from this expert peer-review and any public comments EPA receives in accordance with today's notice.

EPA is releasing these proposed indicators for public comment and for the purpose of pre-dissemination peer-review under applicable information quality guidelines. These indicators have not been formally disseminated by EPA. They do not represent and should not be construed to represent any Agency policy or determination.

DATES: The 30-day public comment period begins October 21, 2005, and ends November 21, 2005. Comments must be postmarked by November 21, 2005.

ADDRESSES: The Additional Proposed Indicators—EPA ROE 2007 are available primarily via the Internet at: *www.epa.gov/ROEindicators.* Each of the proposed additional indicators can be downloaded separately from this Web site in the PDF format. A limited number of electronic copies on compact disc (CD) are available from the National Center for Environmental Assessment's Technical Information Staff, NCEA–W; telephone: 202–564–3261; facsimile: 202–565–0050. If you are requesting a CD, please provide your name, your mailing address, and the document title, ''Additional Proposed Indicators—EPA ROE 2007.''

Public comments may be submitted electronically via EPA's E-Docket, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions for submission of public comments as provided in the section of this notice entitled **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the OEI Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

If you have technical questions about the Additional Proposed Indicators—EPA ROE 2007, contact: Julie Damon, National Center for Environmental Assessment (8601D), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 202–564–3404; facsimile: 202–565–0065; or e-mail: *damon.julie@epa.gov.*

SUPPLEMENTARY INFORMATION:

About the Report on the Environment and the Proposed Indicators—EPA ROE 2007

In June 2003, EPA published its first national Draft Report on the Environment, using available indicators and data to answer questions pertaining to national environmental and human health conditions. At that time, EPA released two companion documents—one for readers with a general interest in the environment (Draft Report on the Environment Public Report) and another for more technical readers (Draft Report on the Environment Technical Document). These draft documents utilized indicators to describe the then current environmental conditions, trends, and data gaps.

Shortly after the release of the 2003 draft documents, EPA announced that it planned to release the next Report on the Environment in 2007. Activities related to the development of EPA's 2007 ROE have been ongoing since release of the 2003 draft documents. As in 2003, EPA anticipates the 2007 ROE will include the release of two paper documents—one for readers with a general interest in the environment (a Public Report) and another for more technical readers (a Technical Document). EPA also intends to make the information in the 2007 ROE available as an interactive, searchable Web site—the ''e-ROE.'' The Technical Document will provide the scientific foundation for the more general Public Report and the e-ROE. EPA plans to use the Technical Document to present and discuss indicators that are currently available to answer the questions posed in the ROE 2007.

EPA encourages the public to submit comments on whether these additional indicators proposed to be included in the EPA ROE 2007 Technical Document are supported by data that are technically sound, meet the established indicator definition and criteria, and help answer the questions posed in the ROE 2007. In addition, EPA welcomes comments on any other aspect of the proposed indicators that the public would like to share with the Agency. After ERG provides EPA with a report of the peer-review on these additional proposed indicators, as well as the report resulting from the July 2005 peer-review workshop, EPA will consider ERG's report and the public comments. Any resulting revisions to the proposed indicators or any changes to the list of proposed indicators will be discussed within EPA and with our federal agency partners. The external review draft of the EPA ROE 2007 Technical Document is expected in summer/fall 2006.

How To Submit Comments to EPA's E-Docket

EPA has established an official public docket for information pertaining to the Additional Proposed Indicators—EPA ROE 2007, Docket ID No. ORD–2005–0021. The official public docket is the collection of materials, excluding Confidential Business Information (CBI) or other information for which disclosure is restricted by statute, that is available for public viewing at the Office of Environmental Information (OEI) Docket in the Headquarters EPA Docket Center, EPA West Building, Room B102, 1301 Constitution Ave.,

NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744, and the telephone number for the OEI Docket is 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

An electronic version of the official public docket is available through EPA's electronic public docket and comment system, E-Docket. You may use E-Docket at *http://www.epa.gov/edocket/* to submit or view public comments, to access the index of the contents of the official public docket, and to view those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in E-Docket. Information claimed as CBI and other information for which disclosure is restricted by statute are not included in the official public docket and also will not be available for public viewing in E-Docket. Copyrighted material will not be placed in E-Docket, but will be referenced there and available as printed material in the official public docket.

If you intend to submit comments to EPA, please note that it is EPA policy to make comments available for public viewing just as they are received at the EPA Docket Center or in E-Docket. This policy applies to information submitted electronically or in paper form, except where restricted by copyright, CBI, or statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment placed in EPA's electronic public docket; the entire printed comment, including the copyrighted material, will be available in the official public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to E-Docket. Physical objects will be photographed, where practical, and the photograph will be placed in E-Docket along with a brief description written by the docket staff.

You may submit comments electronically, by mail, by facsimile, or by hand delivery/courier. To ensure proper receipt by EPA, include the appropriate docket identification number with your submission. Please adhere to the specified submitting period; public comments received past the closing date will be marked ''late'' and may only be considered if time permits.

If you submit public comments electronically, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include these contact details on the outside of any submitted disk or CD–ROM, and in any cover letter accompanying the disk or CD–ROM. This ensures that you can be identified as the person submitting the comment and allows EPA to contact you in case the Agency cannot read your submission due to technical difficulties, or needs further information on the substance of your comment. EPA will not edit your comment, and any identifying or contact information provided in the body of the comment will be included as part of the comment placed in the official public docket and made available in E-Docket. If EPA cannot read what you submit due to technical difficulties and cannot contact you for clarification, it may delay or preclude EPA's consideration of your comments.

Electronic submission of comments via E-Docket is the preferred method for receiving comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and key in Docket ID No. ORD–2005–0021. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact details unless you provide it in the body of your comment.

Comments may be sent by electronic mail (e-mail) to *ORD.Docket@epa.gov,* Attention Docket ID No. ORD–2005–0021. In contrast to EPA's electronic public docket, EPA's e-mail system is *not* an ''anonymous access'' system. If you send an e-mail directly to the docket without going through EPA's E-Docket, EPA's e-mail system automatically captures your e-mail address, and it becomes part of the information in the official public docket and is made available in E-Docket.

You may submit comments on a disk or CD–ROM mailed to the OEI Docket mailing address. Files will be accepted in WordPerfect, Word, or PDF file format. Avoid the use of special characters and any form of encryption. If you provide comments in writing, please submit one unbound original with pages numbered consecutively, and three copies. For attachments, provide an index, number pages consecutively with the main text, and submit an unbound original and three copies.

Dated: October 6, 2005.

Peter Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. 05–21094 Filed 10–20–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 7, 2005.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Marilyn J. Ivers, Great Falls, Montana; as co-trustee, to acquire control of Northern Financial Corporation, Independence, Wisconsin, and thereby indirectly acquire Independence State Bank, Independence, Wisconsin.

Board of Governors of the Federal Reserve System, October 18, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–5801 Filed 10–20–05; 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 Web site 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 November 15, 2005.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30303:

1. Madison Financial Corporation, Madison, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of Madison County Bank, Madison, Mississippi.

Board of Governors of the Federal Reserve System, October 17, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–5795 Filed 10–20–05; 8:45 am]

BILLING CODE 6210–01–S

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Sunshine Act Meeting; Meeting of the Trustees and Officers of the Harry S. Truman Scholarship Foundation—Change of Meeting Date and Time

The meeting date and time announced on October 3, 2005 (70 FR 57599) has been changed. The meeting will now be held on November 16, 2005 from 11 a.m. to 1 p.m. at the Cannon House Office Building, Room 121. The agenda remains unchanged.

Louis H. Blair,

Executive Secretary.

[FR Doc. 05–21185 Filed 10–19–05; 11:19 am]

BILLING CODE 6820–AD–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10172, CMS–R–0107 and CMS–R–285]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Medicare Health Support Program Medical Records Abstraction; *Form Number:* CMS–10172 (OMB#: 0938–New); *Use:* The Medicare Health Support Program (MHS) is authorized under Section 721 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). There are eight Medicare Health Support Organizations (MHSOs) that have signed cooperative agreements with the Centers for Medicare & Medicaid Services (CMS) to provide care support services to targeted Medicare fee-for-service (FFS) beneficiaries. The purposes of the MHS program are to improve the quality of healthcare provided to Medicare FFS beneficiaries with congestive heart failure and/or diabetes and to reduce the healthcare treatment cost to Medicare. MHS performance measures provide CMS with information to monitor the program operations and identify positive or negative program effects, provide MHSOs with feedback, and serve as the basis for MHS performance guarantees. To meet these requirements, CMS has developed a performance monitoring system for MHS. This system includes measures of clinical performance that require the collection of clinical data from the medical records of a sample of Medicare beneficiaries. Medical record abstraction will be performed in two phases: the first, a pilot test, will take place after approximately six months of program operations, and the second, the full study. CMS will obtain active informed consent from the affected beneficiaries prior to reviewing medical records; *Frequency:* Reporting—Other: Only Once; *Affected Public:* Individuals or Households and Business or other for-profit; *Number of Respondents:* 26,643; *Total Annual Responses:* 26,643; Total Annual Hours: 12,416.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare—Determining Third Party Liability (TPL) State Plan Preprint and Supporting Regulations in 42 CFR 433.138; *Form Number:* CMS–R–0107 (OMB#: 0938–0502); *Use:* Medicaid beneficiaries frequently have third party resources which are legally obligated to pay medical claims before Medicaid pays. Section 42 CFR 433.138 requires State Medicaid agencies to take specific steps to identify third party resources and determine their legal liability to pay for services under the plan. The collection of TPL information results in significant program savings to the extent that liable third parties can be identified and payments can be made for services that would otherwise be paid for by the Medicaid program. The State Medicaid agencies are the primary users of the collected data. Whenever States identify third party resources, pertinent information is entered into the State's Medicaid Management Information System (MMIS). This enables the State to advise the provider to bill the third party and to seek reimbursement in situations where Medicaid TPL claims have been paid; *Frequency:* Recordkeeping—On occasion; *Affected Public:* Individuals or Households and Federal, State, Local and Tribal Government; *Number of Respondents:* 2,700,000; *Total Annual Responses:* 2,700,000; Total Annual Hours: 472,259.

3. *Type of Information Collection Request:* Extension of a currently

approved collection; *Title of Information Collection:* Request for Retirement Benefit Information (BBA '97); *Form Number:* CMS–R–285 (OMB#: 0938–0769); *Use:* The Request for Retirement Benefit Information form is used to obtain retirement benefit information from beneficiaries that purchase Medicare Part A coverage. The Social Security Administration (SSA) will use this information to determine if a beneficiary meets the requirements to qualify for a Medicare Part A premium reduction.; *Frequency:* Reporting—On occasion; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 1500; *Total Annual Responses:* 1500; Total Annual Hours: 375.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS'l Web site address at *http://www.cms.hhs.gov/regulations/pra/,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received at the address below, no later than 5 p.m. on December 20, 2005. CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Bonnie L Harkless, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 13, 2005.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–20962 Filed 10–20–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10133]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), 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.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320. This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures because the use of normal clearance procedures will jeopardize program implementation by a statutorily mandated deadline and could contribute to impaired beneficiary access to Part B drugs.

Section 303(d) of the MMA provides an alternative payment methodology for Part B drugs that are not paid on a cost or prospective payment basis. In particular, Section 303(d) of the MMA amends Title XVIII of the Social Security Act (the Act) by adding a new section 1847B, which establishes a competitive acquisition program for the acquisition of and payment for Part B covered drugs and biologicals furnished on or after January 1, 2006. Beginning in 2006, physicians will have a choice between acquiring and billing for Part B covered drugs under the Average Sales Price (ASP) drug payment methodology or electing to receive these drugs from vendors/suppliers selected for the Competitive Acquisition Program (CAP), through a competitive bidding process. The provisions for this new payment system are described in the proposed rule (42 CFR Part 414 Subpart K) published March 4, 2005 (70 FR 10746), the interim final rule published July 6, 2005 (70 FR 39022), and a final rule that is expected to be published in November 2005.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Competitive Acquisition Program for Medicare Part B Drugs: Vendor Application and Bid Form; *Use:* The CAP Vendor Application and Bid Form is a collection tool which will be used by potential vendors to provide information related to the characteristics of their company and to submit their bid prices for CAP drugs. The information collected on the CAP Vendor Application and Bid Form will be used by CMS during the bidding evaluation process to evaluate the vendors bid prices, their credentials, experience and to assess their ability to provide quality service to physicians and beneficiaries. Competitive bidding is seen as a means of using the dynamics of the marketplace to provide incentives for suppliers to provide reasonably priced products and services of high quality in an efficient manner. The CAP's objectives include providing an alternative method for physicians to obtain Part B drugs to administer to Medicare beneficiaries and reducing drug acquisition and billing burdens for physicians; *Form Number:* CMS–10133 (OMB#: 0938–0955); *Frequency:* Reporting—Other, during enrollment; *Affected Public:* Business or other for-profit; *Number of Respondents:* 12; *Total Annual Responses:* 12; *Total Annual Hours:* 480.

CMS is requesting OMB review and approval of this collection by *November 1, 2005*, with a 180-day approval period. Written comments and recommendations will be considered from the public if received by the individuals designated below by October 28, 2005.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access the CMS Web site address at *http://www.cms.hhs.gov/regulations/pra* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed to the designees referenced below by October 28, 2005:

Centers for Medicare and Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Room C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, Fax Number: (410) 786–5267, Attn: William N. Parham, III and, OMB Human Resources and Housing Branch, Attention: CMS Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: October 17, 2005.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 05–21101 Filed 10–20–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Science Board to the Food and Drug Administration; 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: Science Board to FDA.

General Function of the Committee: The Board shall provide advice primarily to the agency's Senior Science Advisor and, as needed, to the Commissioner of Food and Drugs and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in industry and academia. Additionally, the Board will provide advice to the agency on keeping pace with technical and scientific evolutions in the fields of regulatory science, on formulating an appropriate research agenda, and on upgrading its scientific and research facilities to keep pace with these changes. It will also provide the means for critical review of agency-sponsored intramural and extramural scientific research programs.

Date and Time: The meeting will be held on November 4, 2005, from 8:30 a.m. to 4 p.m.

Location: Washington Room, Holiday Inn Bethesda, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Jan Johannessen, Office of the Commissioner (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6687, *jjohannessen@fda.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512603. Please call the Information Line for up-to-date information on this meeting.

Agenda: The Science Board will hear about and discuss the following topics: (1) An update on activities of the Drug Safety Oversight Board, (2) the agency's Bioresearch Monitoring Initiative, and (3) the Board's science peer review activities, including presentation of the Board's peer review of the Office of Regulatory Affairs' pesticide monitoring program.

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 28, 2005. Oral presentations from the public will be scheduled between approximately 12:30 p.m. and 1:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 28, 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 Jan Johannessen 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: October 14, 2005.

Jason Brodsky,

Acting Associate Commissioner for External Relations.

[FR Doc. 05–21036 Filed 10–20–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) as amended at (60 FR 56605, November 6, 1995; amended at 67 FR 46519, July 15, 2002; 68 FR 787–793, January 7, 2003, and 68 FR 64357–64358, November 13, 2003; and last amended at 69 FR 56433–56434, September 21, 2004).

This notice reflects changes to the organization and functions of the Office of Communications (RA6) and the Office of Information Technology (RAG) both in the Office of the Administrator (RA): Specifically, it moves the Audio Visual technology support function from the Office of Information Technology to the Office of Communications.

Chapter RA—Office of the Administrator

Section RA–10, Organization

The Office of the Administrator (OA) is headed by the Administrator, Health Resources and Services Administration, who reports directly to the Secretary. The OA includes the following components:

(1) Immediate Office of the Administrator (RA);

(2) Office of Equal Opportunity and Civil Rights (RA2);

(3) Office of Planning and Evaluation (RA5);

(4) Office of Communications (RA6);

(5) Office of Minority Health and Health Disparities (RA9);

(6) Office of Legislation (RAE);

(7) Office of International Health Affairs (RAH); and

(8) Office of Information Technology (RAG).

Section RA–20, Functions

Delete the functional statements for the Office of Communications (RA6) and the Office of Information Technology (RAG) in their entirety and replace it with the following:

Office of Communication (RA6)

Provides leadership and general policy and program direction for, and conducts and coordinates communications and public affairs activities of the Agency; Specifically, (1)

serves as focal point for coordination of Agency communications activities with those of other health agencies within the Department of Health and Human Services and with field, State, local, voluntary and professional organizations; (2) develops and implements national communications initiatives to inform and educate the public, health care professionals, policy makers and the media; (3) coordinates, researches, writes and prepares speeches and audiovisual presentations for the HRSA Administrator and Staff; (4) provides communication and public affairs expertise and staff advice and support to the Administrator in program and policy formulations and execution consistent with policy direction established by the Assistant Secretary for Public Affairs; (5) develops and implements policies and procedures related to external media relations and internal employee communications including those for the development, review, processing, quality control, and dissemination of Agency communications materials, including exhibits and those disseminated electronically; (6) serves as Communications and Public Affairs Officer for the Agency including establishment and maintenance of productive relationships with the news media; (7) serves as focal point for intergovernmental affairs for the Agency; (8) coordinates the implementation of the Freedom of Information Act for the Agency; and (9) manages audio visual and multimedia activities in support of communications efforts through multiple media formats.

Office of Information Technology (RAG)

Responsible for the organization, management, and administrative functions necessary to carry out the responsibilities of the Chief Information Officer including: Organization development, investment control, budget formulation and execution, policy development, strategic and tactical planning, and performance monitoring. Provides leadership in the development, review and implementation of policies and procedures to promote improved information technology management capabilities and best practices throughout HRSA. Coordinates IT workforce issues, works closely with the Departmental Office of Human Resources Management on IT recruitment and training. Carries out the responsibilities of the Chief Technology Officer (CTO) including the HRSA emerging and advanced technology integration program consistent with HRSA missions and program objectives. Provides leadership for strategic planning that leverages information systems security, program strategies, and advanced technology integration to achieve program objectives through innovative technology use.

Section RA–30, Delegations of Authority

All delegations and redelegations of authorities to officers and employees of the HRSA that were in effect immediately prior to the effective date of this action will be continued in effect pending further redelegation, provided they are consistent with this action.

This document is effective upon date of signature.

Dated: October 6, 2005.

Elizabeth M. Duke,

Administrator.

[FR Doc. 05–21033 Filed 10–20–05; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2002–11602]

Intent To Request Renewal From OMB of One Current Public Collection of Information: Security Programs for Foreign Air Carriers

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice.

SUMMARY: TSA invites public comment on one currently approved information collection requirement abstracted below that we will submit to the Office of Management and Budget (OMB) for renewal in compliance with the Paperwork Reduction Act.

DATES: Send your comments by December 20, 2005.

ADDRESSES: Katrina Wawer, Information Collection Specialist, Office of Transportation Security Policy, TSA–9, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220.

FOR FURTHER INFORMATION CONTACT: Katrina Wawer at the above address or by telephone (571) 227–1995 or facsimile (571) 227–2594.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a valid OMB control number. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

1652–0005; Security Programs for Foreign Air Carriers, 49 CFR part 1546. The Federal Aviation Administration initially required this collection under 14 CFR part 129 (now 49 CFR part 1546) and cleared under OMB control number 2120–0536. The responsibility for the collection was transferred to TSA and assigned OMB control number 1652–0005. The information collected is used to determine compliance with 49 CFR part 1546 and to ensure passenger safety by monitoring foreign air carrier security procedures. These security programs establish procedures that foreign air carriers must carry out to protect persons and property against acts of criminal violence, aircraft piracy, and terrorist activities. This information collection is mandatory for foreign air carriers and must be submitted prior to gaining entry into the United States.

The information requested of foreign air carriers has increased due to the security measures mandated by the Federal Government since September 11, 2001. Because TSA has taken over airport passenger and cargo screening requirements within the United States, the recordkeeping requirements regarding screening have been reduced. However, TSA has implemented additional security requirements, most of which include recordkeeping requirements and for which the burden has yet to be calculated. The additional information TSA now collects includes identifying information on foreign air carriers' flight crews and passengers. Specifically, TSA requires foreign carriers to submit the following information: (1) A master crew list of all flight and cabin crew members flying to and from the United States; (2) the flight crew list on a flight-by-flight basis; and

(3) passenger information on a flight-by-flight basis. Foreign carriers are required to provide this information via electronic means. Foreign carriers with limited electronic systems may need to modify their current systems or generate a new computer system in order to submit the requested information. Additionally, foreign carriers must maintain these records.

Other requirements contained in part 1546 will continue and TSA will continue to gather information for those requirements. TSA is still analyzing the new hour and cost burden estimates for the expanded information requirements discussed above. TSA will further report and publish these estimates; however, it is not possible to provide the burden information at this time.

Issued in Arlington, Virginia, on October 17, 2005.

Lisa S. Dean,

Privacy Officer.

[FR Doc. 05–21079 Filed 10–20–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Medical Examination of Aliens Seeking Adjustment of Status, Form I–693.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until December 20, 2005.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, 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:* Medical Examination of Aliens Seeking Adjustment of Status.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–693. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This information collection will be used by the Service in considering eligibility for adjustment of status under sections 209, 210, 245 and 245A of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 800,000 respondents at 1.5 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,200,000 annual burden hours.

If you have comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Washington, DC 20529.

Information about USCIS forms is available online at the USCIS Forms, Fees and Fingerprints Information Center. The Forms and Fees link provides information on immigration forms and how to print them. We recommend that you obtain all of your forms by downloading (printing) them from this Web site. This will ensure that you will have the most up-to-date version of the form that is currently available.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. 05–21103 Filed 10–20–05; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Biographic Information, Form G–325.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until December 20, 2005.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2)Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including 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 currently approved collection.

(2) *Title of the Form/Collection:* Biographic Information.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form G–325. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Households. This form is used to check other agency records on application or petitions submitted for benefits under the Immigration and Nationality Act. Additionally, this form is required for applicants for adjustment to permanent resident status and specific applicants for naturalization.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,144,994 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 286,249 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument with instructions, please contact Richard A. Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Washington, DC 20529.

Information about USCIS forms is available online at the USCIS Web site. The USCIS Web site address is: *http://www.uscis.gov.* Click on the link to the USCIS Forms, Fees and Fingerprints Information Center. The Forms and Fees link provides information on immigration forms and how to print them. We recommend that you obtain all of your forms by downloading (printing) them from this website. This will ensure that you will have the most up-to-date version of the forms that is currently available.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. 05–21104 Filed 10–20–05; 8:45am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Notice of Appeal of Decision Under Section 210, Form I–694.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance 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 60 days until December 20, 2005.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including 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:* Notice of Appeal of Decision Under 210.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–694. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This information collection will be used by the Service in considering appeals of denials of temporary and permanent residence status by legalization applicants and special agricultural workers, under sections 210 and 245A of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,192 respondents at 30 Minutes (.5) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 596 annual burden hours.

If you have comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Washington, DC 20529.

Information about USCIS forms is available online at the USCIS Forms, Fees and Fingerprints Information Center. The Forms and Fees link provides information on immigration forms and how to print them. We recommend that you obtain all of your forms by downloading (printing) them from this Web site. This will ensure that you will have the most up-to-date version of the form that is currently available.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. 05–21105 Filed 10–20–05; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act; Form I–612.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until December 20, 2005.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the

agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, 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 Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–612. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and households. This form is used by the USCIS to determine eligibility for a waiver.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,300 responses at 20 minutes (.333) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 432 annual burden hours.

If you have comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Director, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., Washington, DC 20529. Information about USCIS forms is available online at the USCIS Forms, Fees and Fingerprints Information Center. The Forms and Fees link provides information on immigration forms and how to print them. We recommend that you obtain all of your forms by downloading (printing) them from this web site. This will ensure that you will have the most up-to-date version of the form that is currently available.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. 05–21106 Filed 10–20–05; 8:45am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4912–N–14]

Notice of Intent To Prepare a Draft Environmental Impact Statement for Development of Cedar Grove Housing in Tahoe Vista, Placer County, CA

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD gives notice to the public, agencies, and Indian tribes that Placer County, CA, intends to prepare an Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) (EIS/EIR) for development of Cedar Grove Housing located in Tahoe Vista, Placer County, CA. Placer County, acting as the lead agency, will prepare the EIS/EIR acting under its authority as the responsible entity for compliance with the National Environmental Policy Act (NEPA) in accordance with 42 U.S.C. 5304(g) and HUD regulations at 24 CFR 58.4, and under its authority as lead agency in accordance with the California Environmental Quality Act (CEQA). The EIS/EIR will be a joint document under NEPA, CEQA and the Tahoe Regional Planning Agency (TRPA) Code of Ordinances. The EIS will satisfy the requirements of NEPA and the TRPA Code of Ordinances. The EIR will satisfy requirements of the CEQA (Public Resources Code 21000 *et seq.*) and State CEQA Guidelines (14 California Code of Regulations 15000 *et seq.*), which require that all State and local government agencies consider the environmental consequences of projects over which they have discretionary authority before acting on those projects.

The proposed action is subject to compliance with NEPA, because Federal Community Development Block Grant (*i.e.*, CDBG) funds and possible other HUD housing program funds (discussed below) would be used for the development of affordable housing. This notice is given in accordance with the Council on Environmental Quality regulations at 40 CFR parts 1500–1508. All interested Federal, State, and local agencies, Indian tribes, groups, and the public are invited to comment on the scope of the EIS. If you are an agency with jurisdiction by law over natural or other public resources affected by the project, Placer County needs to know what environmental information germane to your statutory responsibilities should be included in the EIS/EIR.

ADDRESSES: Comments relating to the scope of the EIS are requested and will be accepted by the contact person listed below for up to 30 days following the date of publication. Any person or agency interested in receiving a notice and wishing to make comment on the draft EIS should contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Joanne Auerbach, County NEPA Certifying Officer and Housing Program Coordinator, Placer County Redevelopment Agency, 11493 B Avenue, Auburn, CA 95603. Contact Phone Number: 530/889–4264, Fax Number: 530/889–6890, E-mail: *mailto:jauerbac@placer.ca.gov.*

PUBLIC MEETING: There will be no future public scoping meetings on this EIS/EIR, because foreseeable impacts were identified in the previous public scoping meetings. There will be additional public hearings. The dates will be posted on the Placer County Web site, *http://www.placer.ca.gov/*, when the Public Review Draft EIS/EIR is released.

SUPPLEMENTARY INFORMATION

Project Name and Description

The Affordable Housing Development Corporation, Inc. (AHDC), proposes to develop approximately 12.2 acres in the Tahoe Vista area of Placer County for an affordable housing complex. The project site is located on the Kings Beach 7.5-minute U.S.G.S. topographic quadrangle map, north of State Route 28 and west of National Avenue in Tahoe Vista, California. The site is currently undeveloped, forested land with dense stands of pine, fir, and cedar. Adjacent properties to the east and west have been developed for residential housing. The North Tahoe Regional Park is directly north of the project site, and the Mourelatos resort is to the south.

The project would require an amendment to the Tahoe Vista Community Plan for the annexation of the land to the Tahoe Vista Community and a TRPA Plan Area Statement (PAS) Amendment for the Tahoe Estates PAS 021 Special Area 6.

This is to be a combined document—EIR under the California State Environmental Quality Act, EIS under the National Environmental Policy Act

and HUD regulations in 24 CFR Part 58, and EIS under the TRPA Code of Ordinances.

The proposed development would consist of approximately 152 rental housing units, 23 buildings, approximately 41.7 percent site coverage, and a density of 12.4 units per acre. All of the units would be affordable to families with incomes at or below 80 percent of the median income. An internal looped roadway system with separate points for both entry and exit is proposed as part of the project. National Avenue would provide the main access from State Route 28. Points of access to the complex from National Avenue that are being considered include: Grey Lane and Toyon Road, with Wildwood Road via Estates Drive being an alternative or emergency access road. A Class 1 bike trail and onsite parking are also proposed for the site.

Alternatives to the Proposed Action

There are five alternatives to the proposed action to be analyzed in the EIR/EIS. The alternatives are all variations of the site layout and density. Alternative sites for the project were explored early in the process and it was determined that no other more viable site was available.

Alternative B, 132 Units

Coverage Ratio: 38.6 percent
Population: 364 (Assuming 1 person/bedroom)

Alternative C, 160 Units

Coverage Ratio: 44.0 percent
Population: 452 (Assuming 1 person/bedroom)

Alternative D, 144 Units

Coverage Ratio: 30 percent
Population: 568 (Assuming 1 person/bedroom)

Alternative E, 152 Units

Coverage Ratio: 50 percent
Population: 394 (Assuming 1 person/bedroom)

Alternative F, No Project/No Action

If nothing were done, no additional affordable housing would be built. The project site would remain vacant.

Probable Environmental Effects

The following subject areas will be analyzed in the combined EIS/EIR for probable environmental effects: water quality, soils and geology, air quality, noise, transportation, vegetation, wildlife and scenic resources, cultural and historic resources, land use, growth inducement, public services and public utilities.

Lead Agencies

For purposes of complying with NEPA and CEQA, Placer County is the Lead Agency and as the Responsible Entity under 24 CFR 58.2(a)(7) assumes the responsibility for environmental review, decisionmaking, and action that would otherwise apply to HUD under NEPA. Respectively, section 104(g) of Title I of the Housing and Community Development Act (42 U.S.C. 5304(g)) and section 288 of Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12838) authorize recipients of HUD assistance to assume NEPA responsibilities in projects involving CDBG for infrastructure development and possibly HOME funds for affordable housing development.

The TRPA is the Lead Agency for the EIS written in accordance with Tahoe Regional Planning Compact and TRPA's Code of Ordinances.

TRPA is a multi-state (California and Nevada) agency that has its own Code of Ordinances. These are based on both CEQA and NEPA but there are some minor differences from both, hence the necessity to do a three-way document that will comply with CEQA, TRPA and NEPA. TRPA has its own procedures and Code of Ordinances because it is exempt from CEQA and California land use laws.

Questions may be directed to the individual named in this notice under the heading **FOR FURTHER INFORMATION CONTACT**.

Dated: October 13, 2005.

Pamela H. Patenaude,

Assistant Secretary for Community Planning and Development.

[FR Doc. E5–5841 Filed 10–20–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4980–N–42]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: October 21, 2005.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: October 13, 2005.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 05–20873 Filed 10–20–05; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4728–N–05]

Notice of Certain Operating Cost Adjustment Factors for 2006

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Publication of the 2006 Operating Cost Adjustment Factors (OCAFs) for Section 8 rent adjustments at contract renewal under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA), as amended by the Preserving Affordable Housing for Senior Citizens and Families into the 21st Century Act of 1999, and under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) Projects assisted with Section 8 Housing Assistance Payments.

SUMMARY: This notice establishes annual factors used in calculating rent adjustments under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) as amended by the Preserving Affordable Housing for Senior Citizens and Families into the 21st Century Act of 1999, and under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA).

EFFECTIVE DATE: February 11, 2006.

FOR FURTHER INFORMATION CONTACT: Regina Aleksiewicz, Housing Project Manager, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, Office of Multifamily Housing, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone (202) 708–3000; extension 2600 (This is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Operating Cost Adjustment Factors (OCAFs)

Section 514(e)(2) of MAHRA, requires HUD to establish guidelines for rent adjustments based on an operating cost adjustment factor (OCAF). The legislation requiring HUD to establish OCAFs for LIHPRHA projects and projects with contract renewals under section 524 of MAHRA is similar in wording and intent. HUD has therefore developed a single factor to be applied uniformly to all projects utilizing OCAFs as the method by which rents are adjusted.

Additionally, section 524 of the Act gives HUD broad discretion in setting OCAFs—referring simply to ''operating cost factors established by the Secretary.'' The sole exception to this grant of authority is a specific requirement that application of an OCAF shall not result in a negative rent adjustment. OCAFs are to be applied uniformly to all projects utilizing OCAFs as the method by which rents are adjusted at the issuance of or during the term of any contract entered into pursuant to MAHRA. OCAFs are applied to project contract rent less debt service.

An analysis of cost data for FHA-insured projects showed that their operating expenses could be grouped into nine categories: Wages, employee benefits, property taxes, insurance, supplies and equipment, fuel oil, electricity, natural gas, and water and sewer. Based on an analysis of these data, HUD derived estimates of the percentage of routine operating costs that were attributable to each of these nine expense categories. Data for projects with unusually high or low expenses due to unusual circumstances were deleted from analysis.

States are the lowest level of geographical aggregation at which there are enough projects to permit statistical analysis. Additionally, no data were available for the Western Pacific Islands. Data for Hawaii was therefore used to generate OCAFs for these areas.

The best current measures of cost changes for the nine cost categories were selected. The only categories for which current data are available at the State level are for fuel oil, electricity, and natural gas. Current price change indices for the other six categories are only available at the national level. The Department had the choice of using dated State-level data or relatively current national data. It opted to use national data rather than data that would be two or more years older (*e.g.*, the most current local wage data are for 2003).

The OCAFs for 2006 differ from previous years' OCAFs in that they replace the overall Consumer Price Index change used as a surrogate for property tax increases with the Residential Property Tax Index from the Census Consumer Expenditure Survey (CES). Property taxes have started to increase faster than overall consumer prices, and the CES now provides statistically reliable data. State-level data are available from the Census Survey of Local and State Governments, but it includes tax revenues from non-residential sites, which are significant, and does not adjust for changes in the number and types of properties taxed.

The data sources for the nine cost indicators selected used were as follows:

Labor Costs. 3/2004 to 3/2005 Bureau of Labor Statistics (BLS), ''Employment Cost Index, Private Sector Wages and Salaries Component at the National Level.''

Employment Benefit Costs. 3/2004 to 3/2005 Bureau of Labor Statistics (BLS) ''Employment Cost Index, Employee Benefits at the National Level.''

Property Taxes. 2002–2003 Census Consumer Expenditure Survey (CES), ''Residential Property Taxes.''

Goods, Supplies, Equipment. 3/2004 to 3/2005 Bureau of Labor Statistics (BLS) ''Producer Price Index, Consumer Goods Less Food and Energy.''

Insurance. 3/2004 to 3/2005 Bureau of Labor Statistics (BLS) ''Consumer Price Index, Tenant and Household Residential Insurance Index.''

Fuel Oil. Energy Information Agency, 2003 to 2004 consumption-weighted annual average State prices for #2 residential fuel oil (Department of Energy multi-state fuel oil grouping averages used for the States with too little fuel oil consumption to have values).

Electricity. Energy Information Agency, March 2004 ''Electric Power Monthly'' report, Table 5.6.B.

Natural Gas. Energy Information Agency, Natural Gas, Residential Energy Price, 2000–2004 annual cost in dollars per 1,000 cubic feet (monthly data are so erratic that annual averages offer a more reliable measure).

Water and Sewer. 3/2004 to 3/2005 Consumer Price Index, ''All Urban Consumers, Water and Sewer and Trash Collection Services.''

The sum of the nine cost components equals 100 percent of operating costs for purposes of OCAF calculations. To calculate the OCAFs, the selected inflation factors are multiplied by the relevant State-level operating cost percentages derived from the previously referenced analysis of FHA insured projects. For instance, if wages in Virginia comprised 50 percent of total operating cost expenses and wages increased by 4 percent from March 2004 to March 2005, the wage increase component of the Virginia OCAF for 2006 would be 2.0 percent ($4\% \times 50\%$). This 2.0 percent would then be added to the increases for the other eight expense categories to calculate the 2006 OCAF for Virginia. These types of calculations were made for each State for each of the nine cost components, and are included as the Appendix to this Notice.

II. MAHRA and LIHPRHA OCAF Procedures

MAHRA, as amended by the Preserving Affordable Housing for Senior Citizens and Families into the 21st Century Act of 1999, created the Mark-to-Market Program to reduce the cost of Federal housing assistance, enhance HUD's administration of such assistance, and to ensure the continued affordability of units in certain multifamily housing projects. Section 524 of MAHRA authorizes renewal of Section 8 project-based assistance contracts for projects without Restructuring Plans under the Mark-to-Market Program, including renewals that are not eligible for Plans and those for which the owner does not request Plans. Renewals must be at rents not exceeding comparable market rents except for certain projects. For Section 8 Moderate Rehabilitation projects, other than single room occupancy projects (SROs) under the McKinney-Vento Homeless Assistance Act (McKinney Act, 42 U.S.C. 11301 *et seq.*), that are eligible for renewal under section 524(b)(3) of MAHRA, the renewal rents are required to be set at the lesser of: (1) The existing rents under the expiring contract, as adjusted by the OCAF; (2) fair market rents (less any amounts allowed for tenant-purchased utilities); or (3) comparable market rents for the market area.

The Low-Income Housing Preservation and Resident

Homeownership Act of 1990 (''LIHPRHA'') (see, in particular, section 222(a)(2)(G)(i) of LIHPRHA, 12 U.S. 4112 (a)(2)(G)) and the regulations at 24 CFR 248.145(a)(9) requires that future rent adjustments for LIHPRHA projects be made by applying an annual factor to be determined by the Secretary to the portion of project rent attributable to operating expenses for the project and, where the owner is a priority purchaser, to the portion of project rent attributable to project oversight costs.

III. Findings and Certifications

Environmental Impact

This issuance sets forth rate determinations and related external administrative requirements and procedures that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

This notice does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt State law within the meaning of Executive Order 13132 (entitled ''Federalism'').

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 14.187.

Dated: October 6, 2005.

Frank L. Davis,

General Deputy Assistant Secretary for Housing.

APPENDIX

Operating Cost Adjustment Factors for 2006 (percent)

ALABAMA—3.3
ALASKA—5.0
ARIZONA—3.9
ARKANSAS—3.6
CALIFORNIA—3.0
COLORADO—5.2
CONNECTICUT—4.4
DELAWARE—5.9
DIST. OF COLUMBIA—3.6
FLORIDA—3.6
GEORGIA—3.9
HAWAII—3.8
IDAHO—3.8
ILLINOIS—4.0
INDIANA—4.0
IOWA—5.5
KANSAS—4.2
KENTUCKY—4.2
LOUISIANA—3.4
MAINE—3.9
MARYLAND—4.1
MASSACHUSETTS—5.2
MICHIGAN—4.4
MINNESOTA—4.2
MISSISSIPPI—3.4
MISSOURI—3.6
MONTANA—5.4
NEBRASKA—3.9
NEVADA—3.8
NEW HAMPSHIRE—5.7
NEW JERSEY—4.1
NEW MEXICO—3.5
NEW YORK—4.5
N. CAROLINA—3.4
N. DAKOTA—3.9
OHIO—3.9
OKLAHOMA—3.7
OREGON—3.5
PENNSYLVANIA—4.2
RHODE ISLAND—3.4
S. CAROLINA—3.6
S. DAKOTA—4.2
TENNESSEE—3.4
TEXAS—4.1
UTAH—3.6
VERMONT—4.0
VIRGINIA—3.6
WASHINGTON—3.5
W. VIRGINIA—3.8
WISCONSIN—4.2
WYOMING—4.2
PACIFIC ISLANDS—3.4
PUERTO RICO—2.9
VIRGIN ISLANDS—3.6
U.S. AVERAGE—4.0

[FR Doc. E5–5842 Filed 10–20–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Recovery Permits and Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: The following applicant has applied for a permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act). This notice is provided pursuant to section 10(c) of the Act.

DATES: Written data or comments must be received November 21, 2005.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director-Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225–0486.

SUPPLEMENTARY INFORMATION: Permit Application Number—TE–105504. Applicant—Montana Department of Fish, Wildlife and Parks. The applicant requests a permit to take the gray wolf (*Canis lupus*) throughout locations in northern Montana where the species is listed as endangered. The applicant proposes to conduct research and monitoring of wolf populations, implement proactive strategies, and conduct, or direct, non-lethal and lethal control actions to reduce or resolve wolf-livestock and dog conflicts and human safety concerns, as is currently conducted by the U.S. Fish and Wildlife Service (Service) and in accordance with the 1999 Interim Wolf Control Plan. If the permit is issued, the applicant would assume responsibility from the Service for managing wolves in northwestern Montana. Take for control purposes would be consistent with the State Management Plan for wolves and the 1999 Interim Wolf Control Plan, which provide conditions on when wolf control is appropriate, including the following requirements—clear evidence that wolves were responsible for the livestock injury or death; reason to believe that additional losses would occur if the problem wolf or wolves were not controlled; that livestock grazing on Federal lands be in compliance with approved management plans and annual operating plans for allotments; and, that lethal control be authorized in writing prior to its implementation when possible. Non-lethal control would involve harassing wolves by using rubber bullets, projectile bean bags, or other scare tactics. These activities are aimed at enhancement of survival for the species in the wild. The Service has determined that a practical, responsive management program including control is essential to the wolf recovery effort (Service 1999). If issued, the permit would not affect ongoing wolf management in the remainder of the State of Montana conducted in accordance with the non-essential experimental population regulations found at 50 CFR 17.40(n). Additional information about wolf recovery and conservation in the northwestern United States, including control of problem wolves, can be found in various reports at *http://westerngraywolf.fws.gov/.*

Availability of Documents: Documents and other information submitted with this permit are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552), by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to Kris Olsen, by mail (*see* **ADDRESSES**) or by telephone at 303–236–4256. A copy of the application is available for public

inspection at the Service's Regional Web site at *http://westerngraywolf.fws.gov.* All comments received from individuals become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's National Environmental Protection Act regulations [40 CFR 1506.6(f)]. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

Authority: 16 U.S.C. 1539(c).

Dated: September 22, 2005.

Mary G. Henry,

Regional Director, Denver, Colorado.

[FR Doc. 05–21055 Filed 10–20–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–080–05–1310–DB]

Notice of Availability of the Final Environmental Impact Statement and Record of Decision for the Castle Peak and Eight Mile Flat Oil and Gas Expansion Project, Newfield Rocky Mountains, Inc.

AGENCY: Bureau of Land Management.

ACTION: Notice of Availability of Final Environmental Impact Statement and Record of Decision for the Castle Peak and Eight Mile Flat Oil and Gas Expansion Project, Newfield Rocky Mountains, Inc., Uintah and Duchesne Counties, Utah, and Notice of 30-day appeal period for the Record of Decision.

SUMMARY: Under the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act of 1976 (FLPMA) and associated regulations, the Bureau of Land Management (BLM) announces the availability of a Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for the Castle Peak and Eight Mile Flat oil and gas expansion project proposed by Newfield Rocky Mountains, Inc., formerly Inland Resources, Inc. This FEIS and ROD are being announced concurrently per 40 CFR part 1506 (b) (2).

DATES: Vernal Field Manager William Stringer signed the ROD on August 24, 2005. The Decision will become final within 30 days after the Environmental Protection Agency publishes the filing notice for this FEIS and ROD in the **Federal Register**, pending any appeals to the Interior Board of Land Appeals as per 43 CFR 4.21.

ADDRESSES: A copy of the FEIS and ROD has been sent to the affected Federal, State, and local government agencies, Native American Tribes and to interested parties. Copies of the FEIS and ROD are available for public inspection at the following BLM office locations: Bureau of Land Management, Utah State Office Public Room, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101–1345 and the Bureau of Land Management, Vernal Field Office, 170 South 500 East, Vernal, UT 84078.

FOR FURTHER INFORMATION CONTACT: Jean Nitschke-Sinclear, Project Manager, BLM Vernal Field Office, 170 South 500 East, Vernal, UT 84078. Ms. Nitschke-Sinclear may also be reached at 435–781–4400.

SUPPLEMENTARY INFORMATION: On May 8, 2002 the BLM published a Notice of Intent (NOI) in the **Federal Register** announcing the preparation of an Environmental Impact Statement (EIS) in response to a proposal submitted by Inland Resources, Inc. Inland Resources proposed to expand its existing waterflood oil recovery in the project area, located about 25 miles southwest of Vernal, Utah. The expansion would involve about 64,000 acres in Uintah and Duchesne counties. As proposed, drilling would involve about 973 additional wells to fully develop the resource base. The proposed wells would be drilled on 40-acre spacing, drilling about 50% of the wells as producing wells and 50% as water injection wells.

The Draft EIS (DEIS) was made available to the public for a 45-day review period during October-November 2004. The BLM held a public meeting to receive oral comments on November 4, 2004. A total of 94 written comments on the DEIS were received during the comment period.

Based on the information contained in the DEIS, public comments received on the DEIS, consultation with 13 Native American Tribes having historical and/or ethnological ties to the Uinta Basin, and information received from the U.S. Fish and Wildlife Services, the BLM has approved the agency-preferred alternative (Alternative A). This alternative allows oil and gas wells and associated ancillary facilities located on BLM-administered public lands located outside the existing Pariette Wetlands Area of Critical Environmental Concern (ACEC). The BLM has decided to defer approval of new wells and ancillary facilities located on BLM-administered public lands within the Pariette Wetlands ACEC until a comprehensive population inventory has been completed for the federally listed Uinta Basin hookless cactus (*Sclerocactus glaucus*) within suitable habitat on BLM lands within the Pariette Wash watershed. Future authorization of all or a portion of the wells on BLM-administered public lands within the ACEC will depend upon the location and size of cactus populations within the ACEC, and the results of site-specific NEPA analysis on oil and gas development proposals within the ACEC boundary, including consultation with the Service.

The decision to approve the agency-preferred alternative, with modifications, recognizes that oil and gas development has been ongoing within the area for over 50 years, and that nearly the entire project area has been leased. These leases represent valid existing rights. The decision also acknowledges that there are important natural and cultural resources within the area, including listed threatened species, and existing BLM Areas of Critical Environmental Concern (Pariette Wetlands, Lower Green River). This decision balances the rights to develop oil and gas, while protecting surface resources over the long term. It also acknowledges an unresolved conflict between oil and gas development, and protection and recovery of the Uinta Basin hookless cactus, a listed threatened species. By acquiring additional information about the location and condition of populations of this species within the ACEC and adjacent areas, the BLM will make better-informed decisions about where and how to place future oil and gas facilities.

The decision provides the BLM approval to permit the following project components on BLM-administered lands within the Castle Peak and Eight Mile Flat Expansion Area: 778 oil and gas well locations; 261 miles of new and existing access roads, with adjacent parallel utility corridors for buried water and buried and/or surface natural gas gathering pipelines; 2 water filtration/injection plants and an associated 6.9 mile 12 kV electrical powerline; 3 to 5 new water wells installed in the Green River alluvium, connected to a centralized pump station; and 7.5 miles of buried water pipeline connecting the Green River

water supply pump station with the water filtration/injection plants.

The BLM consulted with the U.S. Fish and Wildlife Service about potential effects on listed threatened and endangered species from project construction and operation. The Service reviewed the DEIS and provided comments. In March 2005, the BLM submitted a Biological Assessment to the Service, concluding that the project may adversely affect the Uintah Basin hookless cactus; may adversely affect the Colorado pikeminnow, humpback chub, bonytail and razorback sucker; and may adversely modify designated Critical Habitat for the four fish species through depletions from the Upper Colorado River System. In its Biological Opinion, the Service concurred with the BLM's conclusions for these species.

The Biological Opinion contains recommended conservation measures to protect and recover the Uinta Basin hookless cactus and the four Colorado River native fish. The BLM has adopted nearly all these conservation measures (with minor modifications), and has included these measures in the conditions of approval. One exception is the Service's recommendation that no further surface occupancy by oil and gas facilities be approved in the Pariette ACEC. Due to valid existing lease rights, the BLM cannot stipulate a blanket ''no surface occupancy'' requirement for oil and gas development within this ACEC. However, BLM has decided to defer authorization of new wells and access roads within the ACEC boundaries until the needed inventories are completed.

The FEIS is a complete document. It includes the Biological Opinion received from the Service, plus a presentation of substantive public comments received on the DEIS. The FEIS also includes BLM's responses to these comments. The FEIS includes changes to the text in response to public comments on the DEIS. These changes were made to clarify, correct and/or expand information to aid the public's understanding of the proposed project, reasonable alternatives and their effects on the environment.

Dated: August 31, 2005.

William Stringer,

Field Manager, Vernal Field Office.

[FR Doc. 05–21043 Filed 10–20–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Intent To Prepare an Environmental Impact Statement (EIS) and Initiate the Public Scoping Process

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976, notice is hereby given that the Bureau of Land Management (BLM), Challis Field Office, will be directing the preparation of an Environmental Impact Statement (EIS) that will analyze the mining impacts resulting from L&W Stone's Amended Plan of Operations in Custer County, Idaho.

DATES: The scoping comment period will commence with the publication of this notice and will end 45 days after publication of this notice. Two public meetings will be held during the scoping comment period. Comments on the scope of the EIS, including concerns, issues, or proposed alternatives that should be considered in the EIS should be submitted in writing to the address below. The dates of public meetings to be held in Challis and Boise, Idaho will be announced through the local media, newsletters, and BLM's National Environmental Policy Act (NEPA) mailing list. The draft EIS is expected to be available for public review and comment in June 2006 and the final EIS is expected to be available in August 2007.

ADDRESSES: Written comments should be sent to Chuck Horsburgh, Project Leader, Idaho Falls District Office, 1405 Hollipark Drive, Idaho Falls, Idaho 83401. Faxes should be sent to 208–524–7505. Comments received on this proposal, including names and addresses, will be considered part of the public record and will be available for public inspection during regular office hours, Monday–Friday, 8–4:30 p.m. Individual respondents may request confidentiality. If you wish to withhold your name and street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials for organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Chuck Horsburgh, Project Leader, Idaho Falls District Office, 1405 Hollipark Drive, Idaho Falls, Idaho 83401; or phone at (208) 524–7530.

SUPPLEMENTARY INFORMATION: L&W Stone Corporation mines locatable flagstone on public lands administered by the BLM's Challis Field Office in Custer County, Idaho. L&W Stone submitted an Amended Plan of Operations for their quarry under the 43 CFR 3809 Regulations in December 2002. The BLM completed an Environmental Assessment (EA) regarding the Amended Plan of Operations, signed a Finding of No Significant Impact (FONSI), and approved the project. As a result of a lawsuit that was filed objecting to that approval, the BLM was ordered by a Federal District Court judge to prepare an EIS for the Amended Plan of Operations. The Amended Plan of Operations will serve as the basis for the EIS project description. The BLM will analyze a range of alternatives in the EIS. As proposed in the Amended Plan of Operations, the quarry would operate for up to 40 years. The main product that is mined is large-diameter sheets of rock called flagstone which is used in both indoor and outdoor decorative construction.

Dated: August 30, 2005.

David Rosenkrance,

Challis Field Manager, BLM.

[FR Doc. 05–21042 Filed 10–20–05; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–05–1310–DB]

Notice of Intent To Prepare a Supplemental Environmental Impact Statement (SEIS) for the Pinedale Anticline Oil and Gas and Exploration and Development Project, Sublette County, Wyoming, and Possible Amendment to the Pinedale Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent (NOI) to conduct public scoping and prepare an SEIS to the Pinedale Anticline Oil and Gas, and Exploration and Development Project Final Environmental Impact Statement (FEIS) and Record of Decision (ROD), July 2000.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the

Bureau of Land Management (BLM), Pinedale Field Office, announces its intent to prepare an SEIS on the potential impacts of authorizing year round natural gas and condensate/oil development activities within the Pinedale Anticline Oil and Gas and Exploration and Development Project Area (PAPA). This supplemental environmental impact analysis may be used to amend the Pinedale Resource Management Plan (1988). The Pinedale Field Manager is the authorized officer for this project.

DATES: This notice initiates the public scoping process. The BLM can best use public input if comments and resources information are submitted within 30 days of the publication of this notice. To provide the public with an opportunity to review the proposal and project information, the BLM will host a meeting in Pinedale, Wyoming. The BLM will notify the public of the meeting date, time, and location at least 15 days prior to the event. Announcement will be made by news release to the media, individual letter mailings, and posting on the BLM Web site listed below if it is available.

ADDRESSES: Please send written comments or resource information to the Bureau of Land Management, Pinedale Field Office, Matt Anderson, Project Manager, 432 East Mill Street, P.O. Box 768, Pinedale, Wyoming 82941. Electronic mail may be sent to: *WYMail_PAPA_YRA@blm.gov.*

Your response is important and will be considered in the environmental analysis process. If you do respond, we will keep you informed of decisions resulting from this analysis. Please note that public comments and information submitted regarding this project including names, street addresses, and e-mail addresses of the respondents will be available for public review and disclosure at the above address during regular business hours (7:45 a.m. to 4:30 p.m.) Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name, address, or e-mail address from public review or from disclosure under the Freedom of Information Act, you must state this plainly at the beginning of your written comment. Such requests will be honored to the extent allowed by the law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Matt Anderson, Project Manager, 432 East Mill Street, P.O. Box 768, Pinedale, Wyoming 82941. Mr. Anderson may also be reached by telephone at (307) 367–5328, or by sending an electronic message to: *matt_anderson@blm.gov.*

SUPPLEMENTARY INFORMATION: The BLM completed an FEIS and issued a ROD for the PAPA in July 2000. The BLM conducted this analysis in response to oil and gas field development activities on the Pinedale Anticline. The previous analysis considered three (3) exploration and development scenarios based on the density of well pad development by aliquot section, each with its own mitigation. To protect big game crucial winter range, the FEIS delineated areas within the PAPA where oil and gas development and its associated human activities would be restricted during the winter months from November 15 through April 30.

The FEIS and ROD provided that the BLM could grant limited exceptions to this winter closure period based on conditions at the time of authorization such as presence of wintering animals or depth of snow cover. However, each exception was to be made on a case-by-case basis, annually, and usually with the condition that should winter conditions prevail, activities would cease.

Starting in winter 2002–2003, the BLM authorized Questar Exploration and Development Company (Questar) to continue gas development operations at one well pad within big game crucial winter range under the condition that Questar cooperate fully with Wyoming Game and Fish in conducting studies on the impacts of these operations consistent with the ongoing Sublette Mule Deer Study. In November 2004, the BLM approved a proposal made by Questar to expand its winter development activities and continue conducting studies on the impacts to wildlife (Questar Year-Round Drilling Proposal Environmental Assessment, November 2004).

Since then, other operators within the Pinedale Anticline have expressed interest in conducting development activities, including year-round drilling and completion within big game crucial winter range, leading to BLM's decision to supplement the PAPA FEIS and ROD.

Description of the Proposed Action

On September 16, 2005, the BLM received from Anschutz Pinedale Corporation (Anschutz), Shell Exploration and Production Company (Shell), and Ultra Resources Inc. (Ultra) representing themselves and other lease holders in the area (collectively referred to as the Operators), a proposal for year-round access to drill and develop leaseholds within the PAPA. The Operators propose to conduct year round drilling and development activities within the PAPA including areas the State deems to be big game crucial winter range. The PAPA encompasses approximately 197,345 acres of primarily Federal lands (nearly 80 percent), and State and private land. Approximately 83 percent of the mineral estate underlying the PAPA is Federally-owned. The Operators have proposed developing the oil and gas resources from between 400 and 475 pad locations with multiple wells from each pad. The bottom hole well spacing is proposed at approximately 1 well per 10 acres. The Operators propose to conduct natural gas drilling and development, including placement of ancillary facilities such as gas gathering lines and road construction on a year-round basis. Development is expected to take 15 to 18 years as proposed with an operational field life of approximately 50 years.

To develop an entire aliquot section (640 acres) at a bottom hole spacing of approximately 1 well per 10 acres, the Operators propose to place one large well pad in a central location where feasible. Where topographical conditions are limiting, the Operators propose to construct two well pads per section. The centralized well pads are estimated to range in size from 10 to 15 acres for a pad with 16 well bores and 20 to 30 acres for a pad with 64 well bores.

Whenever possible the Operators propose to reuse and expand existing pads before constructing new pads. Well pads would accommodate the simultaneous drilling of multiple directional wells and completion and production operations. Concurrent with the drilling and development activities, the Operators propose to collect data, monitor, and study and evaluate the effects of these types of activities during the winter months (November 15 through April 30) on big game, sage-grouse and other sage brush obligates and their habitats. This proposal is in accordance with BLM's multiple-use mandate and the goals and objectives of the President's National Energy Policy.

Purpose and Need

The purpose of the year-round drilling proposal is to exercise existing lease rights and expedite production of domestic oil and gas resources from the PAPA in an efficient and orderly manner and deliver those resources to the market and consumers. One of the

identified needs for the EIS at this time is based on the continuing increase in the United States' demand for natural gas. Year round development will expedite delivery of trillions of cubic feet of natural gas and thousands of barrels of oil/condensate to the market. Identified benefits that may be derived from oil and gas development also include increased royalty and tax revenue to local, State and Federal governments and additional opportunities for employment and economic benefits at the local and regional level. This proposal meets the goals and objectives of the National Energy Policy.

Anticipated Issues and Management Concerns

Preliminary issues identified at this time include: (1) Paleontological, archaeological, historic and cultural resources; (2) wildlife, including big game species (mule deer, antelope, etc.); (3) Threatened and Endangered plant and animal species; (4) BLM sensitive species such as the greater sage-grouse; (5) surface and ground water resources; (6) transportation and road access; (7) vegetation (including the potential introduction of noxious weeds, short-term re-vegetation and rehabilitation of disturbed areas, and long-term establishment and stabilization of perennial vegetation through recommended reclamation measures); (8) air quality and existing scenic quality of the landscape; (9) socio-economic impact; and (10) potential for amendment to the Pinedale Resource Management Plan.

This list of preliminary issues is not final. Identification of additional issues and/or issue refinement through the public participation process is anticipated. Comments should address: (1) Issues to be considered for analysis; (2) reasonable alternatives; and (3) relevant information for consideration relating to the analysis of year-round field development in the PAPA. The EIS will consider comments and other issues/concerns raised during the scoping period in addition to those issues identified in this notice. The BLM may use the information collected during the scoping period to: (1) Develop/analyze appropriate mitigation as Conditions of Approval under which the proposed development may take place; (2) consider potential reasonable alternatives to the proposed action; or (3) both.

Consistency With Land Use Plans, NEPA, and Potential Plan Amendments

The Pinedale RMP/EIS revision is currently under development. The BLM will ensure that its actions with respect to future decisions are consistent with the applicable laws and regulations. In the event the decision on this EIS includes an amendment to the existing Pinedale RMP, the amendment will be based on the following preliminary Planning Criteria: (1) The plan amendment will recognize the existence of valid existing rights; (2) lands covered in the RMP amendment will be public lands, which include federal mineral estate with private surface; (3) the BLM will use a collaborative and multi-jurisdictional approach, where possible, to jointly determine the desired future condition of public lands; (4) the BLM will make all possible attempts to ensure that its management prescriptions and amended planning actions are as complementary as possible to other planning jurisdictions, within the boundaries described by law and policy; (5) the BLM will consider the management prescriptions on adjoining lands to minimize inconsistent management and, to the extent possible, BLM will coordinate inventories, planning, and management programs with other federal, state, tribal, and local governments and agencies; (6) management prescriptions will focus on the relative values of resources and not necessarily the combination of uses that will give the greatest economic return or economic output; (7) to the extent possible, the BLM will use current scientific information, research, new technologies and the results of resource assessments, monitoring and coordination to determine appropriate local and regional management strategies that will enhance or recover impaired ecosystems; and (8) the plan amendment will be completed in compliance with FLPMA, NEPA, and all other relevant federal laws, executive orders and management policies of the BLM.

Alternatives

The BLM has identified three preliminary alternatives including the proposed action:

- The no action alternative which would continue to allow drilling and development subject to winter restrictions.
- An alternative that would provide for year-round drilling and development activities without winter restrictions.
- An alternative that would provide for limited year-round drilling and development activities combined with application of timing restrictions to only the most critical wildlife habitats.

Site-Specific NEPA

While this EIS is intended to analyze site-specific impacts, additional site-specific NEPA analysis and/or documentation may be required before individual activities are approved based on a review of the specific conditions and any new information on environmental effects not considered in existing NEPA documentation at the time activities are proposed.

Alan L. Kesterke,

Associate State Director.

[FR Doc. 05–21170 Filed 10–20–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–923–1430–ET; COC–28810]

Public Land Order No. 7647; Revocation of 2 Secretarial Orders and 15 Executive Orders; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes 2 Secretarial Orders and 15 Executive Orders insofar as they affect approximately 1,189,600 acres of public lands, National Forest System lands, and patented lands with federally-reserved mineral interests which were withdrawn for coal classifications in Colorado. These lands are no longer needed for the purpose for which they were withdrawn. This order will open the public lands to surface entry and nonmetalliferous mining, the National Forest System lands to such forms of disposition as may by law be authorized on National Forest System lands and to nonmetalliferous mining, and the federally-reserved mineral interests to nonmetalliferous mining.

EFFECTIVE DATE: November 21, 2005.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, 303–230–3706.

SUPPLEMENTARY INFORMATION: These withdrawals were made to protect the coal reserves for the United States. Coal was declared a leasable mineral by the Mineral Leasing Act and the protection from these withdrawals is no longer needed.

Order

By virtue of the authority vested in the Secretary of the Interior by section 204(a) of the Federal Land Policy and

Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. The Secretarial Orders of July 26, 1906, and February 11, 1910, as amended, which withdrew public lands, National Forest System lands, and private lands with federally-reserved mineral interests in Colorado to protect the coal reserves, are hereby revoked in their entireties.

2. The Executive Orders of October 10, 1906, July 7, 1910 (Colorado No. 1), September 2, 1910 (Colorado No. 2), September 14, 1910 (Colorado No. 4), January 14, 1911 (Colorado No. 6), January 28, 1911 (Colorado No. 7), December 16, 1911 (Colorado No. 8), December 16, 1911 (Colorado No. 9), May 28, 1912 (Colorado No. 10), March 17, 1913 (Colorado No. 11), January 24, 1914 (Colorado No. 12), October 14, 1915 (Colorado No. 13), and July 16, 1918 (No. 2915), as amended, which withdrew public lands, National Forest System lands, and private lands with federally-reserved mineral interests to protect the coal reserves, are hereby revoked in their entireties.

3. The Executive Orders of October 12, 1910 (Colorado No. 5) and October 13, 1910 (Colorado No. 4), which withdrew public lands, National Forest System lands, and private lands with federally-reserved mineral interests to protect coal reserves, are hereby revoked only insofar as they affect lands in Colorado.

The lands referenced in Paragraphs 1, 2, and 3 aggregate approximately 1,189,600 acres in Adams, Arapahoe, Archuleta, Boulder, Chaffee, Costilla, Delta, Denver, Douglas, Elbert, El Paso, Freemont, Garfield, Grand, Gunnison, Huerfano, Jackson, Jefferson, La Plata, Larimer, Lincoln, Los Animas, Mesa, Moffat, Montezuma, Montrose, Morgan, Ouray, Park, Pitkin, Pueblo, Rio Blanco, Routt, Saguache, Summit, and Weld Counties, and in the Grand Mesa, Gunnison, Routt, White River, and Uncompahgre National Forests. Copies of the withdrawal orders are available in the Colorado State Office at the address shown above.

4. At 9 a.m. on November 21, 2005, the public lands and interest in lands identified in Paragraphs 1, 2, and 3 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or after 9 a.m. on November 21, 2005, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. At 9 a.m. on November 21, 2005, the National Forest System lands, the public lands, and the lands with federally-reserved mineral interests referenced in Paragraphs 1, 2, and 3 will be opened to nonmetalliferous location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (2000), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

6. At 9 a.m. on November 21, 2005, the National Forest System lands identified in Paragraphs 1, 2, and 3 shall be opened to such forms of disposition as may by law be authorized on National Forest System lands, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: September 29, 2005.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 05–21040 Filed 10–20–05; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 670 1232 FH]

Proposed Supplementary Rules on Public Land in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed supplementary rules.

SUMMARY: This notice contains proposed supplementary rules which will apply to the public lands within the Adaptive Management Area (AMA) in the Imperial Sand Dunes Recreation Area (ISDRA) managed by the El Centro Field Office in Imperial County, California. This action is necessary in order to maintain viable populations of all native species, maintain habitat connectivity, and provide high quality, unique, world-class, day-use, semi-primitive, motorized recreation opportunities for off-highway vehicle (OHV) activities and non-vehicular recreational activities throughout the Adaptive Management Area and Imperial Sand Dunes Recreation Area. We intend the supplementary rules to allow the Bureau of Land Management (BLM) to manage AMA area in order to provide recreational opportunities while allowing for the conservation of habitat and plants and species of concern.

DATES: You should submit your comments by November 21, 2005.

ADDRESSES: You may submit comments, identified with the subject line ''AMA Supplementary Rule,'' by any of the following methods:

- E-mail: *rleloup@ca.blm.gov.* Include AMA Supplementary Rule in the subject line of the message.
- Fax: 760–337–4490, Attn: Chief Ranger Ray LeLoup.
- Mail: Bureau of Land Management, El Centro Field Office, 1661 S. 4th Street, El Centro, CA 92243, Attn: Chief Ranger Ray LeLoup.
- Hand Delivery / Courier: 1661 South 4th St., El Centro, CA 92243.

FOR FURTHER INFORMATION CONTACT: Chief Ranger Ray LeLoup, 760–337–4475.

SUPPLEMENTARY INFORMATION:

I. Procedures for Submitting Comments
II. Background
III. Discussion of the Supplementary Rules
IV. Procedural Matters

I. Procedures for Submitting Comments

Written comments on the proposed rule should be specific, confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal that you are addressing. BLM need not consider or include in the Administrative Record for the final rule comments which BLM receives after the close of the comment period (See **DATES**) or comments delivered to an address other than those listed above (See **ADDRESSES**).

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at 1661 S. 4th St., El Centro, CA 92243 during regular business hours (7:45 a.m. to 3:45 p.m.), Monday through Friday, except Federal holidays. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact

information (such as: Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

II. Background

The Adaptive Management Area was created in the 2003 Imperial Sand Dunes Recreation Area Management Plan. The Adaptive Management Area is located within the Imperial Sand Dunes Recreation Area in the following described sections:

San Bernardino Meridian

T. 14 S., R. 18 E., sec. 58;
T. 14 S., R. 19 E., secs. 31 to 35 inclusive;
T. 15 S., R. 18 E., sec. 1 and sec. 12;
T. 15 S., R. 19 E., secs. 1 to 15 inclusive; secs. 17 and 18; secs. 20 to 28 inclusive; secs. 34 to 59 inclusive;
T. 15 S., R. 20 E., sec. 7; secs. 17 to 21 inclusive; secs. 29 to 31 inclusive;
T. 16 S., R. 19 E., secs. 1 and 2; sec. 12;
T. 16 S., R. 20 E., sec. 39.

The Adaptive Management Area contains approximately 33,289 acres of BLM managed land and contains the most widely diverse habitat in the ISDRA. Historical recreational use of the AMA area is low to moderate. The AMA provides for semi-primitive motorized recreation opportunities and experiences. Anecdotal information suggests that visitor use is low compared to the remainder of the IDRA. Visitors come in small groups of vehicles and take part in OHV recreation throughout the ISDRA. BLM's goal is to manage the AMA in a manner that provides recreational opportunities while allowing for the conservation of habitat and plants and species of concern.

III. Discussion of the Supplementary Rules

The supplementary rules will apply to the public lands within the Adaptive Management Area in the Imperial Sand Dunes Recreation Area. The Bureau of Land Management has determined these rules are necessary to protect the area's natural resources and to provide recreational opportunities. This area will be managed using principles of adaptive management, which will allow for the continuous improvement of management policies and practices based on previous outcomes of operational programs. Adaptive management is a way for managers to proceed responsibly in the face of multiple uncertainties. In order to fulfill the Bureau of Land Management's obligations under the Federal regulations, BLM must carefully manage OHV recreation so that the conditions of the special status species and other unique natural and cultural resources are maintained or improved. It is crucial to have the supplementary rules in place in order to allow for the multiple use of the resource area. A more detailed explanation as to the need for such a rule may be found in the Final Environmental Impact Statement (EIS) for the Imperial Sand Dunes Recreation Area dated May 2003. Please see pages #96–141.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These proposed supplementary rules are not a significant regulatory action and are not subject to review by Office of Management and Budget under Executive Order 12866. These proposed supplementary rules will not have an annual effect of $100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. These proposed supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These proposed supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. They merely impose rules of conduct and impose other limitations on certain recreational activities on certain public lands to protect natural resources.

Clarity of the Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed supplementary rules clearly stated? (2) Do the proposed supplementary rules contain technical language or jargon that interferes with their clarity? (3) Does the format of the proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? (4) Would the supplementary rules be easier to understand if they were divided into more (but shorter) sections? (5) Is the description of the proposed supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful to your understanding of the proposed supplementary rules? How could this description be more helpful in making the proposed supplementary rules easier to understand?

Please send any comments you have on the clarity of the supplementary rules to the address specified in the **ADDRESSES** section.

National Environmental Policy Act

BLM has prepared Final Environmental Impact Statement (EIS) for the Imperial Sand Dunes Recreation Area dated May 2003, which covers the proposed supplementary rules. BLM has placed the EIS on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section. BLM invites the public to review these documents and suggests that anyone wishing to address matters covered in the EIS do so in accordance with the Written Comments section above.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These proposed supplementary rules should have no economic effect on business, organizational, or governmental entities of whatever size. They merely would impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment,. Therefore, BLM has determined under the RFA that these proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

These proposed supplementary rules are not a ''major rule'' as defined at 5 U.S.C. 804(2). They would not result in an annual effect on the economy of $100 million or more, in a major increase in costs or prices, or in significant adverse effects on competition, employment,

investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. They would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment.

Unfunded Mandates Reform Act

These proposed supplementary rules do not impose an unfunded mandate on state, local, or Tribal governments, in the aggregate, or the private sector, of $100 million or more in any one year; nor do these proposed supplementary rules have a significant or unique effect on small governments. They would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act at 2 U.S.C. 1532.

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The proposed rule is not government action capable of interfering with constitutionally protected property rights. It simply contains rules of access to an environmentally sensitive area. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The proposed rule 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. This rule does not come into conflict with any state law or regulation. Therefore, in accordance with Executive Order 13132, BLM has determined that this proposed rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that this proposed rule would not unduly burden the judicial system and that the requirements of sections 3(a) and 3(b)(2) of the Order are met.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have coordinated with seven interested Tribes in 2002: the Quechan, Colorado River Indian Tribes, Fort Mojave Indian Tribe, Cocopah, the eleven Kumeyaay reservations, the Torres-Martinez Desert Cahuilla, and the Morongo Band. As part of this consultation, we interviewed tribal elders and other representatives of these Tribes concerning heritage values at the dunes. In general, the Tribes favored more law enforcement presence to enforce cultural laws, Therefore, in accordance with Executive Order 13175, we have found that this rule does not include policies that have tribal implications.

Paperwork Reduction Act

These supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Supplementary Rules For the Imperial Sand Dunes Recreation Management Area

Under 43 CFR 8365.1–6, the Bureau of Land Management will enforce the following rules on the public lands within the Imperial Sand Dunes Recreation Management Area, El Centro Field Office, Desert District, California.

You must follow these rules:

1. No person may enter the Adaptive Management Area within the Imperial Sand Dunes Recreation Area without a permit issued by the Bureau of Land Management authorizing such entry. The AMA is clearly signed warning access only to permit holders. Further language directs person(s) to a location and telephone number to obtain the required permit.

2. Entry and use of the area must be during:

a. the specified time period displayed on the permit,

b. October 15 to March 31.

3. In order to obtain a permit the driver of each vehicle and any individuals walking into the Adaptive Management Area must complete a short resource conservation program.

4. All AMA permits must be signed by the driver of the vehicle or each individual who walks in stating that he/she understands the printed material, including but not limited to the AMA rules and regulations, and a written test proving knowledge of said rules, regulations and all stipulations.

5. Each permit will be assigned to a driver, not a vehicle.

6. A permit flag must be placed directly under the vehicle's existing approved safety flag.

7. With the exception of the microphyll woodlands on the east side of the management area where no access will be allowed. Permit holders must access the Adaptive Management Area through the Adaptive Management Area boundary,

8. Each individual must obey all permit stipulations.

III. Penalties

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0–7, for violation of supplementary rules on public lands within the boundaries established in the rules, you may be tried before a United States Magistrate, fined no more than $1,000 and/or imprisoned for no more than 12 months. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Dated: September 23, 2005.

Mike Pool,

State Director.

[FR Doc. 05–21041 Filed 10–20–05; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before October 1, 2005.

Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written

or faxed comments should be submitted by November 7, 2005.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

COLORADO

Denver County

Zall House, 5401 East Sixth Avenue Parkway, Denver, 05001207

MASSACHUSETTS

Berkshire County

Cranesville Historic District, N and S of Main St., W of Park Ave., Dalton, 05001208

Middlesex County

New England Confectionery Company Factory, 250 Massachusetts Ave., Cambridge, 05001209

MICHIGAN

Berrien County

St. Joseph North Pier Inner and Outer Lights, (Light Stations of the United States MPS) On North Pier of St. Joseph R mouth, 0.9 mi. W of MI 63 bridge, St. Joseph, 05001211

Emmet County

Grays Reef Light Station, (Light Stations of the United States MPS) in NE Lake Michigan, 3.8 mi W of Waugashance Island, Bliss Township, 05001210

NEW YORK

Orange County

Millspaugh, Gilbert, House, 32 Church St., Walden, 05001216

OHIO

Summit County

Selle Gear Company, 451 S. High St., Akron, 05001213

PENNSYLVANIA

Montgomery County

Fetter's Mill Village Historic district, Fetter's Mill Rd. and Pennypack Ln., Byrn Athyn Borough, 05001212

TENNESSEE

Anderson County

McAdoo, Green, School, 101 School St., Clinton, 05001218

Franklin County

Hunt—Moore House, 518 Main St., Huntland, 05001223

Hardeman County

Allen—White School, 100 Allen Extension St., Whiteville, 05001214

United Sons and Daughters of Charity Lodge Hall, (Rural African-American Churches in Tennessee MPS) 322 W. McNeal St., Bolivar, 05001222

Jefferson County

Christ Temple AME Zion Church, (Rural African-American Churches in Tennessee MPS) 235 E. Meeting St., Dandridge, 05001221

Knox County

Central United Methodist Church, (Knoxville and Knox County MPS) 201 E. Third Ave., Knoxville, 05001225

Perry County

Craig Family Farm, (Historic Family Farms in Middle Tennessee MPS) 1031 N. Fork Rd., Linden, 05001219

Rutherford County

McGill—Becton—Cates Family Farm, (Historic Family Farms in Middle Tennessee MPS) 2432 Cripple Creek Rd., Readyville, 05001220

Shelby County

LeMoyne College Historic District, Roughly bounded by Walker, Hollis Price, Crown and alley to rear of Sweeney Hall, Memphis, 05001215

Presley, Elvis, House, (Memphis MPS) 1034 Audobon Dr., Memphis, 05001217

Williamson County

Hodge, Robert, House, (Williamson County MRA) 409 Madison Court, Franklin, 05001224

VERMONT

Washington County

Worcester Town Hall, 12 Worcester Village Rd., Worcester, 05001234

Worcester Village School, (Educational Resources of Vermont MPS) 17 Calais Rd., Worcester, 05001235

Windham County

Dickinson Estate Historic District, Dickinson and Kipling Rds., Brattleboro, 05001237

Vernon District Schoolhouse No. 4, (Educational Resources of Vermont MPS) 4201 Fort Bridgman Rd., Vernon, 05001236

VIRGINIA

Henrico County

Henrico Theatre (043–0287), 305 E. Nine Mile Rd., Highland Springs, 05001226

Nelson County

Lovingston Historic District, VA 56 (Front St.) from Orchard Rd. (N) to Sunset Ln. (S), Parallel to US 29, Lovingston, 05001232

Wintergreen County Store

Jct. of VA 151 and VA 627, 1368 Rockfish Valley Hwy, Nellysford, 05001233

Richmond Independent city Arimount School (127–0308), (Public Schools of Richmond MPS) 1501 N. 21st St., Richmond (Independent City), 05001227

Green's Farm (Huntley), 6510 Three Chopt Rd., Richmond (Independent City), 05001228

Winchester Independent city Cline, Patsy, House, 608 S. Kent St., Winchester (Independent City), 05001230

WASHINGTON

Clark County

Columbia City to Cascade City Road, Located near 144th Ct. and SE Evergreen Hwy, Vancouver, 05001231

WISCONSIN

Winnebago County

East Forest Avenue Historic District, Generally bounded by E. Forest Ave., Webster St., Hewitt St. and Eleventh St., Neenah, 05001229

[FR Doc. 05–21034 Filed 10–20–05; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 24, 2005. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by November 7, 2005.

Patrick W. Andrus,

Acting Chief, National Register/National Historic Landmarks Program.

ALASKA

Fairbanks North Star Borough-Census Area Constitution Hall, University of Alaska Fairbanks campus, Fairbanks, 05001196

ARIZONA

Maricopa County

Alma Ward Meeting House, 809 W. Main St., Mesa, 05001198

Selleh House, 1104 S. Mill Ave., Tempe, 05001197

COLORADO

Huerfano County

Huerfano County High School, 415 Walsen Ave., Walsenburg, 05001200

KANSAS

Anderson County

Kirk, Sennett and Bertha, House, 145 W. Fourth Ave., Garnett, 05001199

Butler County

Oak Lawn Farm Dairy Barn, 1246 NW Meadowlark, Whitewater, 05001202

Jewell County

Burr Oak School, (Public Schools of Kansas MPS) 776 Kansas, Burr Oak, 05001201

Philips County

Pleasant Ridge Church, 381 E. Buffalo Rd., Phillipsburg, 05001204

Rooks County

St. Joseph Catholic Church, 105 N. Oak St., Damar, 05001203

[FR Doc. 05–21035 Filed 10–20–05; 8:45 am]

BILLING CODE 4312–51–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–545]

In the Matter of Certain Laminated Floor Panels; Notice of a Commission Determination Not To Review an Initial Determination Amending the Complaint and Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') of the presiding administrative law judge (''ALJ'') granting the motion of complainants to amend the complaint and notice of investigation.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3041. Copies of the public version of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on August 3, 2005, based on a complaint filed by Unilin Beheer B.V. of the Netherlands, Flooring Industries Ltd. of Ireland, and Unilin Flooring N.C. LLC of Thomasville, North Carolina, 70 FR 44694 (2005).

The complaint alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laminated floor panels by reason of infringement of one or more of claims 1, 14, 17, 19, 20, 21, 37, 52, 65, and 66 of U.S. Patent No. 6,006,486, claims 1, 2, 10, 13, 18, 19, 22, 23, 24, and 27 of U.S. Patent No. 6,490,836, and claims 1–6 of U.S. Patent No. 6,874,292. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainants requested that the Commission issue a general exclusion order and cease and desist orders. The Commission named as respondents 30 companies located in Canada, China, Malaysia, and the United States. *Id.* The ALJ has set October 3, 2006, as the target date for completion of the investigation.

The ALJ issued the subject ID on September 19, 2005. The ID grants complainants' motion to add two respondents, Jiangsu Qianfeng Decoration Materials Co. Ltd. (QDM), of Jiangsu, China, and Hansol Homedeco (Hansol), of Seoul, South Korea. The ID also grants complainants' motion to add infringement of claims 1, 5, 13, 17, 27 and 28 of U.S. Patent No. 6,928,779 (the '779 patent). The '779 patent was issued on August 16, 2005. The ID also permits the complainants to add information concerning the existence of a domestic industry to the complaint. The ALJ states in the ID that ''good cause'' exists to permit these amendments to the complaint and notice of investigation because additional information was obtained by complainants after the complaint was filed.

The Commission investigative attorney supported the motion. No party opposed the motion. No petitions for review were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

Issued: October 17, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–21110 Filed 10–20–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–841 (Review)]

Non-Frozen Concentrated Apple Juice From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty order on non-frozen concentrated apple juice from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on May 2, 2005 (70 FR 22694) and determined on August 5, 2005 that it would conduct an expedited review (70 FR 51365, August 30, 2005).

The Commission transmitted its determination in this review to the Secretary of Commerce on September 28, 2005. The views of the Commission are contained in USITC Publication 3799 (September 2005), entitled Non-Frozen Concentrated Apple Juice from China: Investigation No. 731–TA–841 (Review).

Issued: October 18, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–21109 Filed 10–20–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–536]

In the Matter of Certain Pool Cues With Self-Aligning Joint Assemblies and Components Thereof; Notice of Commission Decision to Review in Part an Initial Determination Finding No Violation of Section 337 of the Tariff Act of 1930; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Shara L. Aranoff did not participate in this determination.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part an initial determination (''ID'') of the presiding administrative law judge (''ALJ'') finding no violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation. The Commission determined on review to decline to reach the issue of whether one claim term was met by the accused pool cues. The Commission has determined not to review the ALJ's determination that one other limitation of the claims at issue is not met by the accused products. The investigation is therefore terminated with a finding of no violation.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3041. Copies of the public version of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the above-referenced investigation under section 337 of the Tariff Act of 1930 on April 4, 2005, based on a complaint filed by J. Pechauer Custom Cues, Inc. (''Pechauer'') of Green Bay, Wisconsin. 70 FR 7112. The complaint alleged infringement of U.S. Patent No. 6,582,317 (the '317 patent), in the importation, sale for importation, and sale within the United States after importation of certain pool cues covered by all 29 claims of the '317 patent. The Commission named the following companies as respondents in the investigation: Kaokao Industrial Co. LTD., aka Kaokao (Zhang Zhou) Sports (''Kao Kao'') Equipment Co. Ltd. of Taiwan; CueStix International of Lafayette, Colorado; Sterling Gaming of Matthews, North Carolina; CueSight of Matthews, North Carolina; Imperial International of Hasbrouck Heights, New Jersey; Sigel's Unlimited Cues & Accessories of Winter Garden, Florida; Nick Varner Cues and Cases of Owensboro, Kentucky; J–S Sales Co. Inc. of Elmsford, New York; and GLD Products of Muskego, Wisconsin.

On September 1, 2005, the ALJ issued an ID (Order No. 5) granting Kao Kao's motion for summary determination of noninfringement and finding that Kao Kao's accused pool cues do not satisfy two limitations of the two independent claims of the '317 patent. On September 7, 2005, complainant Pechauer filed a petition for review of the ALJ's ID, and on September 19, 2005, the Commission Investigative Attorney and Kao Kao filed oppositions to Pechauer's petition for review. On September 22, 2005, the Commission extended the time for deciding whether to review the ID until October 17, 2005.

Having examined the record in this investigation, including the ID, the petition for review, and the responses thereto, the Commission has determined not to review the portion of the ID concerning the ''slightly threaded anterior portion'' limitation. The Commission has determined to review, and on review, to decline to reach the issue of whether the accused pool cues meet the ''closed posterior end'' limitation. Accordingly, the investigation is terminated with a finding of no violation.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: October 18, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–21108 Filed 10–20–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–270P]

Controlled Substances: Proposed Aggregate Production Quotas for 2006

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed year 2006 aggregate production quotas.

SUMMARY: This notice proposes initial year 2006 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA).

DATES: Comments or objections must be received on or before November 14, 2005.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–270P'' on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA **Federal Register** Representative/ODL. Written comments sent via express mail should be sent to DEA Headquarters, Attention: DEA **Federal Register** Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, VA 22301. Comments may be directly sent to DEA electronically by sending an electronic message to *dea.diversion.policy@usdoj.gov.* Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at the *http://www.regulations.gov* Web site. DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed here.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA by section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator, pursuant to section 0.104 of Title 28 of the Code of Federal Regulations.

The proposed year 2006 aggregate production quotas represent those quantities of controlled substances that may be produced in the United States in 2006 to provide adequate supplies of each substance for: The estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks. These quotas do not

include imports of controlled substances for use in industrial processes.

In determining the proposed year 2006 aggregate production quotas, the Deputy Administrator considered the following factors: Total actual 2004 and estimated 2005 and 2006 net disposals of each substance by all manufacturers; estimates of 2005 year-end inventories of each substance and of any substance manufactured from it and trends in accumulation of such inventories; product development requirements of both bulk and finished dosage form manufacturers; projected demand as indicated by procurement quota applications filed pursuant to Section 1303.12 of Title 21 of the Code of Federal Regulations; and other pertinent information.

Pursuant to section 1303 of Title 21 of the Code of Federal Regulations, the Deputy Administrator of the DEA will, in early 2006, adjust aggregate production quotas and individual manufacturing quotas allocated for the year based upon 2005 year-end inventory and actual 2005 disposition data supplied by quota recipients for each basic class of Schedule I or II controlled substance.

Therefore, under the authority vested in the Attorney General by section 306 of the CSA of 1970 (21 U.S.C. 826), and delegated to the Administrator of the DEA by section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator pursuant to section 0.104 of Title 28 of the Code of Federal Regulations, the Deputy Administrator hereby proposes that the year 2006 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class—schedule I	Proposed year 2006 quotas
2,5-Dimethoxyamphetamine	2,801,000 g
2,5-Dimethoxy-4-ethylamphetamine (DOET)	2 g
3-Methylfentanyl	2 g
3-Methylthiofentanyl	2 g
3,4-Methylenedioxyamphetamine (MDA)	15 g
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	5 g
3,4-Methylenedioxymethamphetamine (MDMA)	17 g
3,4,5-Trimethoxyamphetamine	2 g
4-Bromo-2,5-dimethoxyamphetamine (DOB)	2 g
4-Bromo-2,5-dimethoxyphenethylamine (2-CB)	2 g
4-Methoxyamphetamine	5 g
4-Methylaminorex	2 g
4-Methyl-2,5-dimethoxyamphetamine (DOM)	2 g
5-Methoxy-3,4-methylenedioxyamphetamine	2 g
Acetyl-alpha-methylfentanyl	2 g
Acetyldihydrocodeine	2 g
Acetylmethadol	2 g
Allylprodine	2 g
Alphacetylmethadol	2 g
Alpha-ethyltryptamine	2 g
Alphameprodine	2 g
Alphamethadol	3 g
Alpha-methylfentanyl	2 g
Alpha-methylthiofentanyl	2 g
Aminorex	2 g
Benzylmorphine	2 g
Betacetylmethadol	2 g
Beta-hydroxy-3-methylfentanyl	2 g
Beta-hydroxyfentanyl	2 g
Betameprodine	2 g
Betamethadol	2 g
Betaprodine	2 g
Bufotenine	2 g
Cathinone	2 g
Codeine-N-oxide	252 g
Diethyltryptamine	2 g
Difenoxin	5,000 g
Dihydromorphine	1,826,000 g
Dimethyltryptamine	3 g
Gamma-hydroxybutyric acid	8,000,000 g
Heroin	2 g
Hydromorphinol	2 g
Hydroxypethidine	2 g
Lysergic acid diethylamide (LSD)	61 g
Marihuana	4,500,000 g
Mescaline	2 g
Methaqualone	5 g
Methcathinone	4 g
Methyldihydromorphine	2 g
Morphine-N-oxide	252 g
N,N-Dimethylamphetamine	2 g
N-Ethylamphetamine	2 g
N-Hydroxy-3,4-methylenedioxyamphetamine	2 g
Noracymethadol	2 g
Norlevorphanol	52 g

Basic class—schedule I	Proposed year 2006 quotas
Normethadone	2 g
Normorphine	12 g
Para-fluorofentanyl	2 g
Phenomorphan	2 g
Pholcodine	2 g
Psilocybin	2 g
Psilocyn	7 g
Tetrahydrocannabinols	312,500 g
Thiofentanyl	2 g
Trimeperidine	2 g

Basic class—schedule II	Proposed year 2006 quotas
1-Phenylcyclohexylamine	2 g
Alfentanil	2,500 g
Alphaprodine	2 g
Amobarbital	2 g
Amphetamine	14,500,000 g
Cocaine	228,000 g
Codeine (for sale)	39,605,000 g
Codeine (for conversion)	55,000,000 g
Dextropropoxyphene	167,365,000 g
Dihydrocodeine	750,000 g
Diphenoxylate	828,000 g
Ecgonine	73,000 g
Ethylmorphine	2 g
Fentanyl	1,428,000 g
Glutethimide	2 g
Hydrocodone (for sale)	37,604,000 g
Hydrocodone (for conversion)	1,500,000 g
Hydromorphone	3,300,000 g
Isomethadone	2 g
Levo-alphacetylmethadol (LAAM)	2 g
Levomethorphan	2 g
Levorphanol	5,000 g
Meperidine	9,753,000 g
Metazocine	1 g
Methadone (for sale)	15,490,000 g
Methadone Intermediate	19,208,000 g
Methamphetamine	2,340,000 g
[680,000 grams of levo-desoxyephedrine for use in a non-controlled, non-prescription product; 1,615,000 grams for methamphetamine mostly for conversion to a Schedule III product; and 45,000 grams for methamphetamine (for sale)]	
Methylphenidate	35,000,000 g
Morphine (for sale)	35,000,000 g
Morphine (for conversion)	110,774,000 g
Nabilone	2 g
Noroxymorphone (for sale)	1,002 g
Noroxymorphone (for conversion)	4,000,000 g
Opium	1,280,000 g
Oxycodone (for sale)	49,200,000 g
Oxycodone (for conversion)	920,000 g
Oxymorphone	534,000 g
Pentobarbital	18,251,000 g
Phencyclidine	2,006 g
Phenmetrazine	2 g
Racemethorphan	2 g
Remifentanil	1,800 g
Secobarbital	2 g
Sufentanil	4,000 g
Thebaine	72,453,000 g

The Deputy Administrator further proposes that aggregate production quotas for all other Schedules I and II controlled substances included in sections 1308.11 and 1308.12 of Title 21 of the Code of Federal Regulations be established at zero.

All interested persons are invited to submit their comments in writing or electronically regarding this proposal following the procedures in the **ADDRESSES** section of this document. A person may object to or comment on the proposal relating to any of the above-mentioned substances without filing comments or objections regarding the others. If a person believes that one or more of these issues warrant a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Deputy Administrator finds warrant a hearing, the Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866.

This action does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this action does not have federalism implications warranting the application of Executive Order 13132.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

This action meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

This action will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $115,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

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

Dated: October 14, 2005.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–21038 Filed 10–20–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the CJIS Advisory Policy Board

AGENCY: Federal Bureau of Investigation (FBI).

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce the meeting of the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB). The CJIS APB is responsible for reviewing policy issued and appropriate technical and operational issues related to the programs administered by the FBI's CJIS Division, and thereafter, making appropriate recommendations to the FBI Director. The programs administered by the CJIS Division are the Integrated Automated Fingerprint Identification System, the Interstate Identification System, the Interstate Identification Index, Law Enforcement Online, National Crime Information Center, the National Instant Criminal Background Check System, the National Incident-Based Reporting System, Law Enforcement National Data Exchange, and Uniform Crime Reporting.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement concerning the CJIS Division programs or wishing to address this session should notify Senior CJIS Advisor Roy G. Weise at (304) 625–2730 at least 24 hours prior to the start of the session.

The notification should contain the requestor's name, corporate designation, and consumer affiliation or government designation along with a short statement describing the topic to be addressed and the time needed for the presentation. A requestor will ordinarily be allowed no more than 15 minutes to present a topic.

DATES: The APB will meet in open session from 8:30 a.m. until 5 p.m., on December 7–8, 2005.

ADDRESSES: The meeting will take place at The Rosen Centre Hotel, 9840 International Drive, Orlando, Florida (407) 996–9840.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mrs. Kimberly S. Parsons, Management Analyst, Advisory Groups Management Unit, Programs Development Section, FBI CJIS Division, Module C3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0149, telephone (304) 625–2404, facsimile (304) 625–5090.

Dated: October 17, 2005.

Roy G. Weise,

Senior CJIS Advisor, Criminal Justice Information Service Division, Federal Bureau of Investigation.

[FR Doc. 05–21057 Filed 10–20–05; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review; Comment Request

October 17, 2005.

The Department of Labor has submitted the following (see below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by November 18, 2005. A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King at (202) 693–4129 (this is not a toll-free number) or emailing *king.darrin@dol.gov*.

Comments and questions about the ICR listed below should be submitted to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor Center for Faith-Based and Community Initiatives, Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316), and received 5 days prior to the requested OMB approval date. The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Agency: Center for Faith-Based and Community Initiatives.

Title: Workforce Investment Board survey.

OMB Number: 1290–0NEW.

Frequency: One time.

Affected Public: State, Local, or Tribal Government.

Number of Respondents: Approximately 665.

Estimated Number of Responses: 532.

Estimated Time Per Respondent: 20 minutes.

Total Burden Hours: 180.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Description: DOL currently does not have a mechanism by which to obtain information regarding the grants, contracts, and cooperative agreements being awarded by local and state WIBs using Workforce Investment Act (WIA) funds. It is critical that DOL begin to obtain information about these grants, contracts, and cooperative agreements in order to better understand how much money is being spent and the types of organizations receiving the funds. DOL is especially interested in obtaining information on awards to faith-based organizations. DOL is interested in obtaining information about grants, contracts, and cooperative agreements using WIA youth funds in particular.

The WIB survey will bridge this gap in DOL–ETA's knowledge of WIB grants, contracts, and cooperative agreements using WIA youth funds. Through this survey, DOL plans to contact every state and local WIB, rather than a representative sample of WIBs. This is because DOL wants to obtain not only summary information about the grants, contracts, and cooperative agreements (*e.g.*, average amount, average number awarded by each WIB, etc.), but also specific information about each individual award in the past year. Because we are not sampling the WIBs, we have not needed to provide a sampling plan.

The survey will ask each WIB a small number of questions. These questions will be:

• Name of the organization receiving the grant/contract/cooperative agreement

• City where organization is located

• State where organization is located

• Amount of the grant/contract/cooperative agreement

• Type of organization receiving award (*e.g.*, state and local government, educational institution, faith-based organization).

This survey will be administered to the state and local WIBs using the internet.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 05–21091 Filed 10–20–05; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request; Submitted for Public Comment and Recommendations; Approval, Exhaust Gas Monitoring, and Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(c)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection related to the 30 CFR: 7.83 and 7.97—Application Requirements; 7.90 and 7.105—Approval Markings; 75.363—Hazardous Conditions; Posting Correction, and Recording; 75.371(r), (kk), (ll), (mm), (nn), (oo), and (pp)—Mine Ventilation Plan, Contents; 75.1901(a)—Diesel Fuel Requirements; 75.1904(b)(4)(i)—Underground Diesel Fuel Tanks and Safety Cans; 75.1911(i) and (j)—Fire Suppression Systems for Diesel-Powered Equipment and Fuel Transportation Units; 75.1912(h) and (i)—Fire Suppression Systems for Permanent Underground Diesel Fuel Storage Facilities; 75.1914(f)(1), (2), (g)(5),(h)(1), and (2)—Maintenance of Diesel-Powered Equipment; and 75.1915(a),(b)(5), (c)(1) and (2)—Training and Qualification of Persons Working on Diesel-Powered Equipment.

DATES: Submit comments on or before December 20, 2005.

ADDRESSES: Send comments to U.S. Department of Labor, Mine Safety and Health Administration, John Rowlett, Director, Management Services Division, 1100 Wilson Boulevard, Room 2134, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on a computer disk, or via e-mail to *Rowlett.John@dol.gov*, along with an original printed copy. Mr. Rowlett can be reached at (202) 693–9827 (voice), or (202) 693–9801 (facsimile).

FOR FURTHER INFORMATION: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

The regulation addresses three major areas: diesel engine design and testing requirements; safety standards for the maintenance and use of this equipment; and exhaust gas sampling provisions to protect miners' health. It first requires that diesel engines and their critical components meet design specifications and tests to demonstrate that they are explosion-proof and will not cause a fire in a mine where methane may accumulate. Second, the safety requirements for diesel equipment include many of the proven features required in existing standards for electric-powered equipment, such as cabs or canopies, methane monitors, brakes and lights. The regulation also sets safety requirements for fuel handling and storage and fire suppression. Third, sampling of diesel exhaust emissions is required to protect miners from overexposure to carbon monoxide and nitrogen dioxide contained in diesel exhaust.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection requirement related to the approval, exhaust gas monitoring and safety requirements for the use of diesel-powered equipment in underground coal mines. MSHA is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the For Further Information Contact section of this notice, or viewed on the Internet by accessing the MSHA home page (*http://www.msha.gov*) and then choosing ''Rules and Regs'' and ''FedReg. Docs''.

III. Current Actions

Provisions under part 7 provide that manufacturers submit applications to demonstrate compliance with the test and specification requirements. In part 75, they establish mandatory safety standards for diesel-powered equipment for use in underground coal mines, minimum ventilating air quantities, the incorporation of the air quantities into the mine ventilation plan, requirements for routine sampling of toxic exhaust gases, and the use of low sulfur diesel fuel. It also provides that diesel equipment maintenance be performed by adequately trained persons. In addition, the regulation includes standards for storage, transportation and dispensing of diesel fuel, and the installation and maintenance of fire suppression systems on diesel equipment and in permanent underground fuel storage facilities.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Approval, Exhaust Gas Monitoring, and Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines.

OMB Number: 1219–0119.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Total Respondents: 181.

Total Responses: 147,567.

Total Burden Hours: 137,675.

Total Burden Cost (operating/maintaining): $349,888.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated at Arlington, Virginia, this 14th day of October, 2005.

David L. Meyer,

Director, Office of Administration and Management.

[FR Doc. 05–21064 Filed 10–20–05; 8:45 am]

BILLING CODE 4510–43–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings of the Board of Directors and Four of the Board's Committees

TIMES AND DATES: The Legal Services Corporation Board of Directors and four of its Committees will meet October 28 and 29, 2005 in the order set forth in the following schedule unless the meetings are concurrent.

Meeting Schedule

Friday, October 28, 2005

1. Provision for the Delivery of Legal Services Committee (''Provisions Committee''), 1:15 p.m.
2. Performance Reviews Committee, 1:15 p.m.
3. Operations and Regulations Committee (Immediately following meeting of the Provisions Committee)
4. Finance Committee (Immediately following meeting of the Operations & Regulations Committee)

Note: If the Finance Committee does not conclude its business on Friday, October 28, it will reconvene at 9 a.m. on Saturday, October 29, 2005. Should this occur, the Board of Directors meeting will commence immediately following conclusion of the Finance Committee meeting.

Saturday, October 29, 2005

In the event the Finance Committee does not conclude its business on Friday, October 28, 2005, the meeting schedule on Saturday, October 29, 2005 will be as follows.

1. Finance Committee, 9 a.m.
2. Board of Directors (Immediately following conclusion of the Finance Committee meeting.)

Should the Finance Committee conclude its business on Friday, October 28, 2005, the schedule for Saturday, October 29, 2005, will be as follows.

1. Board of Directors, 9 a.m.

LOCATION: The Grove Hotel, 245 South Capitol Boulevard, Boise, Idaho.

STATUS OF MEETINGS: Open, except as noted below.

• *Status:* October 28, 2005 Annual Performance Reviews Committee Meeting—Closed. The Performance Reviews Committee meeting may be closed to the public pursuant to a vote of the Board of Directors authorizing the Committee to meet in executive session to consider and act on internal procedures for evaluation of the Corporation's President and Inspector General. The closing will be authorized by the relevant provision of the Government in the Sunshine Act [5 U.S.C. 552b(c)(2)] and the Legal Services Corporation's corresponding regulation, 45 CFR 1622.5(a). A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

• *Status:* October 29, 2005 Board of Directors Meeting—Open, except that a portion of the meeting of the Board of Directors may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Board will consider and may act on the General Counsel's report on litigation to which the Corporation is or may become a party and discuss internal procedures with the Inspector General (''IG'').[1] The closing is authorized by 5 U.S.C. 552b(c)(10) and LSC's implementing regulation 45 CFR 1622.5(h). A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Friday, October 28, 2005

Performance Reviews Committee

Closed Session

1. Approval of agenda.
2. Consider and act on internal procedures for annual performance review of LSC President.
3. Consider and act on internal procedures for annual performance review of LSC Inspector General.
4. Consider and act on other business.
5. Consider and act on adjournment of meeting.

Provisions Committee

Open Session

1. Approval of agenda.
2. Approval of the Committee's meeting minutes of July 28, 2005.
3. Presentation on Draft Revision of LSC Performance Criteria.

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session. 5 U.S.C. 552(b)(a)(2) and (b). See also 45 CFR 1622.2 and 1622.3.

a. Overview—Karen Sarjeant, Vice President, Programs and Compliance.
b. A Grantee's Perspective—Howard Belodoff, Associate Director, Idaho Legal Services.
c. Next steps—Helaine Barnett.
4. Public comment.
5. Consider and act on other business.
6. Consider and act on adjournment of meeting.

Operations and Regulations Committee

Open Session

1. Approval of agenda.
2. Approval of the Committee's meeting minutes of July 28, 2005.
3. Consider and act on initiation of rulemaking to repeal 45 CFR part 1631 (Expenditure of Grant Funds).
a. Staff report.
b. Public comment.
4. Consider and act on initiation of rulemaking to revise 45 CFR part 1621 (Client Grievance Procedure).
a. Staff report.
b. Public comment.
5. Consider and act on initiation of rulemaking to revise 45 CFR part 1624 (Prohibition Against Discrimination on the Basis of Handicap).
a. Staff report.
b. Public comment.
6. Staff update on dormant class actions.
7. Other public comment.
8. Consider and act on other business.
9. Consider and act on adjournment of meeting.

Finance Committee

Open Session

1. Approval of agenda.
2. Approval of the minutes of the Committee's meeting of September 30, 2005.
3. Presentation of the Fiscal Year 2005 Financial Report.
4. Consider and Act on FY 2005 Consolidated Operating Budget Reallocation, Resolution # 2005–010.
5. Report on Status of FY 2006 Appropriation.
6. Consider and Act on Temporary Operating Budget for FY 2006, Resolution # 2005–011.
7. Adopt resolution on the FY 2007 Budget Mark reflecting action taken at the September 30, 2005, Finance Committee meeting, Resolution # 2005–012.
8. Consider and Act on limits for individual employee savings plans:
a. Contributions to health savings accounts, Resolution # 2005–013.
b. Distributions from LSC's Mutual of America savings plan, Resolution # 2005–014.
c. Distributions from LSC's Diversified Investment Advisers savings plan, Resolution # 2005–015.
9. Consider and Act on a process for the distribution of any emergency funds for hurricane relief which may be appropriated by Congress, Resolution # 2005–016.
10. Consider and Act on other business.
11. Consider and Act on adjournment.

Saturday, October 29, 2005

Board of Directors

Open Session

1. Approval of agenda.
2. Approval of minutes of the Board's meeting of July 30, 2005.
3. Approval of minutes of the Executive Session of the Board's meeting of July 30, 2005.
4. Approval of minutes of the Board's meeting of October 11, 2005.
5. Consider and act on Strategic Directions for 2006—2010.
6. Chairman's Report.
7. Members' Reports.
8. President's Report.
9. Inspector General's Report.
10. Consider and act on the report of the Provision for the Delivery of Legal Services Committee.
11. Consider and act on the reports of the Finance Committee.
12. Consider and act on the report of the Operations and Regulations Committee.
13. Consider and act on the report of the Performance Reviews Committee.
14. Consider and act on delegating to the Chairman responsibility for day-to-day oversight of the Inspector General in accordance with OMB's Memorandum for Heads of Designated Federal Entities, M–93–01 (November 13, 1992).
15. Discussion of Board's review of LSC materials.
16. Consider and act on other business.
17. Public comment.
18. Consider and act on whether to authorize an executive session of the Board to address items listed below under Closed Session.

Closed Session

19. Consider and act on General Counsel's report on potential and pending litigation involving LSC.
20. Briefing on internal procedures with respect to OIG.
21. Consider and act on motion to adjourn meeting.

FOR FURTHER INFORMATION CONTACT: Patricia D. Batie, Manager of Board Operations, at (202) 295–1500.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295–1500.

Dated: October 19, 2005.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 05–21218 Filed 10–19–05; 1:52 pm]

BILLING CODE 7050–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Michael McDonald, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* November 1, 2005.
Time: 9 a.m. to 5 p.m.
Room: 415.

Program: This meeting will review applications for Linguistics, submitted to the Division of Preservation and Access at the July 15, 2005 deadline.

2. *Date:* November 2, 2005.
Time: 8:30 a.m. to 5:30 p.m.
Room: 426.
Program: This meeting will review applications for Humanities Projects in Libraries, submitted to the Division of Public Programs at the September 16, 2005 deadline.

3. *Date:* November 4, 2005.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations, submitted to the Division of Public Programs at the September 16, 2005 deadline.

4. *Date:* November 4, 2005.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Science, Technology, Medicine and Philosophy, submitted to the Division of Preservation and Access at the July 15, 2005 deadline.

5. Date: November 7, 2005.
Time: 8:30 a.m. to 5:30 p.m.
Room: 426.
Program: This meeting will review applications for Special Projects, submitted to the Division of Public Programs at the September 16, 2005 deadline.

6. *Date:* November 8, 2005.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for World Studies II, submitted to the Division of Preservation and Access at the July 15, 2005 deadline.

7. *Date:* November 9, 2005.
Time: 9 a.m. to 5:30 p.m.
Room: 421.
Program: This meeting will review applications for Landmarks of American History and Culture, submitted to the Division of Education Programs at the November 7, 2005 deadline.

10. *Date:* November 10, 2005.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Anthropology and Archaeology, submitted to the Division of Preservation and Access at the July 15, 2005 deadline.

11. *Date:* November 14, 2005.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations, submitted to the Division of Public Programs at the September 16, 2005 deadline.

12. *Date:* November 15, 2005.
Time: 8:30 a.m. to 5:30 p.m.
Room: 426.
Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations, submitted to the Division of Public Programs at the September 16, 2005 deadline.

13. *Date:* November 29, 2005.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for U.S. History VI, submitted to the Division of Preservation and Access at the July 15, 2005 deadline.

Michael McDonald,
Advisory Committee, Management Officer.
[FR Doc. 05–21037 Filed 10–20–05; 8:45 am]
BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Business and Operations Advisory Committee; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Business and Operations Advisory Committee (9556).
Date/Time: November 17, 2005; 1 p.m. to 5:30 p.m. (EST). November 18, 2005; 8 a.m. to 12:30 p.m. (EST).
Place: National Science Foundation, 4201 Wilson Boulevard, Room 555–II.
Type of Meeting: Open.
Contact Person: Mary Ann Birchett, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 (703) 292–8100.
Purpose of Meeting: To provide advice concerning issues related to the oversight, integrity, development and enhancement of NSF's business operations.
Agenda: November 17, 2005:
PM: Welcome and Introduction of new members; Updates—Office of Budget, Finance, and Award Management, Office of Information and Resource Management, Chief Information Officer activities. Presentation and Discussion—NSF Strategic Planning.
November 18, 2005:
AM: Review of Facilities Subcommittee meeting. Presentation and Discussion—Grants Management Line of Business, Center of Excellence; Meeting with NSF Director; Committee Discussion; Planning for next meeting; feedback; other business.

Dated: October 18, 2005.
Susanne Bolton,
Committee Management Officer.
[FR Doc. 05–21071 Filed 10–20–05; 8:45 am]
BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Proposal Review Panel for Materials Research #1203.
Dates and Times: November 3, 2005; 7:45 a.m.–6:30 p.m. (open 7:45–12:30, 1:30–5/closed 5–6:30). November 4, 2005; 8 a.m.–2:30 p.m. (closed).
Place: Florida A&M University, Tallahassee, Florida.
Type of Meeting: Part Open.
Contact Person: Dr. Ulrich Strom, Program Director, Materials Research Science and Engineering Centers, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4938.
Purpose of Meeting: To provide advice and recommendations concerning progress of the Partnership for Research and Education in Materials.
Agenda: November 3, 2005—Open for Directors overview of the Partnership for Research and Education in Materials.
November 4, 2005—Closed to review and evaluate progress of the Partnership for Research and Education in Materials.
Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 8, 2005.
Susanne Bolton,
Committee Management Officer.
[FR Doc. 05–21070 Filed 10–20–05; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–287]

Duke Energy Corporation; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has granted the request of Duke Energy

Corporation (the licensee) to withdraw its August 26, 2004, application for proposed amendments to Facility Operating License No. DPR–38, DPR–47, and DPR–55, for the Oconee Nuclear Station, Units 1, 2, and 3, located in Seneca County, SC.

The proposed amendment would have revised the Technical Specification 3.3.29 and its associated Bases to accommodate new circuitry that isolates nonsafety portions of the low pressure service water system piping inside containment that supplies the reactor building auxiliary coolers.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 28, 2004 (69 FR 57983). However, by letter dated September 29, 2005, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 26, 2004, and the licensee's letter dated September 29, 2005, which withdrew the application for license amendment. 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.*

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 14th day of October 2005.

Leonard N. Olshan,

Sr. Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. E5–5798 Filed 10–20–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Fifth International MACCS Users' Group Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: 5th International MACCS Users' Group Meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will conduct the 5th International MACCS Users' Group (IMUG) Meeting, on March 10, 2006, at a location near the NRC's Headquarters in Rockville, Maryland. The meeting will begin at 8:30 a.m. and will be open to public observation.

FOR FURTHER INFORMATION CONTACT: Jocelyn Mitchell; e-mail: *jam@nrc.gov*; telephone: (301) 415–5289; Office of Nuclear Regulatory Research, Mail Stop T–9C34, USNRC, Washington, DC 20555–0001. Additional information and a registration form can be found at the NRC's Web site: *www.nrc.gov/publicinvolve/conferences.html.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for users of MACCS (MELCOR Accident Consequence Code System) to exchange information about the use of MACCS and about recent code developments. There will be no charge for registration for the conference, but, for planning purposes, registration is required. Anyone wishing to present information relevant to MACCS or its use in consequence estimation should contact Jocelyn Mitchell to be included in the agenda.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 17th day of October, 2005.

William R. Ott,

Acting Chief, Radiation Protection, Environmental Risk and Waste Management Branch, Division of Risk Analysis and Applications, Office of Nuclear Regulatory Research.

[FR Doc. E5–5797 Filed 10–20–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Solicitation of Public Comments on the Implementation of the Reactor Oversight Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for public comment.

SUMMARY: Over 5 years have elapsed since the U.S. Nuclear Regulatory Commission (NRC) implemented its revised Reactor Oversight Process (ROP). The NRC is currently soliciting comments from members of the public, licensees, and interest groups related to the implementation of the ROP. An electronic version of the survey questions may be obtained from *http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/rop2005survey.pdf.* This solicitation will provide insights into the self-assessment process and a summary of the feedback will be included in the annual ROP self-assessment report to the Commission.

DATES: The comment period expires on December 1, 2005. The NRC will consider comments received after this date if it is practical to do so, but is only able to ensure consideration of comments received on or before this date.

ADDRESSES: Completed questionnaires and/or comments may be e-mailed to *nrcrep@nrc.gov* or sent to Michael T. Lesar, Chief, Rules and Directives Branch, Office of Administration (Mail Stop T–6D59), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments may also be hand-delivered to Mr. Lesar at 11554 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Documents created or received at the NRC after November 1, 1999, are available electronically through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm.html.* From this site, the public can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. For more information, contact the NRC's Public Document Room (PDR) reference staff at 301–415–4737 or 800–397–4209, or by e-mail at *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Serita Sanders, Office of Nuclear Reactor Regulation (Mail Stop: OWFN 7A15), U.S. Nuclear Regulatory Commission, Washington DC 20555–0001. Ms. Sanders can also be reached by telephone at 301–415–2956 or by e-mail at *SXS5@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Program Overview

The mission of the NRC is to license and regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. This mission is accomplished through the following activities:

- License nuclear facilities and the possession, use, and disposal of nuclear materials.
- Develop and implement requirements governing licensed activities.

• Inspect and enforce licensee activities to ensure compliance with these requirements and the law.

While the NRC's responsibility is to monitor and regulate licensees' performance, the primary responsibility for safe operation and handling of nuclear materials rests with each licensee.

As the nuclear industry in the United States has matured, the NRC and its licensees have learned much about how to safely operate nuclear facilities and handle nuclear materials. In April 2000, the NRC began to implement more effective and efficient inspection, assessment, and enforcement approaches, which apply insights from these years of regulatory oversight and nuclear facility operation. Key elements of the Reactor Oversight Process (ROP) include NRC inspection procedures, plant performance indicators, a significance determination process, and an assessment program that incorporates various risk-informed thresholds to help determine the level of NRC oversight and enforcement. Since ROP development began in 1998, the NRC has frequently communicated with the public by various initiatives: conducted public meetings in the vicinity of each licensed commercial nuclear power plant, issued FRNs to solicit feedback on the ROP, published press releases about the new process, conducted multiple public workshops, placed pertinent background information in the NRC's Public Document Room, and established an NRC Web site containing easily accessible information about the ROP and licensee performance.

NRC Public Stakeholder Comments

The NRC continues to be interested in receiving feedback from members of the public, various public stakeholders, and industry groups on their insights regarding the CY 2005 implementation of the ROP. In particular, the NRC is seeking responses to the questions listed below, which will provide important information that the NRC can use in ongoing program improvement. A summary of the feedback obtained will be provided to the Commission and included in the annual ROP self-assessment report.

This solicitation of public comments has been issued each year since ROP implementation in 2000. In previous years, the questions had been free-form in nature requesting written responses. Although written responses are still encouraged, there are specific choices to best describe your experience to enable us to more objectively determine your level of satisfaction.

Questions

In responding to these questions, please consider your experiences using the NRC oversight process.

Shade in the circle that most applies to your experiences as follows: (1) Very much (2) somewhat (3) neutral (4) somewhat less than needed (5) far less than needed.

If there are experiences that are rated as unsatisfactory, or if you have specific thoughts or concerns, please elaborate in the ''Comments'' section that follows the question and offer your opinion for possible improvements. If there are experiences or opinions that you would like to express that cannot be directly captured by the questions, document that in the last question of the survey.

Questions Related to Specific Reactor Oversight Process (ROP) Program Areas

(As appropriate, please provide specific examples and suggestions for improvement.)

(1) Does the Performance Indicator Program provide useful insights to help ensure plant safety?

1	2	3	4	5
○	○	○	○	○

Comments:

(2) Does appropriate overlap exist between the Performance Indicator Program and the Inspection Program?

1	2	3	4	5
○	○	○	○	○

Comments:

(3) Does NEI 99–02, ''Regulatory Assessment Performance Indicator Guideline'' provide clear guidance regarding Performance Indicators?

1	2	3	4	5
○	○	○	○	○

Comments:

(4) Does the Inspection Program adequately cover areas important to safety and is it effective in identifying and ensuring the prompt correction of performance deficiencies?

1	2	3	4	5
○	○	○	○	○

Comments:

(5) Is the information contained in inspection reports relevant, useful, and written in plain English?

1	2	3	4	5
○	○	○	○	○

Comments:

(6) Does the Significance Determination Process yield an appropriate and consistent regulatory response across all ROP cornerstones?

1	2	3	4	5
○	○	○	○	○

Comments:

(7) Does the NRC take appropriate actions to address performance issues for those plants outside of the Licensee Response Column of the Action Matrix?

1	2	3	4	5
○	○	○	○	○

Comments:

(8) Is the information contained in assessment reports relevant, useful, and written in plain English?

1	2	3	4	5
○	○	○	○	○

Comments:

Questions Related to the Efficacy of the Overall ROP

(As appropriate, please provide specific examples and suggestions for improvement.)

(9) Are the ROP oversight activities predictable (i.e., controlled by the process) and reasonably objective (i.e., based on supported facts, rather than relying on subjective judgement)?

1	2	3	4	5
○	○	○	○	○

Comments:

(10) Is the ROP risk-informed, in that the NRC's actions and outcomes are appropriately graduated on the basis of increased significance?

1	2	3	4	5
○	○	○	○	○

Comments:

(11) Is the ROP understandable and are the processes, procedures and products clear and written in plain English?

1	2	3	4	5
○	○	○	○	○

Comments:

(12) Does the ROP provide adequate regulatory assurance when combined with other NRC regulatory processes that plants are being operated and maintained safely?

1	2	3	4	5
○	○	○	○	○

Comments:

(13) Is the ROP effective, efficient, realistic, and timely?

1	2	3	4	5
○	○	○	○	○

Comments:

(14) Does the ROP ensure openness in the regulatory process?

1	2	3	4	5
○	○	○	○	○

Comments:

(15) Has the public been afforded adequate opportunity to participate in the ROP and to provide inputs and comments?

1	2	3	4	5
○	○	○	○	○

Comments:

(16) Has the NRC been responsive to public inputs and comments on the ROP?

1	2	3	4	5
○	○	○	○	○

Comments:

(17) Has the NRC implemented the ROP as defined by program documents?

1	2	3	4	5
○	○	○	○	○

Comments:

(18) Does the ROP minimize unintended consequences?

1	2	3	4	5
○	○	○	○	○

Comments:

(19) Please provide any additional information or comments related to the Reactor Oversight Process.

Dated at Rockville, Maryland, this 14th day of October, 2005.

For the U.S. Nuclear Regulatory Commission.

Stuart A. Richards,

Office of Nuclear Reactor Regulation, Division of Inspection Program Management, Inspection Program Branch.

[FR Doc. E5–5796 Filed 10–20–05; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB No. 3206–0165]

Submission for OMB Review; Comment Request for Revision of Expiring Information Collections

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for revision of expiring information collections. Depending upon the type of background investigation requested by the Federal agency, the General Request for Investigative Information (INV 40), Investigative Request for Employment Data and Supervisor Information (INV 41) (5/02), the Investigative Request for Personal Information (INV 42) (5/02), the Investigative Request for Educational Registrar and Dean of Students Record Data (INV 43) (5/02), and the Investigative Request for Law Enforcement Data (INV 44) (5/02) are forms used in the processing of background investigations to assist in determining whether an applicant is suitable for Federal employment or should be granted a security clearance. The INV 40, General Request for Investigative Information, is used to accommodate sources for which the collection formats of INV 41–44 are awkward or inappropriate. The INV 41, Investigative Request for Employment Data and Supervisor Information, is sent to past and present employers and supervisors identified on the applicant's investigative questionnaire. The INV 42, Investigative Request for Personal Information, is sent to references listed by the subject of investigation. The INV 43, Investigative Request for Educational Registrar and Dean of Students Record Data, is sent to registrars and dean of students of the educational institutions listed by the subject of an investigation to verify enrollment and degree information, and determine whether there is any relevant adverse information. The INV 44, Investigative Request for Law Enforcement Data, is sent to law enforcement jurisdictions in which the subject has had any significant period of activity during the designated scope of investigation. The INV 44 inquires about any outstanding warrants or record of criminal activity involving the subject of investigation.

The INV 40, INV 41, INV 42, INV 43, and INV 44 ask the recipient to respond to questions concerning the applicant's honesty and integrity, as well as other security-related questions involving general conduct, use of intoxicants, finances and mental health.

Approximately 460,000 INV 40 inquiries are sent to Federal and non-federal agencies annually. The INV 40 takes approximately five minutes to complete. The estimated annual burden is 38,300 hours. Approximately 1,300,000 INV 41 inquiries are sent to past and present employers and supervisors. The INV 41 takes approximately five minutes to complete. The estimated annual burden is 108,300 hours. Approximately 980,000 INV 42 inquiries are sent to individuals annually. The INV 42 takes approximately five minutes to complete. The estimated annual burden is 81,700 hours. Approximately 261,000 INV 43 inquiries are sent to educational institutions annually. The INV 43 takes approximately five minutes to complete. The estimated annual burden is 21,750 hours. Approximately 1,000,000 INV 44 inquiries are sent to law enforcement agencies annually. The INV 44 takes approximately five minutes to complete. The estimated annual burden is 83,300 hours. The total number of respondents for the INV 40, INV 41, INV 42, INV 43, and INV 44 is 4,001,000 and the total estimated burden is 333,350 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, Fax (202) 418–3251 or e-mail to *mbtoomey@opm.gov.* Please be sure to include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to: Kathy Dillaman, Deputy Associate Director, Center for Federal Investigative Services, U.S. Office of Personnel Management, 1900 E. Street, Room 5416, Washington, DC 20415, and Brenda Aguilar, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Sherry Tate, Program Analyst, Standards and Evaluations Group, Center for Federal Investigative Services, Office of Personnel Management. (202) 606–0434.

Office of Personnel Management.

Linda M. Springer,

Director.

[FR Doc. 05–21051 Filed 10–20–05; 8:45 am]

BILLING CODE 6325–38–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration (SBA).

ACTION: Notice of termination of waiver of the Nonmanufacturer Rule for Sporting and Athletic Goods Manufacturing.

SUMMARY: The U.S. Small Business Administration (SBA) is terminating the waiver of the Nonmanufacturer Rule for Sporting and Athletic Goods Manufacturing based on our recent discovery of a small business manufacturer for this class of products. Terminating this waiver will require recipients of contracts set aside for small businesses, service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program provide the product of domestic small business manufacturers or processors on such contracts.

DATES: This termination of waiver is effective November 7, 2005.

FOR FURTHER INFORMATION CONTACT: Edith G. Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(A)(17), requires that receipts of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule.

The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''Class of Products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on a six digit North American Industry Classification System (NAICS) and the four digit Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on May 17, 2005 to waive the Nonamnfacturer Rule for Sporting and Athletic Goods Manufacturing. In response, SBA published a notice in the **Federal Register** on July 28, 2005 of intent to terminate the waiver of the Nonmanufacturer Rule for Sporting and Athletic Goods Manufacturing.

In response to this notice, SBA discovered the existence of a small business manufacturer of this class of products. Accordingly, based on the available information, SBA has determined that there is a small business manufacturer of this class of products, and is therefore terminating the class waiver of the Nonmanufacturer Rule for Sporting and Athletic Goods Manufacturing, NAICS 339920.

Authority: 15 U.S.C. 637(a)(17).

Dated: October 13, 2005.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. 05–21059 Filed 10–20–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of Waiver of the Nonmanufacturer Rule for Commercial Laundry Equipment.

SUMMARY: The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Commercial Laundry Equipment. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA's 8(a) Business Development Program.

DATES: This waiver is effective November 7, 2005.

FOR FURTHER INFORMATION CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 205–7280; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry by the Federal Procurement Data System.

The SBA received a request on July 22, 2005 to waive the Nonmanufacturer Rule for Commercial Laundry Equipment. In response, on August 22, 2005, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Commercial Laundry Equipment. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to this notice, no comments were received from interested parties. SBA is therefore granting the waiver of the Nonmanufacturer Rule for Commercial Laundry Equipment, NAICS 333312.

Authority: 15 U.S.C. 637(a)(17).

Dated: October 13, 2005.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. 05–21060 Filed 10–20–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of waiver of the Nonmanufacturer Rule for household cooking equipment.

SUMMARY: The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Household Laundry Equipment. The basis for waivers is that no small business manufacturers are supplying this class of product to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small business or SBA's 8(a) Business Development Program.

DATES: This waiver is effective November 7, 2005.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov*.

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on July 22 2005 to waive the Nonmanufacturer Rule for Household Cooking Equipment. In response, on August 25, 2005, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Household Cooking Equipment. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products.

In response to this notice, no comments were received from interested parties. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for Household Cooking Equipment, NAICS 335221.

Authority: 15 U.S.C. 637(a)(17).

Dated: October 13, 2005.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. 05–21061 Filed 10–20–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of waiver of the Nonmanufacturer Rule for Household Refrigerator Equipment.

SUMMARY: The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Household Refrigerator Equipment. The basis for waivers is that no small business manufacturers are supplying this class of product to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small business or SBA's 8(a) Business Development Program.

DATES: This waiver is effective November 7, 2005.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov*.

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on July 25, 2005 to waive the Nonmanufacturer Rule for Household Refrigerator Equipment. In response, on August 25, 2005, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Household Refrigerator Equipment. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products.

In response to this notice, no comments were received from interested parties. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for Household Refrigerator Equipment, NAICS 335522.

Authority: 15 U.S.C. 637(a)(17).

Dated: October 13, 2005.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. 05–21062 Filed 10–20–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of waiver of the Nonmanufacturer Rule for household laundry equipment.

SUMMARY: The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Household Laundry Equipment. The basis for waivers is that no small business manufacturers are supplying this class of product to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small business or SBA's 8(a) Business Development Program.

DATES: This waiver is effective November 7, 2005.

FOR FURTHER INFORMATION CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on July 22, 2005 to waive the Nonmanufacturer Rule for Household Laundry Equipment. In response, on August 25, 2005, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Household Laundry Equipment. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to this notice, no comments were received from interested parties. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for Household Laundry Equipment, NAICS 335224.

Authority: 15 U.S.C. 637(a)(17).

Dated: October 13, 2005.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. 05–21063 Filed 10–20–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF THE TREASURY

Senior Executive Service; Departmental Offices; FY 2005 Performance/Bonus Review Board

AGENCY: Treasury Department.

ACTION: Notice of membership of the Departmental Offices Performance/Bonus Review Board.

DATES: *Effective Date:* Membership is effective on the date of this notice.

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Departmental Offices Performance/Bonus Review Board. The purpose of this Board is to review and make recommendations concerning proposed Performance ratings, bonuses and other appropriate personnel actions for incumbents of SES positions. The Board shall consist of at least three members. In the case of an appraisal of a career appointee, more than half the members shall consist of career appointees. Attached are names and titles of additional Board members. The attachment is in addition to the names that were listed in the **Federal Register** that was published on September 23, 2005 (Volume 70, Number 184, page 55957–55958).

FOR FURTHER INFORMATION CONTACT: Melissa Talavera, Supervisory Human Resources Specialist, Department of the Treasury, Office of Human Resources, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, Telephone: 202–622–1044.

Joy Charles,

Director, Office of Human Resources.

FY 2005 PERFORMANCE/BONUS REVIEW BOARD

[For listing in **Federal Register**]

Name	Official title
Carleton, Norman	Senior Advisor to the Deputy Assistant Secretary.
Dohner, Robert	Senior Advisor to the Deputy Assistant Secretary.
Eddy, Lynn	Assoc Chief Information Officer.
Jaskowiak, Mark	Dir, Ofc of Specialized Devel.
Kiefer, Donald	Dir, Ofc of Tax Analysis.
Nickles, Kim	White House Liaison.
Paulson, Sara	Supvy Director, Ofc of Devel.
Toloui, Ramin	Dir Ofc Latn Amer & Carib Ntns.
Sanders, Traci	Senior Advisor to the Asst Sec Terrorist Financing.
Skud, Timothy	DAS, Tax Trade and Tariff Policy.
Stedman, Louellen	Dir, Ofc Intl Mon Aff.
Tvardek, Steven	Dir, Ofc of Trade Finance.
Warthin, Thomas	Dir, Ofc of Finan Svcs Negotiations.

[FR Doc. 05–21056 Filed 10–20–05; 8:45 am]

BILLING CODE 4811–33–P

Federal Register

Friday,
October 21, 2005

Part II

Department of Veterans Affairs

38 CFR Part 5

Dependency and Indemnity Compensation Benefits; Proposed Rule

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 5

RIN 2900–AL89

Dependency and Indemnity Compensation Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) has published a series of Notices of Proposed Rulemaking (NPRM)s setting out new proposed regulations governing VA compensation, pension, burial and related benefits that would be located in a new part of the Code of Federal Regulations. This NPRM adds proposed regulations concerning dependency and indemnity compensation (DIC) for a veteran's surviving spouse, children, and parents and general rules relating to proof of death and service-connected cause of death to that proposed new part. The intended effect of the proposed revisions is to assist claimants and VA personnel in locating and understanding these provisions.

DATES: Comments must be received by VA on or before December 20, 2005.

ADDRESSES: Written comments may be submitted by: mail or hand-delivery to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; e-mail to *VAregulations@va.gov* or through *http://www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AL89.'' All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Clay Witt, Chief, Regulations Rewrite Project (00REG2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–9515.

SUPPLEMENTARY INFORMATION: The Secretary of Veterans Affairs has established an Office of Regulation Policy and Management to provide centralized management and coordination of VA's rulemaking process. One of the major functions of this office is to oversee a Regulation Rewrite Project (the Project) to improve the clarity and consistency of existing VA regulations. The Project responds to a recommendation made in the October 2001 ''VA Claims Processing Task Force: Report to the Secretary of Veterans Affairs.'' The Task Force recommended that the Compensation and Pension regulations be rewritten and reorganized in order to improve VA's claims adjudication process. Therefore, the Project began its efforts by reviewing, reorganizing and redrafting the content of the regulations in 38 CFR part 3 governing the compensation and pension program of the Veterans Benefits Administration. These regulations are among the most difficult VA regulations for readers to understand and apply.

Once rewritten, the proposed regulations will be published in several portions for public review and comment. This is one such portion. It includes proposed rules regarding DIC for a veteran's surviving spouse, children, and parents and proposed rules relating to proof of death and service-connected cause of death. After review and consideration of public comments, final versions of these proposed regulations will ultimately be published in a new part 5 in 38 CFR.

Outline

Overview of New Part 5 Organization
Overview of Proposed Subpart G Organization
Table Comparing Current Part 3 Rules With Proposed Part 5 Rules
Content of Proposed Regulations

General Provisions

5.500 Proof of death.
5.501 Proving death by other means.
5.502 Proving death after 7 years of continuous, unexplained absence.
5.503 Establishing the date of death.
5.504 Service-connected cause of death.

Dependency and Indemnity Compensation—General

5.510 Dependency and indemnity compensation—basic entitlement.
5.511 Special monthly dependency and indemnity compensation.
5.512 Eligibility for death compensation or death pension instead of dependency and indemnity compensation.

Dependency and Indemnity Compensation—Eligibility Requirements and Payment Rules for Surviving Spouses and Children

5.520 Dependency and indemnity compensation—time of marriage requirements for surviving spouses.
5.521 [Reserved]
5.522 Dependency and indemnity compensation benefits for survivors of certain veterans rated totally disabled at time of death—offset of wrongful death damages.
5.523 [Reserved]
5.524 Awards of dependency and indemnity compensation benefits to children when there is a retroactive award to a schoolchild.

Dependency and Indemnity Compensation—Eligibility Requirements and Payment Rules for Parents

5.530—Eligibility for, and payment of, parents' dependency and indemnity compensation.
5.531 General income rules.
5.532 Deductions from income.
5.533 Exclusions from income.
5.534 When VA counts parents' income.
5.535 Adjustments to parents' DIC when income is less than anticipated.
5.536 Parents' dependency and indemnity compensation rates.
5.537 Payment intervals.

Effective Dates

Note: For information concerning proposed §§ 5.550 through 5.572, see 69 FR 59072 (Oct. 1, 2004).

5.573 Effective date for dependency and indemnity compensation rate adjustments when an additional survivor files an application.
5.574 Effective dates of awards and discontinuances of special monthly dependency and indemnity compensation.
Omission of rule in 38 CFR 3.22(h).
Endnote Regarding Amendatory Language
Paperwork Reduction Act
Regulatory Flexibility Act
Executive Order 12866
Unfunded Mandates
Catalog of Federal Domestic Assistance Numbers
List of Subjects in 38 CFR Part 5

Overview of New Part 5 Organization

We plan to organize the part 5 regulations so that all provisions governing a specific benefit are located in the same subpart, with general provisions pertaining to all compensation and pension benefits also grouped together. We believe this organization will allow claimants, beneficiaries, and their representatives, as well as VA personnel, to find information relating to a specific benefit more quickly than the organization provided in current part 3.

The first major subdivision would be ''Subpart A—General Provisions.'' It would include information regarding the scope of the regulations in new part 5, delegations of authority, general definitions, and general policy provisions for this part.

''Subpart B—Service Requirements for Veterans'' would include information regarding a veteran's military service, including the minimum service requirement, types of service, periods of war, and service evidence requirements. This subpart was published as proposed on January 30, 2004. *See* 69 FR 4820.

''Subpart C—Adjudicative Process, General'' would inform readers about claims and benefit application filing procedures, VA's duties, rights and responsibilities of claimants and

beneficiaries, general evidence requirements, and general effective dates for new awards, as well as revision of decisions and protection of VA ratings. This subpart will be published as three separate NPRMs due to its size. The first, concerning the duties of VA and the rights and responsibilities of claimants and beneficiaries, was published on May 10, 2005. See 70 FR 24680.

''Subpart D—Dependents and Survivors'' would inform readers how VA determines whether an individual is a dependent or a survivor for purposes of determining eligibility for VA benefits. It would also provide the evidence requirements for these determinations.

''Subpart E—Claims for Service Connection and Disability Compensation'' would define service-connected compensation, including direct and secondary service connection. This subpart would inform readers how VA determines entitlement to service connection. The subpart would also contain those provisions governing presumptions related to service connection, rating principles, and effective dates, as well as several special ratings. This subpart will be published as three separate NPRMs due to its size. The first, concerning presumptions related to service connection, was published on July 27, 2004. *See* 69 FR 44614.

''Subpart F—Nonservice-Connected Disability Pensions and Death Pensions'' would include information regarding the three types of nonservice-connected pension: Improved Pension, Old-Law Pension, and Section 306 Pension. This subpart would also include those provisions that state how to establish entitlement to each pension, and the effective dates governing each pension. This subpart will be published as two separate NPRMs due to its size. The portion concerning Old-Law Pension, Section 306 Pension, and elections of Improved Pension was published as proposed on December 27, 2004. *See* 69 FR 77578.

''Subpart G—Dependency and Indemnity Compensation, Death Compensation, Accrued Benefits, and Special Rules Applicable Upon Death of a Beneficiary'' would contain regulations governing claims for DIC; death compensation; accrued benefits; benefits awarded, but unpaid at death; and various special rules that apply to the disposition of VA benefits, or proceeds of VA benefits, when a beneficiary dies. This subpart would also include related definitions, effective-date rules, and rate-of-payment rules. This subpart will be published as two separate NPRMs due to its size. The portion concerning accrued benefits, special rules applicable upon the death of a beneficiary, and several effective date rules, was published as proposed on October 1, 2004. *See* 69 FR 59072. The portion concerning DIC benefits and general provisions relating to proof of death and service-connected cause of death is the subject of this NPRM.

''Subpart H—Special and Ancillary Benefits for Veterans, Dependents, and Survivors'' would pertain to special and ancillary benefits available, including benefits for children with various birth defects.

''Subpart I—Benefits for Filipino Veterans and Survivors'' would pertain to the various benefits available to Filipino veterans and their survivors.

''Subpart J—Burial Benefits'' would pertain to burial allowances.

''Subpart K—Matters Affecting Receipt of Benefits'' would contain provisions regarding bars to benefits, forfeiture of benefits, and renouncement of benefits.

''Subpart L—Payments and Adjustments to Payments'' would include general rate-setting rules, several adjustment and resumption regulations, and election-of-benefit rules. Because of its size, proposed regulations in subpart L will be published in two separate NPRMs.

The final subpart, ''Subpart M—Apportionments and Payments to Fiduciaries or Incarcerated Beneficiaries,'' would include regulations governing apportionments, benefits for incarcerated beneficiaries, and guardianship.

Some of the regulations in this NPRM cross-reference other compensation and pension regulations. If those regulations have been published in this or earlier NPRMs, we cite the proposed part 5 section. We also include, in the relevant portion of the Supplementary Information, the **Federal Register** page where a proposed part 5 section published in an earlier NPRM may be found. However, where a regulation proposed in this NPRM would cross-reference a proposed part 5 regulation that has not yet been published, we cite to the current part 3 regulation that deals with the same subject matter. The current part 3 section we cite may differ from its eventual part 5 counterpart in some respects, but we believe this method will assist readers in understanding these proposed regulations where no part 5 counterpart has yet been published. If there is no part 3 counterpart to a proposed part 5 regulation that has not yet been published, we have inserted ''[regulation that will be published in a future Notice of Proposed Rulemaking]'' where the part 5 regulation citation would be placed.

In connection with this rulemaking, VA will accept comments relating to a prior rulemaking issued as a part of the Project, if the matter being commented on relates to both Notices of Proposed Rulemaking. VA will provide a separate opportunity for public comment on each segment of proposed part 5 regulations before adopting a final version of part 5.

Overview of Proposed Subpart G Organization

As its title, ''Dependency and Indemnity Compensation, Accrued Benefits, Death Compensation Benefits, and Special Rules Applicable Upon Death of a Beneficiary,'' suggests, proposed subpart G will address a broad range of VA death benefits. Because of its length, subpart G will be published in two separate NPRMs. This NPRM pertains to those regulations governing DIC benefits and general provisions relating to proof of death and service-connected cause of death. Although these regulations have been substantially restructured and rewritten for greater clarity and ease of use, most of the basic concepts contained in these proposed regulations are the same as in their existing counterparts in 38 CFR part 3. However, a few substantive changes are proposed.

Table Comparing Current Part 3 Rules With Proposed Part 5 Rules

The following table shows the relationship between the current regulations in part 3 and the proposed regulations contained in this NPRM:

Proposed part 5 section or paragraph	Based in whole or in part on 38 CFR part 3 section or paragraph
5.500(a)	New.
5.500(b)	3.211(a).
5.500(c)(1)	3.211(d)(1).
5.500(c)(2)	3.211(d)(2).
5.500(c)(3)	3.211(d)(3).
5.500(d)	3.211(b).
5.500(e)	3.211(c).
5.501(a)	New.
5.501(b)	3.211(e), first sentence.
5.501(c)	3.211(e), second sentence.
5.501(d)	3.211(f) and (g).
5.502(a)	3.212(a).
5.502(b)	3.212(b).
5.502(c)	3.212(b) and (c).
5.503(a)	New.
5.503(b)	3.212(a).
5.503(c)	New.
5.504(a)	New.
5.504(b)	New.
5.504(c)(1)	New.
5.504(c)(2)	3.312(c)(3) and (c)(4).
5.510(a)	3.5(a).

Proposed part 5 section or paragraph	Based in whole or in part on 38 CFR part 3 section or paragraph
5.510(b), except for (b)(1)(ii).	New.
5.510(b)(1)(ii)	3.5(b).
5.510(c)	3.5(d).
5.510(d)	3.251(a)(1).
5.511(a)	3.351(a)(3), (a)(4), (b), and (c)(3).
5.511(b)	3.351(c)(1) and (c)(2).
5.511(c)	3.351(e).
5.512	3.5(c).
5.520(a)	New.
5.520(b)(1)(i)	Introduction to 3.54.
5.520(b)(1)(ii)	3.54(c)(2).
5.520(b)(1)(iii)	3.54(c)(3).
5.520(b)(1)(iv)	3.54(c)(1)
5.520(b)(2)	New.
5.521	Reserved.
5.522(a) and (b)	3.22(e).
5.522(c)(1)	New.
5.522(c)(2)	3.22(g).
5.522(c)(3)	New.
5.522(c)(4)	3.22(f).
5.522(c)(5)	3.22(g).
5.522(d)	3.22(g).
5.523	Reserved.
5.524(a), except for (a)(1).	3.650(c)(2).
5.524(a)(1)	3.650(c)(1).
5.524(b) and (c)	3.650(c)(1).
5.530	New.
5.531(a)	3.251(b), Introduction to 3.262(a).
5.531(b)(1)	Introduction to 3.262(a).
5.531(b)(2)(i)	3.261(a)(7).
5.531(b)(2)(ii)	3.261(a)(26).
5.531(b)(2)(iii)	3.262(h).
5.531(c)	Introduction to 3.262(b) and 3.262(b)(1).
5.531(d)(1) and (d)(2)	3.262(k)(1) and (k)(2).
5.531(d)(3)	New.
5.531(d)(4)	3.262(k)(1).
5.531(e)	3.260(b).
5.532(a)	3.262(a)(2) and (a)(3).
5.532(b)	3.262(j)(4).
5.532(c)	3.262(o) and (p).
5.532(d)	Introduction to 3.262(l), 3.262(l)(4).
5.532(e)	3.261(a)(22), and 3.262(a)(1).
5.533(a)	3.261(a)(12).
5.533(b)	3.262(c), (d), and (f).
5.533(c) and (d)	3.261(a)(20).
5.533(e)	3.262(f).
5.533(f)	3.261(a)(13).
5.533(g)	Introduction to 3.262(e), (e)(4), (f), (g), (i)(2), (j)(1), (j)(2), and (j)(4).
5.533(h)	Introduction to 3.262(t), (t)(1).
5.533(i)	3.262(k)(5).
5.533(j)	3.261(a)(31).
5.533(k)	3.262(w).
5.533(l) through (n)	New.
5.533(o)	3.262(a)(2), last sentence.
5.533(p)	3.261(a)(22).
5.533(q)	New.
5.534(a)	3.251(b) and Introduction to 3.260.
5.534(b)	3.260(c), (d), and (f).
5.534(c)	3.260(f).
5.535	3.660(b), Introduction and (b)(1).
5.536(a)	3.25.
5.536(b)	3.25, 3.27(b) and (d).
5.536(c)	3.251(a)(2).
5.536(d)	3.251(a)(4).
5.536(e)	3.251(a)(5).
5.536(f)(1)	3.25(a), (c), and (d).
5.536(f)(2)	3.25(e).
5.536(g)	3.260(f).
5.536(h)	3.704(b).
5.537	Introduction to 3.30 and 3.30(e).
5.573(a)	Introduction to 3.650(a).
5.573(b)(1)	3.650(a)(1).
5.573(b)(2)	3.650(a)(2).
5.573(c)	3.650(b).
5.573(d)	Unnumbered paragraph in 3.650(a).
5.573(e)	Introduction to 3.650(a).
5.574(a)	3.402(c) and 3.404.
5.574(b)(1)	3.502(e)(1) and 3.504.
5.574(b)(2)	New.

Readers who use this table to compare existing regulatory provisions with the proposed provisions, and who observe a substantive difference between them, should consult the text that appears later in this document for an explanation of significant changes in each regulation. Not every paragraph of every current part 3 section regarding the subject matter of this rulemaking is accounted for in the table. In some instances other portions of the part 3 sections that are addressed in these proposed regulations will appear in subparts of part 5 that are being published separately for public comment. For example, a reader might find a reference to paragraph (a) of a part 3 section in the table, but no reference to paragraph (b) of that section because paragraph (b) will be addressed in a separate NPRM. The table also does not include provisions from part 3 regulations that will not be repeated in part 5. Such provisions are discussed specifically under the appropriate part 5 heading in this preamble. Readers are invited to comment on the proposed part 5 provisions and also on our proposals to omit those part 3 provisions from part 5.

Content of Proposed Regulations

General Provisions

5.500 Proof of death.

Proposed § 5.500 is a reorganization of rules in current § 3.211(a) through (d), which describe the kinds of evidence that would suffice as proof of death applicable in most cases. Section 5.500(a) is new. Section 5.500(a)(1) states the purpose of § 5.500. Section 5.500(a)(2) provides a rule for applying § 5.500, specifically that VA will accept the evidence described in any relevant paragraph of § 5.500 as proof of death. This rule reflects current VA practice and clarifies that the various methods of proving death set out in § 5.500 are alternatives.

Current § 3.211(d) describes various forms of proof of death VA will accept when an individual dies abroad. Section 3.211(d)(3) lists ''[a]n official report of death from the head of the department concerned, where the deceased person was, at the time of death, a civilian employee of such department.'' We propose instead to describe this acceptable form of proof of death, in § 5.500(c)(3), as ''[a]n official report of death of a civilian employee of the U.S. Government from the employing U.S. Government entity.'' This revision serves to clarify that the rule applies to a U.S. Government employee and that it is not limited to employing Federal entities that are cabinet departments. Further, reports of death need not necessarily come from the head of the employing entity. VA's concern is that such a report is an authentic official report of the Federal entity. Implicit in the requirement for an official report is that the report will have been issued by a person authorized to issue it, but that person will not necessarily be the person who is the head of the employing entity.

5.501 Proving death by other means.

Proposed § 5.501 is based on current § 3.211(e) through (g) and long-standing VA practice. It states the rules on how to prove death where the evidence described in proposed § 5.500 is not available. It includes new § 5.501(a), which describes the scope of the section.

Proposed § 5.501(d)(2) clarifies how VA determines whether death has occurred in those cases where a body has not been recovered, or the body cannot be identified. Current § 3.211(f) provides that ''[w]here it is indicated that the veteran died under circumstances which precluded recovery or identification of the body, the fact of death should be established

by the best evidence, which from the nature of the case must be supposed to exist.'' The ''best evidence'' requirement is not explained. However, it is long-standing VA practice to consider statements from the claimant and other witnesses describing the facts that led them to believe that the person in question died. We also note that this portion of the regulation should provide information regarding what to do when the death of any person, not just a veteran, is relevant and the body cannot be recovered or identified. Proposed § 5.501(d)(2) addresses these issues by broadening the scope of this portion of the regulation to cover the death of any person whose body cannot be recovered or identified and by clarifying the kinds of evidence VA considers in this situation.

Current § 3.211(f) refers to ''an official'' authorized to approve a finding of the fact of death. Proposed § 5.501(d)(3) clarifies that this means an authorized VA official.

Current § 3.211(e) requires the submission of affidavits to prove the fact of death. In line with VA's current practice of accepting somewhat less formal means of proof in most instances, proposed § 5.501 permits the submission of either certified statements or affidavits. (We note that ''certified statement'' will be defined in subpart A of part 5, which will be the subject of a separate NPRM.)

5.502 Proving death after 7 years of continuous, unexplained absence.

Proposed § 5.502 provides rules regarding how a claimant may establish the fact of a person's death if that person has been missing for 7 years or more and his or her absence is unexplained. It is derived from current § 3.212.

Current § 3.212 includes a requirement that ''satisfactory evidence'' be produced to show a person's continued and unexplained absence. In order to clarify what evidence is necessary to establish the death of a missing person, we propose to replace the phrase ''satisfactory evidence'' with ''competent, credible evidence'' because this term more appropriately describes the qualities that make such evidence ''satisfactory.'' VA will propose a definition of ''competent evidence'' in a separate NPRM. ''Credible'' evidence is just evidence that is believable. (''Credible testimony is that which is plausible or capable of being believed.'' *Caluza* v. *Brown*, 7 Vet. App. 498, 511 (1995).)

All other proposed revisions to the language of § 3.212 are structural in nature and do not change the substance of the regulation.

5.503 Establishing the date of death.

The fact of death, that is that a person died, may be established through the evidence described in §§ 5.500 and 5.501, but that evidence may not show exactly when death occurred. The exact date of death may never be known when the fact of death is established using the presumption in § 5.502 when there has been a 7-year unexplained absence. Proposed § 5.503 sets out rules for establishing the date of death for VA purposes in such circumstances.

The current regulation concerning the 7-year-absence death presumption, § 3.212(a), refers to an individual who has been absent ''from his or her home and family for a period of 7 years or more.'' It provides that in such cases death occurred ''as of the expiration of such period.'' It is not entirely clear from the language used whether the ''or more'' is part of ''such period.'' VA's practice has been to presume that death occurred seven years after the person was last known to be alive in cases where the fact of death is established under current § 3.212 (proposed § 5.502). This date of death presumption is set out more clearly in proposed § 5.503(b).

In cases where the fact of death is proven by the evidence described in proposed § 5.500 or § 5.501, and not the 7-year-absence rule, but the exact date of death is unknown, long-standing VA practice is that the date of death can be established as the date the deceased person was last seen alive, the date the body was found, or any time between those dates, depending on the circumstances. Proposed § 5.503(c) incorporates and clarifies this practice. It includes standards for setting the date of death when the body of the deceased is found and a presumption that, if no identifiable body is found, the date of death is the date the deceased was last known to be alive in the absence of evidence to the contrary.

5.504 Service-connected cause of death.

The next regulation in this NPRM concerns how VA determines whether a veteran's death was service connected. This determination is important to a veteran's survivors because a veteran's service-connected death is a foundation for awarding several types of VA benefits. For example, see proposed § 5.510, ''Dependency and indemnity compensation—basic entitlement,'' and § 3.1600(a) (concerning the service-connected burial allowance). Proposed paragraph (a) of § 5.504 sets this context and explains that the purpose of the section is to provide rules on how VA determines whether a veteran's death was service connected.

Proposed paragraph (b) defines ''service-connected disability'' for purposes of proposed § 5.504. An examination of 38 U.S.C. 1310(a), the basic authorizing statute for the award of DIC for service-connected deaths, is instructive. The statute provides:

> (a) When any veteran dies after December 31, 1956, from a service-connected or compensable disability, the Secretary shall pay dependency and indemnity compensation to such veteran's surviving spouse, children, and parents. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

Chapter 11 of Title 38, United States Code, referenced in 38 U.S.C. 1310(a), contains the provisions for determining whether living veterans are entitled to service connection for disabilities. In other words, VA determines whether a disability is service connected in death cases using the same principles it applies in determining service connection for the disabilities of living veterans. Therefore, § 5.504(b)(1) defines service-connected disability, in the context of service-connected cause of death, as ''(i) * * * a disability that was service connected at the time of the veteran's death, or (ii) [a] disability that is service connectable under the provisions of subpart E of this part, 'Claims for service connection and disability compensation.' '' (Subpart E will be the subject of a separate NPRM.) To preclude an interpretation that a traumatic death in service was so sudden that it did not produce a ''disability'' before death and that the death was therefore not service-connectable, we also propose to state in § 5.504(b)(1)(ii) that ''[f]or purposes of this section, VA will deem a sudden death in service from trauma to have been preceded by disability from the trauma.''

There is an important exception to the principle stated in proposed § 5.504(b)(1)(i) that (for purposes of determining service-connected causes of death) service-connected disabilities include disabilities that were service connected at the time of the veteran's death. Congress has precluded VA from granting service connection for the cause of a veteran's death in some cases, even though the disability in question may have been service connected at the time of the veteran's death.

One such case results from 38 U.S.C. 1103(a), which provides that ''[n]otwithstanding any other provision of law, a veteran's disability or death shall not be considered to have resulted

from personal injury suffered or disease contracted in the line of duty in the active military, naval, or air service for purposes of this title on the basis that it resulted from injury or disease attributable to the use of tobacco products by the veteran during the veteran's service.'' *See also Kane* v. *Principi*, 17 Vet. App. 97, 101 (2003) (''Thus, the plain language of 38 U.S.C. § 1103 expresses the Congressional intent to no longer award service connection for a veteran's death that results from a service connected disease that was 'capable of being attributed' to the use of tobacco products during the veteran's service.'').

Another case in which service connection may not be granted for the cause of death based on a disability service connected at the time of death is the result of 38 U.S.C. 105(a) which provides, in part, that ''[a]n injury or disease incurred during active military, naval, or air service will be deemed to have been incurred in line of duty and not the result of the veteran's own misconduct when the person on whose account benefits are claimed was, at the time the injury was suffered or disease contracted, in active military, naval, or air service, whether on active duty or on authorized leave, unless such injury or disease was a result of the person's own willful misconduct or abuse of alcohol or drugs.'' *See also* VAOPGCPREC 11–96, 61 FR 66748, 66750 (1996), which held that ''[s]ection 8052 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101–508, § 8052, 104 Stat. 1388, 1388–351, applicable to claims filed after October 31, 1990, precludes an injury or disease that is a result of a person's own abuse of alcohol or drugs from being considered incurred in line of duty and, consequently, precludes resulting disability or death from being considered service connected.''

We propose to provide for these Congressionally mandated exceptions, and any such exceptions that may arise in the future, by stating the following in proposed § 5.504(b)(2):

(2) *Exception.* For purposes of this section, ''service-connected disability'' does not include a disability that was service connected at the time of the veteran's death if the law in effect at the time of a survivor's claim precludes VA from establishing service connection for the cause of the veteran's death. See § 3.300 of this chapter, ''Claims based on the effects of tobacco products,'' and § 3.301(d) of this chapter ''Line of duty; abuse of alcohol or drugs.''

We note that current § 3.301(d), cross-referenced in proposed § 5.504(b)(2), does not yet include provisions based on *Allen* v. *Principi*, 237 F.3d 1368 (Fed. Cir. 2001) (concluding that 38 U.S.C. 1110 does not preclude compensation for an alcohol or drug abuse disability secondary to a service-connected disability). However, we anticipated that we will address that issue in the part 5 equivalent of § 3.301(d) and that part 5 regulation would be the one cross-referenced in the final version of proposed 5.504.

Proposed § 5.504(c) addresses the kind of link that must exist between a service-connected disability and the veteran's death in order for VA to determine that the death was service connected. It is based on the provisions of current § 3.312(c). Current § 3.312(c) distinguishes between ''principal'' and ''contributory'' causes of death and includes elaborate provisions concerning ''contributory'' causes of death. We believe that these provisions can be simplified considerably.

The causation question can be adjudicated using two relatively simple standards that better reflect VA's long-standing practice and interpretation of the authorizing statutes. The first standard would be to determine if the veteran's death would have occurred in the absence of the service-connected disability, or the combined effects of multiple service-connected disabilities. If the answer is that the death would not have occurred in the absence of the service-connected disability, or disabilities, service connection should be awarded for the cause of the veteran's death.

Answering this ''in the absence of'' question should resolve a broad spectrum of cases. Sometimes the answer to the question will depend upon medical evidence. For example, if the medical evidence (such as autopsy reports, reports of the veteran's final hospitalization, etc.) shows that the veteran died of a particular kind of cancer, then clearly the veteran would not have died in the absence of that cancer. If that cancer was service connected or service connectable, the death should be service connected.

The ''in the absence of'' standard should also work well in other types of cases that may involve fact finding beyond the purely medical realm, such as cases involving service-connected or service-connectable disabilities that produce impairment of balance or physical mobility that plays a role in the death of a veteran. For example, a veteran with a service-connected leg amputation might have died as the result of a slip and fall accident. A veteran who was bedridden due to the service-connected residuals of a stroke might have died in a home fire. The literal cause of death might be the injuries sustained in the accident or fire, but the evidence might show that the impaired mobility due to the service-connected disabilities caused the accident in one case and prevented the veteran from escaping from the fire in the other. In both cases, the veteran would not have died in the absence of the service-connected disability and determining that the death is service connected would be appropriate under the proposed test.

However, there are circumstances where death would be service connected under the provisions in current § 3.312(c) even though such death would not satisfy the ''in the absence of'' test described above. Specifically, current § 3.312(c)(3) and (4) provide:

(3) Service-connected diseases or injuries involving active processes affecting vital organs should receive careful consideration as a contributory cause of death, the primary cause being unrelated, from the viewpoint of whether there were resulting debilitating effects and general impairment of health to an extent that would render the person materially less capable of resisting the effects of other disease or injury primarily causing death. Where the service-connected condition affects vital organs as distinguished from muscular or skeletal functions and is evaluated as 100 percent disabling, debilitation may be assumed.

(4) There are primary causes of death which by their very nature are so overwhelming that eventual death can be anticipated irrespective of coexisting conditions, but, even in such cases, there is for consideration whether there may be a reasonable basis for holding that a service-connected condition was of such severity as to have a material influence in accelerating death. In this situation, however, it would not generally be reasonable to hold that a service-connected condition accelerated death unless such condition affected a vital organ and was of itself of a progressive or debilitating nature.

While stated in different ways, the basic concept in these provisions is the same. Even though a veteran may have died of a nonservice-connected disability, VA may grant service connection for the cause of death if the service-connected disability was so debilitating that death was materially hastened. VA proposes to preserve this concept in § 5.504(c)(2), together with the presumption that such a degree of debilitation is presumed where a service-connected disability rated as 100% disabling affects vital organs. ''Vital organs'' are also defined in this proposed paragraph as ''those organs necessary to sustain life, including the heart, lungs, central nervous system, liver, and kidneys.'' (''The word 'vital' means necessary to life or essential.'' *Federal Tel. & Radio Corp.* v. *Associated*

Tel. & Tel. Co., 169 F.2nd 1012, 1015 (3rd Cir. 1948). ''[V]ital * * * 1. Of or characteristic of life: *vital processes.* 2. Necessary to the continuation of life; life sustaining: *vital functions.*'' *The American Heritage Dictionary of the English Language* 1433 (New College Ed. 1976). ''[V]ital * * * necessary to or pertaining to life.'' *Dorland's Illustrated Medical Dictionary* 1834 (28th ed. 1994).)

Dependency and Indemnity Compensation—General

5.510 Dependency and indemnity compensation—basic entitlement.

Proposed § 5.510 is the first of several sequential proposed regulations explaining DIC benefits for a veteran's surviving spouse, children, and parents. It serves as an introduction to the DIC program and outlines basic requirements for DIC entitlement. It includes provisions from current 38 CFR 3.5(a), (b), and (d).

Proposed paragraph (a) defines DIC and is derived from current § 3.5(a).

Proposed § 5.510(b) sets out the three statutory bases for the award of DIC: (1) Service-connected death during or after service (38 U.S.C. 1310, ''Deaths entitling survivors to dependency and indemnity compensation''); (2) service-connected disability that had been rated as totally disabling for certain specified periods of time prior to the veteran's death (38 U.S.C. 1318, ''Benefits for survivors of certain veterans rated totally disabled at time of death''); and (3) death due to incidents occurring during certain VA-furnished medical, training, rehabilitation, or compensated work therapy services (38 U.S.C. 1151, ''Benefits for persons disabled by treatment or vocational rehabilitation'').

Proposed paragraph (b) also includes provisions from current § 3.5(b). Current § 3.5(b) includes three different date of death requirements for basic entitlement to DIC based upon the interplay between DIC and a benefit program called death compensation that DIC replaced in the 1950s. VA data shows that fewer than 1,000 persons, primarily the parents of veterans, are still receiving death compensation benefits. On the other hand, more than 300,000 persons are receiving DIC benefits. Detailed information about the relationship between DIC and death compensation was desirable years ago when current § 3.5 was drafted and VA was transitioning between the two death-benefit programs. However, a simpler explanation of DIC benefits will now be more useful to most claimants and VA personnel adjudicating claims. Therefore, we propose to place death compensation rules in a portion of subpart G dealing with death compensation (published as part of a separate NPRM, *see* 69 FR 59072, Oct. 1, 2004) and include only essential information about the relationship between DIC and death compensation in VA's DIC regulations, such as proposed § 5.510.

Specifically, we state in proposed § 5.510(b)(1)(ii) that ''DIC is not payable unless the service-connected death occurred after December 31, 1956, except in the case of certain individuals receiving or eligible to receive death compensation who elect to receive DIC in lieu of death compensation.''. The few users seeking more information about death compensation and the election of DIC in lieu of death compensation would be referred to other sections that address those topics.

In keeping with the simplification of § 5.510 in comparison with current § 3.5, we have intentionally not repeated in § 5.510 some of the details in current § 3.5(b)(2) concerning entitlement to elect DIC in lieu of death compensation. Current § 3.5(b)(2) provides that one of the bases for DIC entitlement is that ''[d]eath occurred prior to January 1, 1957, and the claimant was receiving or eligible to receive death compensation on December 31, 1956 (or, as to a parent, would have been eligible except for income), under laws in effect on that date or who subsequently becomes eligible by reason of a death which occurred prior to January 1, 1957.'' Instead, as previously indicated, we propose to merely state in § 5.510(b)(1)(ii) that ''DIC is not payable unless the service-connected death occurred after December 31, 1956, except in the case of certain individuals receiving or eligible to receive death compensation who elect to receive DIC in lieu of death compensation.'' We intend no substantive change. A person could not be ''receiving, or eligible to receive, death compensation'' unless they were ''receiving or eligible to receive death compensation on December 31, 1956 '' under laws in effect on that date or * * * subsequently bec[a]me[] eligible by reason of a death which occurred prior to January 1, 1957.'' And, as also mentioned previously, rules concerning death compensation entitlement are addressed elsewhere in proposed part 5. The same is true of rules concerning the election of DIC in lieu of death compensation.

Finally, in paragraph (d) of proposed § 5.510, we state that DIC for parents is subject to income limitations. This provision is derived from current 38 CFR 3.251(a).

5.511 Special monthly dependency and indemnity compensation.

Proposed § 5.511, based on current 38 CFR 3.351(a)(3), (a)(4), (b), (c), and (e), provides for payment of increased DIC benefits to a surviving spouse or parent based on the need for regular aid and attendance or being permanently housebound.

5.512 Eligibility for death compensation or death pension instead of dependency and indemnity compensation.

Proposed § 5.512 explains that VA may not pay death compensation or death pension to a person eligible for DIC based upon a death occurring after December 31, 1956, subject to the right of a surviving spouse to elect death pension in lieu of DIC. This proposed section is based on current § 3.5(c), which is, in turn, based on 38 U.S.C. 1317, ''Restriction on payments under this chapter.''

Current § 3.5(c) states:

> No person eligible for dependency and indemnity compensation by reason of a death occurring on or after January 1, 1957, shall be eligible by reason of such death for death pension or compensation under any other law administered by the Department of Veterans Affairs, except that, effective November 2, 1994, a surviving spouse who is receiving dependency and indemnity compensation may elect to receive death pension instead of such compensation.

The November 2, 1994, date referenced in current § 3.5(c) is the effective date of Pub. L. 103–446, which added subsection (b) to 38 U.S.C. 1317, thereby permitting DIC recipients to elect to receive death pension instead of DIC. *See* Veterans' Benefits Improvements Act of 1994, Pub. L. 103–446, section 111(a), 108 Stat. 4645, 4654. Including the date was helpful during the time when the right to elect death pension in lieu of DIC was new. However, we propose to omit it from this revision inasmuch as elections are prospective and its inclusion is no longer necessary.

Current § 3.5(c) speaks of the right of a surviving spouse ''receiving'' DIC to elect death pension. However, under 38 U.S.C. 1317(b), the surviving spouse need only be eligible for DIC in order to make this election. Proposed § 5.512(b) uses the statutory term. No other substantive changes are proposed.

Dependency and Indemnity Compensation—Eligibility Requirements and Payment Rules for Surviving Spouses and Children

5.520 Dependency and indemnity compensation—time of marriage requirements for surviving spouses.

A surviving spouse must meet various requirements in order to qualify for DIC benefits. These include requirements that the date of his or her marriage to the veteran, or the length of that marriage, must fall within certain parameters. Proposed § 5.520, based on portions of current § 3.54 and applicable statutory provisions, sets out the time of marriage requirements and the ways in which the requirements can be met.

The first way in which the requirements can be met is set out in the introduction to current § 3.54, which explains that a surviving spouse who married the veteran before, or during, the veteran's service may qualify for DIC. Three alternative time-of-marriage requirements, which apply when the veteran and the surviving spouse were married after the veteran's separation from service, are listed in current § 3.54(c). These alternative requirements are that the surviving spouse was married to the veteran:

(1) Before the expiration of 15 years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated, or

(2) For 1 year or more, or

(3) For any period of time if a child was born of the marriage, or was born to them before the marriage.

This list in current § 3.54(c) is based on 38 U.S.C. 1304, ''Special provisions relating to surviving spouses,'' which applies to a surviving spouse who is seeking DIC under 38 U.S.C. 1310. However, current § 3.54 does not explain time of marriage requirements for surviving spouses who married the veteran after service and who are seeking DIC under 38 U.S.C. 1151 or 38 U.S.C. 1318. Proposed § 5.520 explains how the time of marriage requirement applies to claims for DIC under any of the three statutory bases for DIC.

The time of marriage requirements are not specifically addressed in 38 U.S.C. 1151. However, subsection 1151(a) provides that ''[DIC] under chapter 13 of this title shall be awarded for a qualifying * * * death of a veteran *in the same manner as if such * * * death were service-connected.*'' (Emphasis added.) Therefore, we conclude that the three methods in current § 3.54(c) for meeting the time of marriage requirements under 38 U.S.C. 1310 also apply to cases in which DIC is awarded based upon the provisions of 38 U.S.C. 1151. Proposed § 5.520(b) includes this information.

Proposed § 5.520(b)(1)(ii) resolves an ambiguity in the current regulation. As noted above, the time of marriage requirements for eligibility for DIC under 38 U.S.C. 1151 or 1310 may be met if the surviving spouse was married to the veteran for one year or more. We propose to state that multiple periods of marriage can be added together to meet this 1-year marriage requirement. The one-year marriage requirement is designed to prevent abuse by sham ''death bed'' marriages to obtain benefits. We believe that there is much less risk of such abuse where the veteran and the surviving spouse have had an ongoing close relationship demonstrated by previous marriage. This information has been included to fill a gap in the current regulation.

We believe that this interpretation, favorable to surviving spouses, is reasonable. The statute authorizing the time of marriage requirement, 38 U.S.C. 1304, does not prohibit adding multiple periods of marriage together. On the other hand, 38 U.S.C. 1318 does provide such a prohibition. Specifically, 38 U.S.C. 1318(c)(1) provides that benefits may not be paid under that section to a surviving spouse of a veteran unless ''the surviving spouse was married to the veteran for one year or more immediately preceding the veteran's death.'' Inasmuch as Congress prohibited combining multiple marriages together to meet the 1-year marriage requirement in 38 U.S.C. 1318 and did not do so in 38 U.S.C. 1304, we believe it was Congress' intent not to apply the prohibition to other claims for DIC. Norman J. Singer, *Sutherland On Statutory Construction* § 46:06 (6th ed. 2000) (''when the legislature uses certain language in one part of the statute and different language in another, the court assumes different meanings were intended. In like manner, where the legislature has carefully employed a term in one place and excluded it in another, it should not be implied where excluded.''). Therefore, we have included in proposed § 5.520(b)(1)(ii) that multiple periods of marriage may be combined to meet the 1-year marriage requirement for claims of DIC based on 38 U.S.C. 1151 or 1310.

Proposed § 5.520(b)(2) describes the methods of meeting the time of marriage requirements under 38 U.S.C. 1318, which only provides for two methods of meeting the requirements. Following the statute, proposed paragraph (b)(2) omits the provision for marriage ''[b]efore the expiration of 15 years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated.''

Concerning the one-year marriage requirement in claims based on 38 U.S.C. 1318, we have previously noted that the statute provides that benefits may not be paid to a surviving spouse unless ''the surviving spouse was married to the veteran for one year or more *immediately preceding* the veteran's death.'' 38 U.S.C. 1318(c)(1) (emphasis added). VA interprets this provision to mean that multiple periods of marriage cannot be added together to meet the 1-year marriage requirement for purposes of eligibility for DIC under 38 U.S.C. 1318. In order to satisfy the one-year marriage requirement, the veteran and spouse must have been married continuously for a year or more immediately prior to the veteran's death. Therefore, we propose to add the requirement for continuity of the marriage during the year prior to the veteran's death to paragraph § 5.520(b)(2).

5.521 [Reserved]

VA proposes to set out in §§ 5.521 and 5.522 the rules concerning the payment of DIC benefits to the survivors of certain deceased veterans who received, or were entitled to receive, compensation for service-connected disability rated as totally disabling. These rules would be based on the statute that authorizes DIC on this basis, 38 U.S.C. 1318, and VA's implementing regulation, current § 3.22.

However, we propose to simply reserve § 5.521 for purposes of this NPRM. VA is undertaking a separate rulemaking to respond to a decision by the United States Court of Appeals for the Federal Circuit in *National Organization of Veterans' Advocates, Inc.* v. *Secretary of Veterans Affairs,* 314 F.3d 1373 (Fed. Cir. 2003). *See* 69 FR 62229 (2004). This proposed rulemaking involves revision of provisions of current § 3.22(b), which defines ''entitled to receive'' for purposes of determining whether a veteran's survivors are entitled to benefits under 38 U.S.C. 1318. *See* 38 U.S.C. 1318(b). We propose to reserve § 5.521 as the eventual location for a part 5 regulation that will repeat the material in § 3.22(b) after the final amendment of § 3.22(b) is adopted.

5.522 Dependency and indemnity compensation benefits for survivors of certain veterans rated totally disabled at time of death—offset of wrongful death damages.

VA is required by 38 U.S.C. 1318(d) to offset the value of money or property

a surviving spouse or child may receive ''pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages'' for the death of a veteran against any death benefits to which the spouse or child may be entitled under 38 U.S.C. 1318. Current § 3.22(e) implements this requirement. In proposed § 5.522, the part 5 replacement for § 3.22(e), we have restructured this material in more readily understandable language and to provide additional information about how the offset should be calculated.

An opinion by the United States Court of Appeals for Veterans Claims in *Bryan* v. *West,* 13 Vet. App. 482 (2000), shows the need for regulatory guidance concerning how offsets are calculated. In *Bryan* the Court remanded a case to the Board of Veterans' Appeals in order for the Board to decide the following matters with respect to a 38 U.S.C. 1318(d) offset: ''(1) How much money was received by a plaintiff other than [the VA claimant]; (2) Whether the money received by such a plaintiff was received ultimately by [the VA claimant] through estate distribution; (3) If so, whether such distribution was considered received by [the VA claimant]; and (4) Whether the money received by her attorney was, in contemplation of law, 'received' by [the VA claimant].'' Proposed § 5.522 addresses these and other practical issues.

Proposed § 5.522(c)(1) incorporates a concept favorable to VA claimants (because it would reduce the amount of offset) from a 1997 Precedent Opinion by VA's General Counsel, VAOPGCPREC 3–97, which states:

> Section 1318(d) of title 38, United States Code, requires offset against survivors' benefits payable under section 1318 of amounts received by the beneficiary pursuant to an award, settlement, or compromise based on a claim for damages resulting from the death of a veteran, i.e., the types of damages typically recoverable under state wrongful death statutes, but does not require offset of amounts received pursuant to a survival action as compensation for injuries suffered by the veteran prior to his or her death.

Legislative history is of some assistance in determining other aspects of how the offset should be calculated. VAOPGCPREC 3–97 includes the following information, at paragraph 10:

> The legislative history indicates that the purpose of providing DIC in the case of such non-service-connected deaths was to provide a measure of income to the surviving spouse or child to replace the support lost when the veteran died. In a report prepared during consideration of that legislation, the Senate Committee on Veterans' Affairs stated that ''[t]he appropriate Federal obligation to these survivors should, in the Committee's view, be the replacement of the support lost when the veteran dies.'' S. Rep. No. 1054, 95th Cong., 2d Sess. 28 (1978), reprinted in 1978 U.S.C.C.A.N. 3465, 3486. Similarly, the basis for authorizing such benefits was described during floor debates as follows:
>
> The purpose of those benefits is to provide income security to the survivors. This reflects the Committee's view that the veteran's total disability endured over a lengthy period of time, necessarily results in a substantial impairment of the veteran's ability to provide for his or her survivors; and that the primary purpose of the new benefit is to compensate for that impairment.
>
> 124 Cong. Rec. S12687 (daily ed. Aug. 7, 1978) (statement of Sen. Cranston). * * *

Particularly in view of Congressional intent that 38 U.S.C. 1318 benefits are to provide for the survivors' support, we propose to look to whether the money or property received is actually available to meet the claimants' needs and obligations, rather than the technical form in which the money or property is passed to the claimant, in calculating the offset under 38 U.S.C. 1318(d). In this regard, we propose to adopt the rationale in paragraph 13 of VAOPGCPREC 3–97:

> 13. Finally, we note that the reference in section 1318(d) to amounts received ''pursuant to'' an award, settlement, or compromise may be intended to indicate that the surviving spouse or child need not have been an actual party to the action, but need only have received money or property of value ''pursuant to'' the action. Many state statutes require wrongful death actions to be brought by a representative of the estate or other designated representative, although such actions are for the exclusive benefit of the actual beneficiaries. 22A Am. Jur. 2d Death § 399. The phrase ''pursuant to'' may be read as clarifying that offset will be required against amounts received by the actual beneficiaries pursuant to a wrongful death action regardless of whether the beneficiaries were individually named as parties in the award, settlement, or compromise.

Under proposed § 5.522(c)(2), any amounts used to pay a third party to satisfy a legal obligation of the claimant would be considered as ''received'' by the claimant regardless of whether the claimant receives the damages and pays the third party directly or whether the third party is paid on the claimant's behalf by the party liable for the damages. This view is consistent with long-standing VA policy that attorney's fees, court costs and other expenses incident to a civil claim are not deductible from the total amount awarded or accepted. For example, current § 3.22(g) provides that when a VA beneficiary reports money or property received, ''[e]xpenses incident to recovery, such as attorney's fees, may not be deducted from the amount to be reported.'' However, in providing that damages going to pay attorney's fees and costs be included in the offset, proposed § 5.522(c)(2) limits the amount included to the particular claimant's proportional share of fees and costs in cases where the recovered damages are payable to multiple parties.

The 38 U.S.C. 1318(d) offset would not normally include damages payable to another person or entity. However, because the focus of 38 U.S.C. 1318(d) is on who receives the money or property, that exclusion does not apply where the other person or entity is merely acting as a conduit to pass the money or property recovered to the claimant. For example, a wrongful death award paid to a veteran's estate that is then distributed to the claimant, or paid into a trust for the benefit of the claimant, would be included in the offset. We propose to address this situation in § 5.522(c)(3).

Another addition to proposed § 5.522 provides for determining the date of the valuation of property for purposes of this section. Current § 3.22(g) requires, in part, that a beneficiary receiving DIC under 38 U.S.C. 1318 report the value of property received as damages for the death of a veteran at fair market value, but is silent as to the time of valuation of such property. The statute, 38 U.S.C. 1318, is also silent as to the time of valuation. We propose to fill this gap by providing, in § 5.522(c)(5), that the property be valued at its fair market value at the time the claimant receives it. We believe that this is most consistent with the expressed Congressional intent that these DIC benefits serve to provide for the support of the veteran's survivors.

Proposed paragraph (d), based on current § 3.22(g), states the DIC beneficiary's obligation to report wrongful death recoveries to VA. We propose to add that overpayments created by failure to report will be subject to recovery if not waived. The instructions for VA Form 21–534, ''Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child (Including Death Compensation if Applicable),'' notify claimants of the reporting requirement described in proposed § 5.522(d).

5.523 [Reserved]

As indicated in the discussion concerning reservation of § 5.521, VA is undertaking a separate rule-making to respond to a decision by the United

States Court of Appeals for the Federal Circuit in *National Organization of Veterans' Advocates, Inc.* v. *Secretary of Veterans Affairs,* 314 F.3d 1373 (Fed. Cir. 2003). *See* 69 FR 62229 (2004). That proposed rulemaking involves revision of provisions of current § 3.5(e) relating to the rates of DIC payable to surviving spouses and moving those provisions into new § 3.10. We propose to reserve § 5.523 as the eventual location for the part 5 regulation that will repeat the material in proposed § 3.10 when § 3.10 is adopted as a final rule.

5.524 Awards of dependency and indemnity compensation benefits to children when there is a retroactive award to a school child.

Under 38 U.S.C. 1313, ''Dependency and indemnity compensation to children,'' DIC is payable to eligible children when there is no surviving spouse entitled to DIC. The total amount payable to the children, which varies according to the number of eligible children, is divided and paid to the children in equal shares. However, there is an exception to the equal-share rule that applies to a retroactive payment to a child whose entitlement terminated when he or she reached eighteen years of age, but who later reestablished entitlement because he or she is pursuing a course of instruction at an approved educational institution.

We have addressed rules concerning this exception, currently found in § 3.650(c), in proposed § 5.524. In an effort to make them more understandable, we have substantially restructured the text. In proposed § 5.524(a), ''Applicability,'' we have also provided more context by including a description of the equal-share rule and a better description of the exception to that rule that § 5.524 addresses.

Because of requirements of 38 U.S.C. 5111, ''Commencement of period of payment,'' payment of newly awarded or increased DIC does not begin to accrue until the first day of the calendar month following the month in which the award or increased award became effective. For that reason, proposed § 5.524 refers to the ''payment commencement date,'' rather than the ''effective date,'' in some instances.

We have not included the provisions in § 3.650(c)(3) that state the method for determining retroactive awards to a school child for periods prior to October 1, 1981 (a date established by Congress in the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981, Pub. L. 97–66, 95 Stat. 1026). We propose to omit this provision because we believe that all eligible dependents who could be affected by the provision have already received their benefits. In the unlikely event that the need should arise, VA could process the retroactive award relying on applicable statutory authority.

Dependency and Indemnity Compensation—Eligibility Requirements and Payment Rules for Parents

5.530 Eligibility for, and payment of, parents' dependency and indemnity compensation.

Proposed § 5.530 serves as an introduction to a group of regulations concerning parents' DIC and provides a brief overview of that VA benefit program.

As noted previously, proposed § 5.510(b) sets out the three statutory bases for the award of DIC. Proposed paragraph § 5.530(a) explains that only two of those bases are applicable to parents' DIC. This is because 38 U.S.C. 1318, which provides for payment of DIC to the survivors of certain veterans with a service-connected disability rated as totally disabling at the time of their death, only provides benefits to the veteran's surviving spouse and children.

Unlike DIC benefits payable to surviving spouses and children, parents' DIC is an income-based benefit program. Under 38 U.S.C. 1315(b) the amount of parents' DIC payable bears an inverse relationship to the amount of the parents' income and no DIC is payable if the parents' income exceeds statutory limits. Proposed paragraph 5.530(b) states these principles and, through a cross-reference, points readers to subsequent part 5 sections that provide income and payment rate rules.

Some income-based VA benefit programs also consider the claimant's net worth in determining payments. For example, eligibility for certain benefits requires a specific finding that a parent was actually ''dependent'' upon the veteran, and VA considers the parent's net worth in making such findings. See 38 U.S.C. 102, 1115, 1121, 5121; 38 CFR 3.263(a). However, that is not the case with parents' DIC, as 38 U.S.C 1315 does not require a specific finding of dependency, but merely provides that DIC may be paid to a veteran's parent, subject to reduction based on the parent's income. We therefore propose to state in paragraph 5.530(c) that net worth is not a factor in determining entitlement to parents' DIC or the amount of parents' DIC payable.

5.531 General income rules.

Proposed § 5.531 is based on 38 U.S.C. 1315(f), which contains the basic statutory rules for determining what counts as income for parents' DIC purposes, and portions of current §§ 3.251, 3.260, 3.261 and 3.262 that implement that statute.

Proposed paragraph 5.531(a) states the basic statutory rule that VA must count all payments of any kind from any source in determining income. Beginning with this basic rule permits simplification of the proposed regulation because the all-inclusive nature of the basic rule eliminates any need to catalog types of countable income. All income that a parent receives is income for parents' DIC purposes unless there is a specific exclusion. For example, with this beginning point, provisions such as the first sentence of current § 3.262(j)(2) (providing that, with respect to life insurance, ''the full amount of payments is considered income as received'') become redundant and need not be carried forward. We have also included a cross-reference to proposed § 5.533, ''Exclusions from income,'' where the exceptions to the general rule in paragraph (a) may be found.

Because VA must count all payments, it is necessary to know what VA includes in and excludes from the term ''payments.'' Proposed § 5.531(b) serves that function. It is based on various rules from portions of current §§ 3.261 and 3.262. See the ''Table comparing current part 3 rules with proposed part 5 rules'' earlier in the supplementary information.

Proposed § 5.531(c) provides that if a parent is married, ''income'' is the combined income of the parent and the parent's spouse, except if the marriage has been terminated or the parent is separated from his or her spouse. We also propose to state in paragraph (c) that ''[i]ncome is combined whether the parent's spouse is the veteran's other surviving parent or the veteran's stepparent.'' We believe that this is a clearer statement of the principle in the introduction to current § 3.262(b), which provides that ''[i]ncome of the spouse will be determined under the rules applicable to income of the claimant.'' The income rules in proposed § 5.531 are applicable to a parent. The spouse of a claimant-parent will always be either the veteran's other parent (in which case the rules would expressly apply) or the veteran's stepparent.

Proposed paragraph (d) provides the rules VA uses to determine whether income from property is the income of a parent. Property ownership is an important indicator of the right to income from that property, but it is not always controlling. In keeping with

long-standing VA practice, we propose to state in paragraph (d)(3) that if a parent transfers ownership of income-producing property to another person or legal entity, but retains the right to that income, the income will be counted.

Current § 3.262(k)(1) provides, in part, that ''if property is owned jointly each person will be considered as owning a proportionate share. The claimant's share of property held in partnership will be determined on the facts found.'' Current § 3.262(k)(2) provides, in part, that the ''claimant's share [of income] will be determined in proportion to his right according to the rules of ownership.'' We propose to combine these provisions in § 5.531(d)(4) by stating that ''[i]n the absence of evidence showing otherwise, VA will consider a parent who owns property jointly with others, including partnership property, to be entitled to a share of the income from that property proportionate to the parent's share of ownership. VA will accept the claimant's statement concerning the terms of ownership in the absence of evidence to the contrary.'' The last sentence of paragraph (d)(4) follows the last sentence of current § 3.261(k)(1).

Current § 3.260(b) provides rules for how VA calculates income when there is uncertainty about the amount of income a parent will receive during a calendar year. We propose, in § 5.531(e), to more clearly explain the process involved. We also propose to include a cross-reference to proposed § 5.535, ''Adjustments to parents' DIC when income is less than anticipated,'' to assist users of the proposed regulation in finding information about submitting amended income information.

5.532 Deductions from income.

While all income is counted except where there is statutory authority to exclude it, VA permits deductions from countable income in some instances. That is, the amount of income ultimately counted is the difference between income and certain deductible expenses directly associated with that income. Proposed § 5.532 lists permitted deductions. These deductions are the same as those included in current § 3.262. However, we propose to add some clarifications, as described in the following paragraphs.

Proposed § 5.532(a) continues a rule in current § 3.262(a)(2) that permits the deduction of expenses incident to the operation of businesses and professions from income from those sources. We propose to clarify that ''business'' includes the operation of a farm and transactions involving investment property. Because of this definitional change, it is only necessary to state in § 5.532(a) that losses sustained in operating a business or profession may not be deducted from income from any other source. This is consistent with the rule in current § 3.262(a)(3) that states that ''[a] loss sustained in operating a business, profession, or farm or from investments may not be deducted from income derived from any other source.'' Note also that current § 3.262(a)(3) implies that investment income is counted and that current § 3.262(k)(5) provides, with respect to DIC, that profit from the sale of nonbusiness property is not counted. With respect to investments, VA only counts income when the investment property is sold and does not constantly adjust income based on increases or decreases in the market value of investment property due to market fluctuations. Therefore, VA essentially already treats investment transactions as business transactions.

Proposed § 5.532(b) continues a provision in current § 3.262(j)(4) that permits deduction of related medical, legal, or other expenses from sums recovered under disability, accident, or health insurance. Of course the same expenses cannot be deducted twice. Therefore, we propose to state in § 5.532(b) that if medical expenses are deducted under that paragraph, they cannot be deducted as unusual medical expenses under § 5.532(d).

Proposed § 5.532(d) states the rules for deducting unusual medical expenses, as authorized by 38 U.S.C. 1315(f)(3) and described in current § 3.262(l). Among other things, the latter permits deduction of the unusual medical expenses of relatives of a parent or, under some circumstances, of a parent's spouse who are ''constructive members'' of the household. *See* § 3.262(l)(4). However, there is no definition of what a ''constructive'' household member is. In VAOPGCPREC 61–90, VA's Office of General Counsel discussed exceptions that had been carved out of the general rule that a ''household'' is comprised of those who dwell under the same roof and compose a family. The General Counsel then observed that:

> We regard the foregoing exceptions with respect to the language ''who is a member of a veteran's household'' generally as recognizing any situation where it may be reasonably assumed that the parties would be dwelling under one roof but for unusual or unavoidable circumstances, such as one temporary in nature or one beyond the control of the parties and wherein the family ties and relationship continue and the parties considered themselves morally bound to care for each other.

We believe that this statement captures the meaning of ''constructive'' household membership. However rather than referring to constructive household members and then defining that term, we propose to use a simpler approach by stating in § 5.532(d)(1)(i) that ''[a family member] includes a relative who would normally be a resident of the household, but who is physically absent due to unusual or unavoidable circumstances, such as a child away at school or a family member confined to a nursing home.''

We have not repeated in proposed § 5.532(d) a restriction in current § 3.262(l)(4) that limits the exclusion of unreimbursed amounts a parent pays for the unusual medical expenses of the parent's relatives who are members, or ''constructive members,'' of the parent's household to relatives ''in the ascending as well as descending class.'' We construe this to mean relatives in the parents' direct line. (Ascendant means ''[o]ne who precedes in lineage, such as a parent or grandparent.'' *Black's Law Dictionary* 121 (8th ed. 2004). Descendant means ''[o]ne who follows in lineage, in direct (not collateral) descent from a person. Example are children and grandchildren.'' *Id.* at 476.) This would appear to exclude, for example, the medical expenses of an orphaned niece or nephew who had been taken into the parent's household.

This restriction to the ascending and descending class is not required by statute. The authorizing statute, 38 U.S.C. 1315(f)(3), merely states that ''[t]he Secretary [of Veterans Affairs] may provide by regulation for the exclusion from income under this section of amounts paid by a parent for unusual medical expenses.'' We do not believe that the restriction is necessary, particularly because the deduction is already limited in several ways that should serve to deter any abuse. The deduction is limited to expenses of persons who are relatives, who are members of the parent's household (or who would be a member of the household absent unusual or unavoidable circumstance), and to whom the parent has a moral or legal obligation of support. We also note that there is no such restriction with respect to medical expenses deductions used in calculating VA's largest income-based program, Improved Pension. *See* current § 3.272(g)(1)(i). We believe that VA's rules for determining income for purposes of administering its income-based programs should be consistent unless the law requires otherwise.

The term ''medical expenses'' is used in a number of regulations in current part 3 and would similarly appear in a

number of regulations in proposed part 5. Therefore, we will propose a centralized definition of that term in a separate NPRM as part of the Project. This is the definition referenced in proposed § 5.532(d)(1)(ii).

5.533 Exclusions from income.

Income that VA does not count when calculating parents' income is listed in proposed § 5.533. Paragraph (a) is based on 38 U.S.C. 1315(f)(1)(A), which excludes ''payments of the six-months' death gratuity.'' However, we propose to change the description to ''death gratuity payments by the Secretary concerned under 10 U.S.C. 1475 through 1480.'' The phrase ''six-months' death gratuity'' is obsolete. While the death gratuity consisted of six-months' pay when originally enacted (*see* Pub. L. 66–99, 41 Stat. 367 (1919)), that is no longer the case. Over the years these death gratuity payments have evolved into a fixed sum, rather than a variable amount equal to six-months' pay. *See* 10 U.S.C. 1478. As would be provided in proposed paragraph (a), this exclusion extends to death gratuity payments in lieu of payments under 10 U.S.C. 1478 made to certain survivors of ''Persian Gulf conflict'' veterans as authorized by the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991. *See* Pub. L. 102–25, Title III, Part A, § 307, 105 Stat. 82 (1991). (Note that the phrase ''Secretary concerned'' is defined currently in § 3.1(g). It will also be defined in § 3.1's part 5 equivalent, to be published in another NPRM.)

Subsection (f)(1)(B) of 38 U.S.C. 1315 excludes ''donations from public or private relief or welfare organizations'' from income for parents' DIC purposes. Proposed § 5.533(b) would combine material from several portions of current § 3.262 that explain how VA interprets this exclusion. One of these is current § 3.262(f), which states that ''[b]enefits received under noncontributory programs, such as old age assistance, aid to dependent children, and supplemental security income are subject to the rules contained in paragraph (d) of this section applicable to charitable donations.'' We propose to remove the references to the Old Age Assistance program and the Aid to Dependent Children program because these programs no longer exist. The Old Age Assistance program was phased out and totally replaced by the Supplemental Security Income program in 1972 and the Aid to Dependent Children program became a federal block grant known as Temporary Assistance to Needy Families in 1996.

Section (f)(1)(C) of 38 U.S.C. 1315 provides that several types of VA benefit payments are not counted in determining income for parents' DIC purposes. These include payments made under 38 U.S.C. chapter 15, the chapter that authorizes VA's current Improved Pension program, and ''under the first sentence of section 9(b) of the Veterans' Pension Act of 1959.'' The referenced sentence preserved the rights of persons receiving earlier types of pension to continue to receive that pension at the time that Section 306 pension was introduced. The Veterans' and Survivors' Pension Improvement Act of 1978, Pub. L. 95–588, 92 Stat. 2497 (1978), introduced the current Improved Pension program. Section 306(b)(1) of that public law explicitly repealed section 9(b) of the Veterans' Pension Act of 1959. *See* 92 Stat. 2509. However, section 306(b)(3) of Pub. L. 95–588 provides that those who do not elect to receive Improved Pension ''shall continue to receive pension at the monthly rate being paid to such person on December 31, 1978, subject to all provisions of law applicable to basic eligibility for and payment of pension under section 9(b) of the Veterans' Pension Act of 1959, as in effect on December 31, 1978.'' 92 Stat. 2509. We interpret these various provisions together as excluding all VA nonservice-connected disability and death pension payments from income for parents' DIC purposes, as currently provided in § 3.261(a)(20). That rule is stated in § 5.533(c)(3).

Another exclusion from parents' countable income, found at 38 U.S.C. 1315(f)(1)(G), is ''10 percent of the amount of payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs.'' VA has traditionally construed this ten-percent exclusion to apply to a broad range of payments for disability or death, including payments pursuant to insurance policies, statutory retirement or disability-compensation programs, and tort damages collected pursuant to employer's liability statutes. In a 1966 opinion, designated as VA Administrator's Decision 989, the Administrator of Veterans' Affairs applied the principle that statutes should be construed in favor of veterans and reasoned that such payments are sufficiently similar to payments under a retirement program to come within the meaning of statutory language essentially identical to that in 38 U.S.C. 1315(f)(1)(G). That interpretation is reflected in current VA regulations at 38 CFR 3.262(f), (g), (i)(2), (j)(1), (j)(2), and (j)(4). We propose to aggregate in proposed § 5.533(g) all of the various § 3.262 ten-percent exclusions based on the 38 U.S.C. 1315(f)(1)(G) exclusion.

One of these 10-percent exclusions, found at current § 3.262(i)(2), is for ''payments based on permanent and total disability or death * * * received from the Bureau of Employees' Compensation.'' The Bureau of Employees' Compensation was abolished in 1974. *See* 20 CFR 1.5. Its functions are now carried out by the Office of Workers' Compensation Programs of the U.S. Department of Labor. *See* 20 CFR 1.6(b). This change is reflected in proposed paragraph (g)(4).

Section 1315(f)(1)(K) of 38 U.S.C. 1315 excludes ''profit realized from the disposition of real or personal property other than in the course of a business'' from being counted as income for parents' DIC purposes. Current § 3.262(k)(5) states, in part, that ''[a]ny amounts received in excess of the sales price will be counted as income. Where payments are received in installments, principal and interest will not be counted separately.'' We interpret this last statement to mean that where payments are received in installments, the installments received will not begin to count as income until the total of installments received is equal to the sales price without interest. That rule is more clearly stated at proposed § 5.533(i).

Section 38 U.S.C. 1315(f)(1)(F) excludes, among other things, ''payments of servicemen's indemnity.'' We propose to omit this exclusion because it is now obsolete. The Servicemen's Indemnity Act of 1951, Pub. L. 82–23, 65 Stat. 33, 34 (1951), authorized VA to pay indemnity in the form of $10,000 automatic life insurance coverage to the survivors of members of the Armed Forces who died in service. However, the Act authorizing this benefit was repealed in 1956. *See* sec. 502(9) of the Servicemen's and Veterans' Survivor Benefits Act, Pub. L. 84–881, 70 Stat. 857, 886 (1956).

Current § 3.262(e)(4) provides, in part, that:

> Where a parent was receiving or entitled to receive dependency and indemnity compensation and retirement benefits based on his or her own employment on December 31, 1966, the retirement payments will not be considered income until the amount of the claimant's personal contribution (as distinguished from amounts contributed by the employer) has been received. Thereafter the 10 percent exclusion will apply.

Similarly, current § 3.262(j)(1) provides in part that:

> In dependency and indemnity compensation claims, where the parent is receiving or entitled to receive dependency

and indemnity compensation on December 31, 1966, and is also receiving or entitled to receive annuity payments on that date, or endowment insurance matures on or before that date, no part of the payments received will be considered income until the full amount of the consideration has been received, after which 10 percent of the amount received will be excluded.

We propose to omit these two provisions from § 5.533. It is extremely unlikely that a parent's contributions to retirement benefits, an annuity, or an endowment he or she was receiving on December 31, 1966, were not recovered long ago. Should the occasion arise, VA will adjudicate any affected claims under existing statutory authority.

Proposed § 5.533(k) continues an exclusion for payments under section 6 of the Radiation Exposure Compensation Act of 1990, Pub. L. 101–426, 104 Stat. 920, 923. Payments under that act are not countable as income for parents' DIC purposes because section 6(h)(2) of the act provides that amounts paid to individuals under section 6 ''shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.'' The list of benefits in 31 U.S.C. 3803(c)(2)(C) includes benefits under 38 U.S.C. chapter 13. *See* 31 U.S.C. 3803(c)(2)(C)(viii). Parents' DIC is such a benefit.

However, payments under section 6 of the Radiation Exposure Compensation Act of 1990 are not the only payments that Congress has excluded from consideration as income for benefit programs on the 31 U.S.C. 3803(c)(2)(C) list. Our research has shown three others that we propose to add to § 5.533 as paragraph (l) through (n). These are payments under section 103(c)(1) of the Ricky Ray Hemophilia Relief Fund Act of 1998, payments under the Energy Employees Occupational Illness Compensation Program, and payments to certain eligible Aleuts under 50 U.S.C Appx. 1989c–5.

There are also a number of other Federal statutes that exempt specific kinds of income from consideration in determining either eligibility for all Federal income-based programs, or eligibility for all of VA's income-based benefit programs. Because those exclusions affect more than the parents' DIC benefit program, they will be addressed in a separate regulation in another NPRM to be published later as part of this Project. This separate regulation is the future regulation mentioned in paragraphs (c)(4) and (q) of proposed § 5.533.

These broad exclusions that will be addressed in a future NPRM include some of the income exclusions that currently appear in §§ 3.261 and 3.262. These are Agent Orange settlement payments, certain relocation payments, annuity payments elected under the Retired Serviceman's Family Protection Plan, restitution to individuals of Japanese ancestry, income received by American Indian beneficiaries from trust or restricted lands, payments under the Alaska Native Claims Settlement Act, payments from certain volunteer programs, Victims of Crime Act of 1984 payments, and monetary allowances under 38 U.S.C. chapter 18 for certain children of veterans who served in Vietnam and Korea. Because these exclusions will be addressed in another regulation included in a future NPRM, they have not been listed in proposed § 5.533.

In redrafting various provisions of current § 3.262 for proposed § 5.533, we have intentionally omitted references to a January 1, 1967, effective date applicable to various income exclusions in paragraphs (e)(4), (i)(2), (j)(1), (j)(4), and (k)(5) of § 3.262. We believe that it is highly unlikely that VA would need to process a retroactive adjustment to a prior parents' DIC award effective more than 35 years in the past. Therefore, we believe it is no longer necessary to refer to these effective dates in the regulation. Should the occasion arise, VA will adjudicate any affected claims under existing statutory authority.

5.534 When VA counts parents' income.

Proposed § 5.534 is based on portions of current §§ 3.251 and 3.260 that pertain to when VA counts income for parents' DIC purposes. Rules concerning pension in current § 3.260 will be addressed in a different NPRM.

Current § 3.251(b) provides that ''[i]ncome will be counted for the calendar year in which it is received and total income for the full calendar year will be considered except as provided in § 3.260.'' The introduction to current § 3.260 provides that ''[f]or entitlement to pension or dependency and indemnity compensation, income will be counted for the calendar year in which it is received.'' Proposed § 5.534(a) provides a consolidated restatement of these rules. It also clarifies that VA uses anticipated income in calculating parents' DIC in some circumstances (for example, see proposed § 5.531(e)).

The remainder of proposed § 5.534 sets out the exceptions referenced in paragraph 5.534(a)(3), ''VA will count parents' total income for the full calendar year except as provided in this section.''

The first exception, addressed in proposed paragraph (b), is based on concepts in current § 3.260(c) and (d) concerning ''proportionate'' income calculations. As proposed paragraph 5.534(b) indicates, ''proportionate'' income calculations are used when parents' DIC is first awarded, or when an award follows a period of no entitlement. Under the proportionate annual income calculation method, VA disregards income received, and expenses paid, during the portion of the year prior to the award of parents' DIC. It then determines what the parent(s)' income would have been if income had been received at the same rate for the entire calendar year as it was from the effective date of the award of parents' DIC to the end of the calendar year. The result is the proportionate annual income.

Paragraph (b)(3) describes the specific steps VA would use to calculate this proportionate annual income. While there are several ways in which the mathematical process involved could be described, we are proposing a daily average method, because we believe this will be the most understandable to regulation users. Basically, VA would calculate the daily average income for the applicable portion of the year and multiply that figure by 365 to determine what annual income would have been if the same level of income had been in effect for the entire year.

As current 3.260(c) does, proposed paragraph 5.534(b) permits using actual annual income, rather than proportionate income, if that would be to the parents' advantage.

The second exception to the general rule in proposed § 5.534(a)(3) is set out in paragraph (c). It states that ''[i]f a parent marries during the applicable calendar year, income received by the parent's spouse prior to the date of the marriage is not counted.'' This simple rule is in accord with long-standing VA practice. It would replace complex rules in current § 3.260(f), as they relate to parents' DIC, and would achieve essentially the same result.

Finally, we note that we have intentionally omitted the rule stated in current § 3.260(a) that installment income ''will be determined by the total amount received or anticipated during the calendar year.'' In terms of whether installment income will be counted as parents' income, this rule is subsumed in the general rule stated in proposed § 5.531(a) that all payments of any kind from any source are counted in determining the income of a veteran's parents. With respect to proposed

§ 5.534, the rule in § 3.260(a) is not an exception to the general rules in § 5.534(a).

5.535 Adjustments to parents' DIC when income is less than anticipated.

Proposed § 5.535 is a simplification and clarification of the rules in current § 3.660(b) that state when VA may make a retroactive award of parents' dependency and indemnity compensation based on amended income information. Current § 3.660(b)(1) and (2) state the following alternative rules for determining when a parent must submit amended income information in order to obtain a retroactive increase in DIC benefits when income decreases:

(1) *Anticipated income*. Where payments were not made or were made at a lower rate because of anticipated income, pension or dependency and indemnity compensation may be awarded or increased in accordance with the facts found but not earlier than the beginning of the appropriate 12-month annualization period if satisfactory evidence is received within the same or the next calendar year.

(Authority: 38 U.S.C. 5110(h))

(2) *Actual income*. Where the claimant's actual income did not permit payment, or payment was made at a lower rate, for a given 12-month annualization period, pension or dependency and indemnity compensation may be awarded or increased, effective the beginning of the next 12-month annualization period, if satisfactory evidence is received within that period.

Proposed § 5.535(b) follows the rule in § 3.660(b)(1). We propose to omit the rule in § 3.660(b)(2), which provides a shorter period of time for submitting amended income information in some instances, because we believe that it has no practical application to parents' DIC cases.

With respect to parents' DIC, current § 3.660(b)(2) contemplates a situation such as the following: A parents' DIC beneficiary provides VA with the amount of income expected for year A. VA pays DIC for year A based on that anticipated income. The beneficiary receives actual income for year A in the amount anticipated. Therefore, no adjustments are necessary for year A. However, income decreases during year B. If the beneficiary provides VA with evidence of the decreased income for year B not later than December 31 of year B, VA will increase benefits for year B because of the decreased income.

However, as a practical matter, what will have taken place in this situation is that VA will have commenced paying benefits for year B either in anticipation that income for year B is going to be the same as it was for year A or on the basis of anticipated income information for year B from the beneficiary. In either case, the situation will be one in which anticipated income for year B turned out to be less than anticipated. Therefore, the rule in 3.660(b)(1) would apply and the parent would have through December 31 of year C to provide evidence of the decreased income for year B.

5.536 Parents' dependency and indemnity compensation rates.

Current part 3 regulations for determining the rates payable for parents' dependency and indemnity compensation are quite complex. Current § 3.25 sets out a series of rules for calculating payments of DIC to parents. The rules vary depending upon whether there is one unmarried parent, one parent who has remarried, two parents living together, two parents not living together, two parents not living together one or both of whom have remarried, or a parent who is a patient in a nursing home or who is so helpless or blind, or so nearly helpless or blind, as to require the regular aid and attendance of another person. The rules refer regulation users to various provisions of 38 U.S.C. 1315 for specific rates. Together with current § 3.27(b), they note that those rates, and the annual income limitation for parents' DIC, are increased in step with cost-of-living increases in benefits under title II of the Social Security Act. (These increases are required by 38 U.S.C. 5312(b).) Because parents' DIC is income based and because 38 U.S.C. 1315 requires it, these rules also provide for rate reductions based on parents' income. They provide a formula for that reduction, but note that the formula will be recomputed when there is a rate increase in order to achieve ''an equitable distribution of the rate increase.''

Current §§ 3.25 and 3.27(d) together require that VA publish in the **Federal Register** the increased DIC payment rates, the annual income limitation increases, and the updated formulas VA uses for reducing DIC payments because of income. Section 3.25 also includes various other rules based on requirements of 38 U.S.C. 1315, such as a $5.00 minimum for parents' DIC payments applicable under some circumstances.

These various provisions of §§ 3.25 and 3.27 are all accurate, but they do not provide the information in a way that is very practical for regulations users who want specific information about the dollar amounts of rates and income limitations and the specific current formulas for calculating payment reductions because of income. Essentially, they send users to different sections of statutes and to announcements by the Social Security Administration to obtain data for performing complex calculations under different scenarios. However, as they also note, VA performs those calculations when there are changes and publishes the result in the **Federal Register**. For an example, see the rates of parents' DIC published in the **Federal Register** on April 7, 2004 (69 FR 18425).

In § 5.536, we propose to take a much simpler and more practical approach. Proposed paragraph (a) states that VA pays DIC to eligible parents based upon statutory requirements and briefly describes the nature of the relevant statutory provisions. It also cross-references the regulation concerning the calculation of parents' DIC based on service of certain Filipino veterans. Then, in paragraph (b), proposed § 5.536 provides that VA will use the data it publishes in the **Federal Register** in calculating parents' DIC payments. VA normally publishes such data within three months of the effective date of the legislative cost-of-living increases.

The remainder of § 5.536 provides specific rate payment rules based on various provisions of current §§ 3.25, 3.251, 3.260, and 3.704. See the ''Table comparing current part 3 rules with proposed part 5 rules'' earlier in the supplementary information.

5.537 Payment intervals.

Proposed § 5.537(a) states the general rule that VA pays parents' DIC monthly. An exception in proposed paragraph (b) is based on the rule in current § 3.30(e) that provides that parents' DIC will be paid semiannually if the amount of the annual benefit is less than 4 percent of the maximum allowable rate as published in the Notices section of the **Federal Register**. We propose to retain the exception, found in the introduction to current § 3.30, that permits parents receiving payment semiannually to elect to receive payment monthly in cases in which other Federal benefits would otherwise be denied.

Effective Dates

5.573 Effective date for dependency and indemnity compensation rate adjustments when an additional survivor files an application.

Proposed § 5.573 is a revision of current § 3.650(a) and (b) and provides general DIC rate and effective date determination rules. We intend no substantive changes in these provisions. We propose to use ''survivor'' rather than the word ''dependent,'' which is used in current § 3.650. DIC is payable

to certain survivors of a veteran who may or may not have been financially dependent upon the veteran. *See* 38 U.S.C. 1310(a) (providing for payment of DIC to a veteran's surviving spouse, children, or parents). This proposed rule would fall at the end of the effective date rules for subpart G previously published for notice and comment. *See* 69 FR 59072 (Oct. 1, 2004).

5.574 Effective dates of awards and discontinuances of special monthly dependency and indemnity compensation.

Proposed § 5.574 provides effective date rules for the award and discontinuance of special monthly DIC benefits. Proposed § 5.574(b)(1), based on current §§ 3.502(e)(1) and 3.504, provides an effective date rule for the discontinuance of special monthly DIC when a surviving spouse or parent is no longer in need of aid and attendance. The current rules refer to discontinuing special monthly DIC on the ''date of last payment.'' We propose to instead state that ''VA will discontinue special monthly DIC based upon the need of aid and attendance effective the first day of the month that follows the month for which VA last paid that benefit.'' The result is exactly the same, but we believe that this description will be clearer to VA claimants and to VA personnel who adjudicate claims. As the name suggests, VA pays special monthly DIC on a monthly basis. *See* 38 U.S.C. 1311(c) and (d) and 1315(g). The ''last payment'' in question is the check for the last month in which VA paid the benefit. Benefit payments would therefore stop on the first day of the following month.

We have not included in this special monthly DIC effective date section language in current § 3.502(e)(2) which states the following: ''If hospitalized at Department of Veterans Affairs expense as a veteran, the date [of discontinuance of the aid and attendance allowance to a surviving spouse will be the date] specified in § 3.552(b)(1) or (3).'' We have also omitted similar language from current § 3.504 pertaining to the discontinuance of the aid and attendance allowance for surviving parents. Current § 3.552(b) is based on 38 U.S.C. 5503(c) (identified in the authority citation at the end of § 3.552(b) under its old designation of 38 U.S.C. 5503(e)). The provisions of 38 U.S.C. 5503(c) only concern adjustments of special monthly disability compensation under various portions of 38 U.S.C. 1114 for veterans who are in need of aid and attendance and special monthly pension for veterans who are in need of aid and attendance.

We propose, in § 5.574(b)(2), to provide an effective date rule for discontinuance of a surviving spouse's special monthly DIC award based on housebound status that parallels the structure of the rule for the discontinuance of a surviving spouse's special monthly DIC award based on the need for aid and attendance. ''When a surviving spouse is no longer housebound, VA will discontinue special monthly DIC based upon housebound status effective the first day of the month that follows the month for which VA last paid that benefit.''

Omission of Rule in 38 CFR 3.22(h)

Current § 3.22(h), based on 38 U.S.C. 1318(e), sets out a rule concerning the offset of certain DIC payments to a surviving spouse against annuity payments to that spouse under a survivor benefit plan applicable to survivors of members of the Armed Forces. We propose not to repeat that rule in part 5. The rule is accurate, but it provides no substantive information that is not included in the underlying statute. Further, the survivor benefit plan in question is not administered by VA. It is administered by the Department of Defense.

Endnote Regarding Amendatory Language

We intend to ultimately remove part 3 entirely, but we are not including amendatory language to accomplish that at this time. VA will provide public notice before removing part 3.

Paperwork Reduction Act

Proposed 38 CFR 5.500 through 5.502, which are set forth in full in the proposed regulatory text portion of this document, contain collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). These provisions prescribe the information VA claimants submit to prove the death of a person upon whose death their entitlement to various VA benefits for survivors depends. As required under section 3507(d) of the Act, VA has submitted a copy of this proposed rulemaking action to the Office of Management and Budget (OMB) for its review of the collection of information.

OMB assigns control numbers to collections of information it approves. VA 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. Subject to OMB approval, VA proposes to amend the collection currently approved by OMB under control number 2900–0004 to include the information described in proposed 38 CFR 5.500 through 5.502.

Comments on the collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AL89.''

Title: Proof of death.

Summary of collection of information: Survivors of VA beneficiaries may be entitled to certain VA survivors' benefits when that beneficiary dies. Examples of such survivors' benefits that would be governed by provisions of proposed 38 CFR part 5 include benefits awarded, but unpaid at death, and accrued benefits under 38 U.S.C. 5121; death compensation under 38 U.S.C. 1121 and 1141; dependency and indemnity compensation under 38 U.S.C. chapter 13; and death pension under 38 U.S.C. chapter 15. Proposed 38 CFR 5.500 through 5.502 set forth the various kinds of evidence that a survivor may submit to prove the death. VA will provide assistance in obtaining this evidence as provided in 38 CFR 3.159(c).

Description of the need for information and proposed use of information: A basic element of entitlement to VA benefits for survivors is establishing the death of the person whom the claimant survives. VA will examine the evidence of death submitted in determining eligibility for claimed survivors' benefits.

Description of likely respondents: VA survivors' benefits claimants.

Estimated number of respondents: Approximately 56,865 per year.

Estimated frequency of responses: This information is collected on a ''one-time'' basis.

Estimated average burden per collection: In most cases survivors will have evidence of death at hand because they have gathered that evidence for probating estates, filing commercial life insurance claims, and similar purposes. Most survivors know that proof of death should accompany applications for VA survivors' benefits and mail copies of the proof of death to VA with their applications. (The information collections in survivor benefit applications have been separately approved by OMB.) VA estimates that the burden for those individuals will be approximately one-quarter hour for locating and mailing the documentation proving death they already have at

hand. In other cases, VA will obtain the proof of death for the claimant. VA is obligated under 38 CFR 3.159(c) to obtain for claimants records in the custody of a Federal department or agency and will make reasonable efforts to obtain records in the custody of other sources. In a relatively small number of cases claimants will need to obtain proof of death and provide it to VA. VA estimates that this will take an average of 1 hour per respondent.

Estimated total annual reporting and recordkeeping burden: This information collection imposes no recordkeeping requirement. VA estimates that it will receive approximately 66,900 applications for VA survivors' benefits annually. VA estimates that it will obtain proof of death for approximately 15 percent of those claimants. Of the remaining 56,865 claimants, VA estimates that approximately 90 percent, or 51,179 claimants, will already have the information at hand and that the remaining 10 percent, or 5,686 claimants, will need to obtain and provide proof of death. The information collection burden per case is approximately one-quarter hour for those who have the information at hand, or a total of 12,795 hours. VA estimates the time necessary to obtain and provide proof of death in other cases will average approximately 1 hour, or 5,686 hours. Therefore VA estimates the total annual reporting burden to be 18,481 hours.

The Department considers comments by the public on proposed collections of information in:

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections 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.

OMB is required to make a decision concerning the proposed collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulations.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed amendment would not affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Unfunded Mandates

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

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program number and title for this proposal is 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects in 38 CFR Part 5

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

Approved: July 13, 2005.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

For the reasons set out in the preamble, VA proposes to amend 38 CFR chapter I by further amending subpart G of part 5, as proposed to be added at 69 FR 59084, October 1, 2004, as follows:

PART 5—COMPENSATION, PENSION, BURIAL, AND RELATED BENEFITS

Subpart G—Dependency and Indemnity Compensation, Accrued Benefits, Death Compensation Benefits, and Special Rules Applicable Upon Death of a Beneficiary

1. The authority citation for subpart G of part 5 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. Sections 5.500 through 5.549 are added to subpart G to read as follows:

General Provisions

Sec.
5.500 Proof of death.
5.501 Proving death by other means.
5.502 Proving death after 7 years of continuous, unexplained absence.
5.503 Establishing the date of death.
5.504 Service-connected cause of death.
5.505–5.509 [Reserved]

Dependency and Indemnity Compensation—General

5.510 Dependency and indemnity compensation—basic entitlement.
5.511 Special monthly dependency and indemnity compensation.
5.512 Eligibility for death compensation or death pension instead of dependency and indemnity compensation.
5.513–5.519 [Reserved]

Dependency and Indemnity Compensation—Eligibility Requirements and Payment Rules for Surviving Spouses And Children

5.520 Dependency and indemnity compensation—time of marriage requirements for surviving spouses.
5.521 [Reserved]
5.522 Dependency and indemnity compensation benefits for survivors of certain veterans rated totally disabled at time of death—offset of wrongful death damages.
5.523 [Reserved]
5.524 Awards of dependency and indemnity compensation benefits to children when there is a retroactive award to a school child.
5.525–5.529 [Reserved]

Dependency and Indemnity Compensation—Eligibility Requirements and Payment Rules for Parents

5.530 Eligibility for, and payment of, parents' dependency and indemnity compensation.
5.531 General income rules.
5.532 Deductions from income.
5.533 Exclusions from income.
5.534 When VA counts parents' income.
5.535 Adjustments to parents' DIC when income is less than anticipated.
5.536 Parents' dependency and indemnity compensation rates.
5.537 Payment intervals.
5.538–5.549 [Reserved]

General Provisions

§ 5.500 Proof of death.

(a) *Purpose and application.*—(1) This section describes evidence VA will accept to prove that a person has died in cases where the death of the person is relevant to eligibility for a VA benefit. It covers the most common situations. Sections 5.501, ''Proving death by other means,'' and 5.502, ''Proving death after 7 years of continuous, unexplained absence,'' apply where the evidence described in this section is not available.

(2) Where more than one paragraph of this section applies, VA will accept the evidence described in any relevant paragraph as proof of death. For example, if the person died in a U.S. Government hospital located within a State, VA would accept the evidence establishing death specified in either paragraph (b) or (d) of this section.

(b) *Deaths occurring within a State.* Death occurring within a State may be established by: (1) A copy of the public record of the State or community where death occurred, or

(2) A copy of a coroner's report of death, or of a verdict of a coroner's jury, from the State or community where death occurred, provided the report or verdict properly identifies the deceased.

(c) *Deaths occurring abroad.* Death occurring abroad may be established by:

(1) A U.S. consular report of death bearing the signature and seal of the U.S. consul,

(2) A copy of the public record of death authenticated by the U.S. consul or other agency of the State Department or which is exempt from such authentication as provided in § 3.202(b)(4) of this chapter (concerning certain copies of public or church records), or

(3) An official report of death of a civilian employee of the U.S. Government from the employing U.S. Government entity.

(d) *Deaths at institutions under the control of the U.S. Government.* Death occurring in a hospital or other institution under the control of the U.S. Government may be established by:

(1) A death certificate signed by a medical officer, or

(2) A clinical summary, or other report, signed by a medical officer showing the fact and date of death.

(e) *Deaths of members of the uniformed services.* The death of a member of the uniformed services may be established by an official report of the death from the uniformed service concerned.

(Authority: 38 U.S.C. 501(a)(1))

§ 5.501 Proving death by other means.

(a) *Applicability.* This section and § 5.502, ''Proving death after 7 years of continuous, unexplained absence,'' describe methods of proving that a person has died if the death of that person is relevant to eligibility for a VA benefit and the evidence described in § 5.500, ''Proof of death,'' is not available.

(b) *Required statement.* A claimant seeking to establish the fact of death under this section must submit a statement explaining why none of the evidence described in § 5.500 is available.

(c) *Affidavits or certified statements of witnesses who viewed the body.* The fact of death may be established by the affidavit or certified statement of one or more persons who have personal knowledge of the fact of death, have viewed the body of the deceased, and know it to be the body of the person whose death is being alleged. These affidavits or statements should describe all the facts and circumstances known concerning the death, including the place, date, time, and cause of death.

(d) *Other methods of establishing death.* If the claimant cannot furnish the affidavits or certified statements described in paragraph (c) of this section, the fact of death may be established by one of the following:

(1) *U.S. Government agency finding.* In the absence of evidence to the contrary, VA will accept a finding of the fact of death by another U.S. Government agency.

(2) *Body not recovered or not identifiable.* If circumstances preclude recovery or identification of the body of the deceased, the fact of death may be established by the claimant's affidavit or certified statement setting forth the circumstances under which the missing person was last seen and the known facts which led the claimant to believe that death has occurred and one of the following, as applicable:

(i) The affidavits or certified statements of persons who witnessed the event in which the missing person is alleged to have perished, describing the event and, if applicable, why they believe the missing person perished in the event, or

(ii) If the testimony of eyewitnesses is not obtainable, the affidavits or certified statements of persons who have the most reliable information available concerning why the missing person is believed to have been at the event in which the missing person is alleged to have perished, why the missing person was in imminent peril at the time the event occurred, and the basis on which they concluded that death was caused by the event.

(3) *Finding of fact of death by authorized VA official.* An authorized VA official may make a finding of the fact of death where death is shown by competent evidence. *See* § 3.100(a) of this chapter (concerning delegation of authority to make findings and decisions concerning entitlement to VA benefits).

(Authority: 38 U.S.C. 501(a)(1))

§ 5.502 Proving death after 7 years of continuous, unexplained absence.

(a) *Evidence required.* A claimant seeking to establish the death of a person who has been absent for 7 years, where death is not established with documentary evidence described in § 5.500, ''Proof of death,'' or § 5.501, ''Proving death by other means,'' must produce competent, credible evidence to show that:

(1) The person has been continuously absent from home and family for at least 7 years without explanation; and

(2) A diligent search disclosed no evidence of the person's continued existence after the disappearance.

(b) *Finding of death conclusive.* A finding of death under this section will be conclusive and final for the purposes of laws administered by VA except where suit is filed for insurance under 38 U.S.C. 1984, ''Suits on insurance.''

(c) *Impact of findings of death made by other entities.*—(1) State laws that provide for presumption of death are not applicable to claims for VA benefits and may not be used to establish death under this section.

(2) A finding of death by another Federal agency meeting the criteria described in paragraphs (a)(1) and (2) of this section is acceptable for VA purposes if there is no credible evidence to the contrary.

(Authority: 38 U.S.C. 108, 501(a)(1))

§ 5.503 Establishing the date of death.

(a) *Applicability.* This section applies when the fact of death is established under §§ 5.500 through 5.502, but the exact date of death is uncertain.

(b) *Date of death in cases involving a continuous, unexplained absence of seven years or more.* When the fact of death is established under § 5.502, ''Proving death after 7 years of continuous, unexplained absence,'' the date of death for purposes of the laws administered by VA is seven years after the date the person was last known to be alive.

(c) *Date of death in other cases.* If the fact of death is established by the evidence described in § 5.500, ''Proof of death,'' or § 5.501, ''Proving death by

other means,'' VA will determine the date of death for purposes of the laws administered by VA by considering all of the known facts and circumstances surrounding the death, including the condition of the body when found and any estimate of the date of death provided by a coroner or other official within the scope of that official's duties. If no identifiable body is found, the date of death will be presumed to be the date the deceased was last known to be alive in the absence of evidence to the contrary.

(Authority: 38 U.S.C. 108, 501(a))

§ 5.504 Service-connected cause of death.

(a) *Purpose.* Eligibility for several VA benefits for a veteran's survivors requires that the veteran's death be service connected. This section provides the rules VA uses to determine whether a veteran's death is service connected.

(b) *Definition of service-connected disability*—(1) *General.* For purposes of this section, ''service-connected disability'' means:

(i) Except as provided in paragraph (b)(2) of this section, a disability that was service connected at the time of the veteran's death, or

(ii) A disability that is service connectable under the provisions of subpart E of this part, ''Claims for service connection and disability compensation.'' For purposes of this section, VA will deem a sudden death in service from trauma to have been preceded by disability from the trauma.

(2) *Exception.* For purposes of this section, ''service-connected disability'' does not include a disability that was service connected at the time of the veteran's death if the law in effect at the time of a survivor's claim precludes VA from establishing service connection for the cause of the veteran's death. *See* § 3.300 of this chapter, ''Claims based on the effects of tobacco products,'' and § 3.301(d) of this chapter ''Line of duty; abuse of alcohol or drugs.''

(c) *Determining whether a veteran's death is service connected.* A veteran's death is service connected if death resulted from a service-connected disability. Death resulted from a service-connected disability if the service-connected disability produced death or hastened death, as provided in the following paragraphs:

(1) *Service-connected disability produces death.* A service-connected disability is the cause of death if a single service-connected disability, or the combined effect of multiple service-connected disabilities, is such that death would not have occurred in the absence of the disability, or disabilities. If two or more disabilities were present at the time of death, only one of which was service connected or service connectable, and each disability by itself was sufficient to bring about death, VA will grant service connection for the cause of the veteran's death.

(2) *Service-connected disability hastens death.* VA will grant service connection for the cause of death if competent medical evidence shows that a service-connected disability, or the combined effect of multiple service-connected disabilities, was so debilitating as to materially hasten death from nonservice-connected causes. VA will presume such debilitation where a service-connected disability affected a vital organ and was evaluated as 100 percent disabling under the Schedule for Rating Disabilities in part 4 of this chapter at the time of the veteran's death. For purposes of this paragraph, vital organs are those organs necessary to sustain life, including the heart, lungs, central nervous system, liver, and kidneys.

(Authority: 38 U.S.C. 101(16), 501(a), 1121, 1141, 1310)

§§ 5.505–5.509 [Reserved]

Dependency and Indemnity Compensation—General

§ 5.510 Dependency and indemnity compensation—basic entitlement.

(a) *Definition.* Dependency and indemnity compensation (DIC) is a monthly VA payment to a veteran's surviving spouse, child, and/or parent based on the veteran's death. The surviving relative must be otherwise qualified and meet the entitlement criteria provided in this section.

(b) *Bases for entitlement.* There are three ways in which an otherwise qualified survivor may become entitled to DIC:

(1) Service-connected death—38 U.S.C. 1310. (i) VA will grant DIC to the qualified survivors of a veteran when it determines that the cause of the veteran's death, whether occurring during or after service, is service connected. *See* 38 U.S.C. 1310, ''Deaths entitling survivors to dependency and indemnity compensation,'' and § 5.504, ''Service-connected cause of death.''

(ii) DIC is not payable unless the service-connected death occurred after December 31, 1956, except in the case of certain individuals receiving or eligible to receive death compensation who elect to receive DIC in lieu of death compensation. *See* § 3.702 of this chapter, ''Dependency and indemnity compensation.''

(2) *Veterans with a service-connected disability rated as totally disabling at the time of death—38 U.S.C. 1318.* VA will grant DIC to the qualified survivors of a veteran rated totally disabled due to service-connected disability for a specified period of time at the time of death, in the same manner as if the veteran's death were service connected. *See* § 3.22 of this chapter, ''DIC benefits for survivors of certain veterans rated totally disabled at time of death,'' and 38 U.S.C. 1318, ''Benefits for survivors of certain veterans rated totally disabled at time of death.''

(3) *Veterans whose death was due to certain VA-furnished medical, training, compensated work therapy, or rehabilitation services—38 U.S.C. 1151.* VA will grant DIC to the qualified survivors of a veteran whose death was caused by VA-furnished hospital care, medical or surgical treatment, medical examination, training and rehabilitation services, or participation in a compensated work therapy program, in the same manner as if the veteran's death were service connected. *See* §§ 3.358, 3.361 and 3.800 of this chapter and 38 U.S.C. 1151, ''Benefits for persons disabled by treatment or vocational rehabilitation.''

(c) *Certain Federal Employees' Group Life Insurance beneficiaries ineligible.* VA cannot pay DIC to any surviving spouse, child or parent based on the death of a commissioned officer of the Public Health Service, the Coast and Geodetic Survey, the Environmental Science Services Administration, or the National Oceanic and Atmospheric Administration occurring after April 30, 1957, if any amounts are payable based on the same death under the Federal Employees' Group Life Insurance Act of 1954 (Pub. L. 598, 83d Cong., as amended).

(d) *Special rules for parents' DIC.* The basis of entitlement described in paragraph (b)(2) of this section does not apply to parents' DIC and payment of parents' DIC is subject to income limitations. See §§ 5.530 through 5.537 for special eligibility and payment rules for parents' DIC.

(Authority: 38 U.S.C. 101(14), 1151, 1304, 1310, 1315, 1318; Sec. 501(c)(2), Pub. L. 84–881, 70 Stat. 857, as amended by Sec. 13(u), Pub. L. 85–857, 72 Stat. 1266; Sec. 5, Pub. L. 91–621, 84 Stat. 1863)

§ 5.511 Special monthly dependency and indemnity compensation.

(a) *Entitlement based on need for regular aid and attendance.* A surviving spouse or parent in receipt of dependency and indemnity compensation (DIC) is entitled to special monthly DIC benefits if he or she is helpless, or so nearly helpless as to need the regular aid and attendance of another person. Among other factors,

VA considers the presence of conditions listed in § 3.352(a) of this chapter when determining whether a person demonstrates this degree of helplessness.

(b) *Automatic entitlement.* VA will automatically consider a person to be in need of regular aid and attendance, without having to demonstrate the degree of helplessness described in paragraph (a) of this section, if the person:

(1) Is blind or so nearly blind as to have corrected visual acuity of 5/200 or less in both eyes;

(2) Has concentric contraction of the visual field in both eyes to 5 degrees or less; or

(3) Is a patient in a nursing home because of mental or physical incapacity.

(c) *Entitlement based on permanent housebound status—surviving spouse.* A surviving spouse who does not qualify for special monthly DIC based on need for regular aid and attendance, as provided in paragraphs (a) and (b) of this section, is entitled to special monthly DIC if he or she is permanently housebound. A surviving spouse will be considered permanently housebound if substantially confined to his or her home (ward or clinical areas, if institutionalized) or immediate premises because of a disability or disabilities and it is reasonably certain that such disability or disabilities will remain throughout the surviving spouse's lifetime.

(Authority: 38 U.S.C. 1311(c), (d), 1315(g))

§ 5.512 Eligibility for death compensation or death pension instead of dependency and indemnity compensation.

(a) *General rule.* Subject to paragraph (b) of this section, VA will not pay death compensation or death pension to any person eligible for dependency and indemnity compensation (DIC) based upon a death occurring after December 31, 1956.

(b) *Right of spouse to elect death pension.* A surviving spouse eligible for DIC may elect to receive death pension instead of DIC. For effective date information, see § 3.400(j)(1) of this chapter.

(Authority: 38 U.S.C. 1317)

§§ 5.513–5.519 [Reserved]

Dependency and Indemnity Compensation—Eligibility Requirements and Payment Rules for Surviving Spouses and Children

§ 5.520 Dependency and indemnity compensation—time of marriage requirements for surviving spouses.

(a) *Purpose.* In addition to meeting the marriage requirements necessary to qualify as a surviving spouse, as defined at § 3.50 of this chapter, a surviving spouse must meet certain requirements concerning the time of his or her marriage to the veteran in order to qualify for dependency and indemnity compensation (DIC). This section sets out those requirements.

(b) *Time of marriage requirements*—(1) *Surviving spouse eligible under § 5.510(b)(1) or (b)(3).* A surviving spouse meets the time of marriage requirements for DIC under the bases for eligibility set out in § 5.510(b)(1), ''Service-connected death—38 U.S.C. 1310'' or (b)(3), ''Veterans whose death was due to certain VA-furnished medical, training, compensated work therapy, or rehabilitation services—38 U.S.C. 1151,'' if his or her marriage to the veteran meets any of the following criteria:

(i) The surviving spouse married the veteran before or during the veteran's military service.

(ii) The surviving spouse was married to the veteran for one year or more. Multiple periods of marriage may be added together to meet the 1-year marriage requirement.

(iii) The surviving spouse was married to the veteran for any length of time and a child was born of the marriage or before the marriage. *See* § 3.54(d) of this chapter, ''Child born.''

(iv) The surviving spouse married the veteran within 15 years of the date of termination of the period of service in which the injury or disease causing the veteran's death was incurred or aggravated. For purposes of this paragraph, ''period of service'' means a period of active military service from which the veteran was discharged under conditions other than dishonorable. If the surviving spouse has been married to the veteran more than once, see § 3.54(e) of this chapter, ''More than one marriage to veteran.''

(2) *Surviving spouse eligible under § 5.510(b)(2).* A surviving spouse meets the time of marriage requirements for DIC under the basis for eligibility set out in § 5.510(b)(2), ''Veterans with a service-connected disability rated as totally disabling at the time of death—38 U.S.C. 1318,'' if his or her marriage to the veteran meets any of the following criteria:

(i) The surviving spouse was married to the veteran continuously for one year or more immediately preceding the veteran's death.

(ii) The surviving spouse was married to the veteran for any length of time and a child was born of the marriage or before the marriage. *See* § 3.54(d) of this chapter, ''Child born.''

(Authority: 38 U.S.C. 1151, 1304, 1310, 1318)

§ 5.521 [Reserved]

§ 5.522 Dependency and indemnity compensation benefits for survivors of certain veterans rated totally disabled at time of death—offset of wrongful death damages.

(a) *Applicability.* This section applies when a surviving spouse or child:

(1) Is eligible for dependency and indemnity compensation (DIC) on the basis described in § 5.510(b)(2), ''Veterans with a service-connected disability rated as totally disabling at the time of death—38 U.S.C. 1318,'' and

(2) Receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the wrongful death of the veteran whose death is the basis for such VA benefits.

(b) *Offset.* VA will not pay DIC on the basis described in § 5.510(b)(2) for any month following a month in which the beneficiary receives money or property described in paragraph (a)(2) of this section until the total amount of such DIC benefits that would otherwise have been payable equals the total of the amount of such money and/or value of such property. This paragraph does not apply to DIC benefits payable under this section for any period preceding the end of the month in which such money or property was received.

(c) *Amount of offset.* The following rules apply when calculating the amount to be offset in DIC cases:

(1) The amount to be offset includes damages typically recoverable under wrongful death statutes, such as reimbursement for the loss of support, services, and other contributions, which the surviving spouse or child would have received if the veteran had lived and, where allowed, reimbursement for pain, suffering or mental anguish of the survivors due to death. Damages recoverable as compensation for injuries suffered by, or economic loss sustained by, the veteran prior to death such as wages lost prior to death, medical expenses, and compensation for the veteran's pain and suffering prior to death are excluded.

(2) The amount to be offset includes amounts paid to a third party to satisfy a legal obligation of the surviving spouse or child. This includes the payment of the claimant's proportional share of attorney's fees, court costs, and other expenses incident to the civil claim.

(3) The amount to be offset excludes money or property payable to a person or entity other than the spouse or child under the terms of the judgment, settlement, or compromise agreement unless the spouse or child receives the benefit of such a payment. For example, wrongful death damages paid to a veteran's estate or into a trust or similar arrangement will be included in the amount to be offset to the extent that they are distributed to, or available for the use and benefit of, the surviving spouse or child.

(4) The amount to be offset excludes benefits received under Social Security or worker's compensation even though such benefits may have been awarded in a judicial proceeding.

(5) The value of property received is that property's fair market value at the time it is received by the claimant.

(d) *Beneficiary's duty to report receipt of money or property.* Any person entitled to DIC on the basis described in § 5.510(b)(2), ''Veterans with a service-connected disability rated as totally disabling at the time of death—38 U.S.C. 1318,'' must promptly report to VA the receipt of any money or property described in paragraph (a)(2) of this section. This obligation may be satisfied by providing VA a copy of the judgment, settlement agreement, or compromise agreement awarding the money or property. Overpayments created by failure to report will be subject to recovery if not waived.

(Authority: 38 U.S.C. 1318(d))

§ 5.523 [Reserved]

§ 5.524 Awards of dependency and indemnity compensation benefits to children when there is a retroactive award to a school child.

(a) *Applicability.* Dependency and indemnity compensation (DIC) is payable to eligible children when there is no surviving spouse entitled to DIC. The total amount payable to the children, which varies according to the number of children, is divided and paid to the children in equal shares. This section states an exception that applies when all of the following conditions are met:

(1) DIC is being paid to one or more children;

(2) DIC was previously paid to an additional child, but that child's DIC was discontinued because he or she reached 18 years of age;

(3) That additional child has reestablished entitlement to DIC because he or she is attending an approved educational institution; and

(4) The effective date of the additional child's reestablished entitlement is prior to the date VA received the application to reestablish entitlement.

(b) *Award to the additional child*—(1) *Retroactive payment.* The payment to the additional child for the period extending from the payment commencement date of the award to the additional child through the month that award was approved is equal to the difference between the total amount payable for all children, including the additional child, during that period and the total amount paid to the other children during that period. If more than one child reestablishes entitlement as described in paragraph (a) of this section, the retroactive award will be paid to each such child in equal shares.

(2) *Payment commencement date for full equal share.* The payment commencement date for the full equal share of DIC to the additional child, or additional children, is the first of the month following the month VA approved his or her reestablished DIC award.

(c) *Effective date of payment of reduced shares to the other children.* The running awards to the other children will be reduced to the amount of their new equal shares effective the first of the month following the month VA approved the award of reestablished DIC to the additional child.

(Authority: 38 U.S.C. 1313(b), 5110(e), 5111)

Cross-references: See also § 3.31 of this chapter, ''Commencement of the period of payment,'' and § 3.667 of this chapter, ''School attendance.''

§§ 5.525–5.529 [Reserved]

Dependency and Indemnity Compensation—Eligibility Requirements and Payment Rules for Parents

§ 5.530 Eligibility for, and payment of, parents' dependency and indemnity compensation.

(a) *Basic eligibility.* A veteran's surviving parents may receive dependency and indemnity compensation (DIC) on the basis described in § 5.510(b)(1), ''Service-connected death—38 U.S.C. 1310,'' and § 5.510(b)(3), ''Veterans whose death was due to certain VA-furnished medical, training, compensated work therapy, or rehabilitation services—38 U.S.C. 1151.'' DIC is not payable to parents on the basis described in § 5.510(b)(2), ''Veterans with a service-connected disability rated as totally disabling at the time of death— 38 U.S.C. 1318.''

(b) *Parents' DIC is income based.* Unlike DIC benefits for a surviving spouse and children, the amount of parents' DIC payable is adjusted based on parents' income and DIC is not payable to parents whose income exceeds statutory limits. Sections 5.531 through 5.537 provide income and payment rules.

(c) *Net worth not considered.* Net worth is not a factor in determining entitlement to parents' DIC or the amount of parents' DIC payable.

(Authority: 38 U.S.C. 501(a), 1151, 1310, 1318, 1315)

§ 5.531 General income rules.

(a) *All payments included in income.* All payments of any kind from any source are counted in determining the income of a veteran's parents, except as provided in § 5.533, ''Exclusions from income.''

(b) *Payments*—(1) *What is included.* For purposes of this section, ''payments'' are cash and cash equivalents (such as checks and other negotiable instruments) and the fair market value of personal services, goods, or room and board a parent receives from someone else in lieu of other forms of payment.

(2) *What is not included.* ''Payments'' do not include any of the following:

(i) The value of a parent's use of his or her own property, such as the rental value of a home a parent owns and lives in.

(ii) Dividends on commercial insurance policies.

(iii) Retirement benefits from the following sources (or to the following persons), if the benefits have been waived pursuant to Federal statute:

(A) Civil Service Retirement and Disability Fund;

(B) Railroad Retirement Board;

(C) District of Columbia, firemen, policemen, or public school teachers;

(D) Former United States Lighthouse Service.

(c) *Spousal income combined.* Income for parents' dependency and indemnity compensation purposes is the combined income of a parent and the parent's spouse, unless the marriage has been terminated or the parent is separated from his or her spouse. Income is combined whether the parent's spouse is the veteran's other surviving parent or the veteran's stepparent. *See also* § 5.534(c) (concerning how much of the spouse's income to count for the year of remarriage).

(d) *Income-producing property*—(1) *Scope.* This paragraph (d) provides rules for determining whether income from property should be counted as a parent's income. The provisions of this paragraph (d) apply to all property, real or personal, in which a parent has an interest, whether acquired through purchase, bequest or inheritance.

(2) *Proof of ownership.* In determining whether to count income from real or personal property, VA will consider the terms of the recorded deed or other evidence of title. However, VA will accept the claimant's statement concerning the terms of ownership in the absence of evidence to the contrary.

(3) *Transfer of ownership with retention of income.* If a parent transfers ownership of property to another person or legal entity, but retains the right to income, the income will be counted.

(4) *Income from jointly owned property.* In the absence of evidence showing otherwise, VA will consider a parent who owns property jointly with others, including partnership property, to be entitled to a share of the income from that property proportionate to the parent's share of ownership. VA will accept the claimant's statement concerning the terms of ownership in the absence of evidence to the contrary.

(e) *Procedure when income amounts are uncertain—deferred determinations.* When a parent is uncertain about the amount of income the parent will receive during a calendar year, VA will calculate dependency and indemnity payments for that calendar year using the highest amount of income the parent estimates, or VA's best estimate of income if the parent's estimate appears to be unrealistically low in light of the parent's past income and current circumstances. VA will adjust benefits, or pay benefits, when actual total income for the year is determined. See also § 5.535, ''Adjustments to parents' DIC when income is less than anticipated.''

(Authority: 38 U.S.C. 1315(f))

§ 5.532 Deductions from income.

(a) *Expenses of a business or profession.* Necessary business operating expenses are deductible from gross income from a business or profession. Examples include the cost of goods sold and payments for rent, taxes, upkeep, repairs, and replacements. Depreciation is not a deductible expense. Losses sustained in operating a business or profession may not be deducted from income from any other source. For purposes of this section, ''business'' includes the operation of a farm and transactions involving investment property.

(b) *Expenses associated with disability, accident, or health insurance recoveries.* Medical, legal, or other expenses incident to the insured disability are deductible from sums recovered under disability, accident, or health insurance. However, if medical expenses are deducted under this paragraph, they cannot be deducted as unusual medical expenses under paragraph (d) of this section.

(c) *Expenses of a deceased spouse or of the deceased veteran*—(1) *Deceased spouse.* Amounts a parent pays for the following expenses of a deceased spouse are deductible:

(i) A deceased spouse's just debts, excluding debts secured by real or personal property.

(ii) The expenses of the spouse's last illness and burial to the extent such expenses are not reimbursed by VA under 38 U.S.C. chapter 23 (*see* subpart J of this part concerning VA burial benefits) or 38 U.S.C. chapter 51 (*see* § 5.551(e) concerning the use of accrued benefits to reimburse the person who bore the expense of a deceased beneficiary's last sickness or burial).

(2) *Deceased veteran.* Amounts a parent pays for the expenses of the veteran's last illness and burial are deductible to the extent that such expenses are not reimbursed by VA under 38 U.S.C. chapter 23 (see subpart J of this part concerning VA burial benefits).

(3) *When expenses are deducted.* Expenses deductible under this paragraph (c) are deductible for the year in which they were paid. However, if such expenses were paid during the year following the year the veteran or spouse died, the expenses may be deducted for the year the expenses were paid or the year of death, whichever is to the parent's advantage.

(4) *Proof of expenses.* VA will accept as proof of expenses deductible under this paragraph (c) a claimant's statement as to the amount and nature of each expense, the date of payment, and the identity of the creditor unless the circumstances create doubt as to the credibility of the statement.

(d) *Unusual medical expenses*—(1) *Applicability*—(i) *Family members.* For purposes of determining whose medical expenses are deductible, a family member is a relative of the parent or parent's spouse who is a member of the household of the parent or parent's spouse whom the parent or parent's spouse has a moral or legal obligation to support. This includes a relative who would normally be a resident of the household, but who is physically absent due to unusual or unavoidable circumstances, such as a child away at school or a family member confined to a nursing home.

(ii) *Medical expenses. See* [regulation that will be published in a future Notice of Proposed Rulemaking] (defining medical expenses).

(iii) *Unusual medical expenses.* For purposes of this section, ''unusual medical expenses'' means unreimbursed medical expenses above five percent of annual income. If annual income includes retirement plan income, the five percent will be calculated prior to deduction of the ten percent exclusion under § 5.533(g), ''Ten percent of income from retirement plans and similar plans and programs.''

(2) *Expenses of parent and parent's family members.* Amounts paid by a parent for his or her own unusual medical expenses and those of family members are deductible.

(3) *Expenses of spouse and spouse's family members.* The deduction includes the unusual medical expenses of the spouse and the spouse's family members if the combined annual income of the parent and the parent's spouse is the basis for calculating income.

(4) *When expenses are deducted.* VA will deduct unusual medical expenses from income for the calendar year in which they were paid regardless of when the expenses were incurred.

(5) *Proof of expenses.* VA will accept the claimant's statement as to the amount and nature of each medical expense, the date of payment, and the identity of the creditor unless the circumstances create doubt as to the credibility of the statement.

(6) *Estimates of expenses for future benefit periods.* For the purpose of authorizing prospective payment of benefits, VA may accept a claimant's estimate of future medical expenses based on a clear and reasonable expectation that unusual medical expenditure will be incurred. VA will adjust an award based on such an estimate upon receipt of an amended estimate or upon receipt of an eligibility verification report. *See also* § 3.256 of this chapter (concerning requirements for eligibility verification reports).

(e) *Certain salary deductions not deductible for determining income.* For purposes of determining a parent's income, a salary may not be reduced by the amount of deductions made under a retirement act or plan or for income tax withholding.

(Authority: 38 U.S.C. 1315(f))

§ 5.533 Exclusions from income.

VA will not count payments from the following sources when calculating

parents' income for dependency and indemnity compensation purposes:

(a) *Death gratuity.* Death gratuity payments by the Secretary concerned under 10 U.S.C. 1475 through 1480. This includes death gratuity payments in lieu of payments under 10 U.S.C. 1478 made to certain survivors of Persian Gulf conflict veterans authorized by sec. 307, Pub. L. 102–25, 105 Stat. 82.

(b) *Donations received.* Donations from public or private relief or welfare organizations, including the following:

(1) The value of maintenance furnished by a relative, friend, or a civic or governmental charitable organization, including money paid to an institution for the care of the parent due to impaired health or advanced age.

(2) Benefits received under noncontributory programs, such as Supplemental Security Income payments.

(c) *Certain VA benefit payments.* The following VA benefit payments:

(1) Payments under 38 U.S.C. chapter 11, ''Compensation for Service-Connected Disability or Death.''

(2) Payments under 38 U.S.C. chapter 13, ''Dependency and Indemnity Compensation for Service-Connected Death.'' However, payments under 38 U.S.C. 1312(a), described in § 3.804 of this chapter, are counted as income.

(3) Nonservice-connected VA disability and death pension payments.

(4) VA benefit payments listed in [regulation that will be published in a future Notice of Proposed Rulemaking].

(d) *Certain life insurance payments.* Payments under policies of Servicemembers' Group Life Insurance, United States Government Life Insurance, or National Service Life Insurance.

(e) *Social Security death payments.* Lump-sum death payments under title II of the Social Security Act.

(f) *State service bonuses.* Payments of a bonus or similar cash gratuity by any State based upon service in the Armed Forces.

(g) *Ten percent of income from retirement plans and similar plans and programs.* Ten percent of the amount of payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs is not counted. This includes payments for:

(1) Annuities or endowments paid under a Federal, State, municipal, or private business or industrial plan.

(2) Old age and survivor's insurance and disability insurance under title II of the Social Security Act.

(3) Retirement benefits received from the Railroad Retirement Board.

(4) Payments for permanent and total disability or death received from the Office of Workers' Compensation Programs of the U.S. Department of Labor, the Social Security Administration, or the Railroad Retirement Board, or pursuant to any worker's compensation or employer's liability statute, including damages collected incident to a tort suit under employer's liability law of the United States or a political subdivision of the United States. This ten-percent exclusion applies after the income from the specified payments is reduced by the deductions described in § 5.532(b), ''Expenses associated with disability, accident, or health insurance recoveries.''

(5) The proceeds of a commercial annuity, endowment, or life insurance.

(6) The proceeds of disability, accident or health insurance. This ten-percent exclusion applies after the income from the specified payments is reduced by the deductions described in § 5.532(b), ''Expenses associated with disability, accident, or health insurance recoveries.''

(h) *Casualty loss reimbursement.* Reimbursements of any kind for any casualty loss are not counted, but only up to the greater of the fair market value or the reasonable replacement value of the property involved immediately preceding the loss. For purposes of this section, a ''casualty loss'' is the complete or partial destruction of property resulting from an identifiable event of a sudden, unexpected or unusual nature.

(i) *Profit from sale of non-business property.*—(1) Profit realized from the sale of real or personal property other than in the course of a business. However, any amounts received in excess of the sale price, such as interest payments, will be counted as income.

(2) If payments are received in installments, the sums received (including principal and interest) will be excluded until the parent has received an amount equal to the sale price. Any amounts received after the sale price has been recovered will be counted as income.

(j) *Payment for civic obligations.* Payments received for discharge of jury duty or other obligatory civic duties.

(k) *Radiation Exposure Compensation Act payments.* Payments under Section 6 of the Radiation Exposure Compensation Act of 1990.

(Authority: 42 U.S.C. 2210 (note))

(l) *Ricky Ray Hemophilia Relief Fund payments.* Payments under section 103(c)(1) of the Ricky Ray Hemophilia Relief Fund Act of 1998.

(Authority: 42 U.S.C. 300c–22 (note))

(m) *Energy Employees Occupational Illness Compensation Program payments.* Payments under the Energy Employees Occupational Illness Compensation Program.

(Authority: 42 U.S.C. 7385e(2))

(n) *Payments to Aleuts.* Payments to certain eligible Aleuts under 50 U.S.C. Appx. 1989c–5.

(Authority: 50 U.S.C. Appx. 1989c–5(d)(2))

(o) *Increased inventory value of a business.* The value of an increase of stock inventory of a business.

(p) *Employer contributions.* An employer's contributions to health and hospitalization plans for either an active or retired employee.

(q) *Other payments.* Other payments listed in [regulation that will be published in a future Notice of Proposed Rulemaking].

(Authority: 38 U.S.C. 1315(f))

§ 5.534 When VA counts parents' income.

(a) *General rules*—(1) VA counts income for parents' dependency and indemnity compensation (DIC) purposes on a calendar year basis.

(2) The calendar year for which VA will count income is the calendar year in which the parent received the income, or anticipates receiving it.

(3) VA will count parents' total income for the full calendar year except as provided in this section.

(b) *Exception for first awards and awards following a period of no entitlement—proportionate annual income*—(1) *When used.* VA will use proportionate annual income for the first award of parents' DIC, or for resuming payments on an award of parents' DIC which was discontinued for a reason other than excess income or a change in marital or dependency status, if it is to the parents' advantage. Otherwise, VA will base the award on the parent's actual total annual income for the entire calendar year.

(2) *Proportionate annual income calculation.* A proportionate annual income calculation disregards income received, and expenses paid, prior to the effective date of an initial award of parents' DIC, or prior to the effective date of an award that follows a period of no entitlement for a reason other than excess income or a change in marital or dependency status. In performing a proportionate annual income calculation, VA first determines what the parents' income was for the portion of the calendar year from the effective date of the award of parents' DIC to the end of the calendar year. VA then calculates what annual income would

have been if income had been received at the same rate for the entire calendar year.

(3) *How VA computes proportionate annual income.* VA will use the following steps in making the proportionate annual income calculation, rounding the result only at the final step.

(i) Determine income from the effective date of the award of parents' DIC to the end of the calendar year, disregarding income received and expenses paid before the effective date of the award.

(ii) Divide the result by the number of days from the effective date of the award of parents' DIC to the end of the calendar year.

(iii) Multiply that result by 365. This result, rounded down to the nearest dollar, is the proportionate annual income.

(c) *Exception for an increase in income because of a parent's marriage.* If a parent marries during the applicable calendar year, income received by the parent's spouse prior to the date of the marriage is not counted.

(Authority: 38 U.S.C. 501(a), 1315(b))

§ 5.535 Adjustments to parents' DIC when income is less than anticipated.

(a) *Applicability.* This section applies when, based on anticipated income, VA did not pay parents' DIC for a particular calendar year, or paid less than the full applicable statutory rate for that particular calendar year, but income for that calendar year was actually less than anticipated.

(b) *Retroactive adjustment; income reporting time limitation.* VA may retroactively pay parents' DIC or pay a higher rate of parents' DIC from the first of the applicable calendar year under the following circumstances:

(1) Satisfactory evidence shows that income was actually less than anticipated for that calendar year and

(2) VA receives such evidence not later than the end of the year following the year to which the evidence pertains. Otherwise, payment or increased payments may not be made for the applicable calendar year on the basis of such evidence.

(Authority: 38 U.S.C. 501(a), 1315(e), 5110(a))

Cross-reference: *See also* § 3.256 of this chapter, ''Eligibility reporting requirements.''

§ 5.536 Parents' dependency and indemnity compensation rates.

(a) *Statutory rates.* VA pays dependency and indemnity compensation (DIC) to eligible parents based upon statutory rates that vary depending upon whether both parents are living, upon the parents' marital status, upon whether a parent is separated from his or her spouse, and upon whether a parent is a patient in a nursing home or helpless or blind or so nearly helpless or blind as to require the aid and attendance of another person. These rates are reduced by varying amounts that depend upon the parents' income. *See* 38 U.S.C. 1315. Rate and income limitations are periodically adjusted whenever there is an increase in benefit amounts payable under title II of the Social Security Act. *See* 38 U.S.C. 5312(b). In cases based on service in the Commonwealth Army of the Philippines, or as a guerrilla or as a Philippine Scout, also see § 3.251(a)(3) of this chapter (concerning calculation of the parents' DIC income limitation for claims based on such service).

(b) *Use of published rates and income limitations.* Whenever there is a cost-of-living increase in benefit amounts payable under section 215(i) of title II of the Social Security Act, VA increases the annual income limitations and the maximum monthly rates of parents' DIC by the same percentage as the Social Security increase. These increases are effective on the same date as the Social Security increase. VA will publish parents' DIC rates, the annual income limitations, and the formulas for adjusting parents' DIC rates for annual income in the Notices section of the **Federal Register** when there is a change in the amounts. VA will use this published data in calculating parents' DIC payments. The rates referenced in paragraphs (c) through (e) of this section are the rates specified in the applicable **Federal Register** notice of an increase in the rates of parents' DIC.

(c) *One parent—remarried.* Where there is only one parent and that parent has remarried and is living with his or her spouse, VA will pay DIC at the rate for one parent who has not remarried, or the rate applicable to a remarried parent living with his or her spouse, whichever will provide the greater monthly rate of DIC. However, § 5.531(c) (requiring spousal income to be combined) applies in either instance.

(d) *One parent—marriage ends or parent is separated from spouse.* Where there is only one parent and that parent has remarried and that marriage has ended or the parent is separated from his or her spouse, the rate of DIC for that parent will be that which would be payable if there were one parent alone, in the case of termination of the marriage, or two parents not living together, in the case of separation.

(e) *Two parents living—one parent files DIC application.* Where there are two parents of the veteran living and only one parent has filed an application for DIC, the rate of DIC payable to that parent will be that which would be payable to such parent if both parents had filed an application.

(f) *Minimum payment*—(1) *Five dollar minimum.* If any payment of parents' DIC is due after the applicable rate payable is adjusted for income, the amount of that payment will not be less than $5.00 monthly.

(2) *Minimum DIC payment required for special monthly DIC.* The special monthly DIC payable to a parent who is a patient in a nursing home, is helpless or blind or requires the aid and attendance of another person will be paid to a parent only if he or she qualifies for at least the minimum DIC payment described in paragraph (f)(1) of this section.

(g) *Rate changes due to changes in marital status or living arrangements.* If a parent's conditions of entitlement change because of a change in marital status or living arrangements, VA will determine the new rate payable based on the new status. For example, if the parent was unmarried for part of the year, and married for part of the year, VA will pay the applicable rate for an unmarried parent for the part of the year that the parent was unmarried, and then pay the applicable rate for a married parent for the part of the year that the parent was married.

(h) *Rates payable when one of two parents receiving death compensation elects DIC*—(1) *Parent who elects DIC.* The rate of DIC for the parent who elects DIC will not exceed the amount that would be paid to the parent if both parents had elected DIC.

(2) *Parent still receiving death compensation.* The rate of death compensation for the parent who did not elect DIC will not exceed the amount that would be paid if both parents were receiving death compensation.

(Authority: 38 U.S.C. 501(a), 1315, 5312)

§ 5.537 Payment intervals.

(a) *Monthly payments.* VA pays parents' dependency and indemnity compensation (DIC) monthly, except as provided in paragraph (b) of this section.

(b) *Exception.* VA will pay the parents' DIC benefit semiannually, on or about June 1 and December 1, if the amount of the annual benefit is less than four percent of the maximum annual rate payable for that parent. However, parents receiving payment semiannually may elect to receive payment monthly in cases in which receiving payments semiannually would cause other Federal benefits to be denied.

(Authority: 38 U.S.C. 501(a), 1315)

§§ 5.538–5.549 [Reserved]

3. Sections 5.573 through 5.579 are added to subpart G to read as follows:

§ 5.573 Effective date for dependency and indemnity compensation rate adjustments when an additional survivor files an application.

(a) *General*. If an additional survivor files an application for dependency and indemnity compensation (DIC) benefits while other survivors are receiving benefits under a running award (for example, one or more children are receiving benefits and another child files for benefits), VA will reduce the running award while VA determines the additional survivor's entitlement when:

(1) The additional survivor has apparent entitlement to benefits; and

(2) Payment to the additional survivor would reduce the DIC benefits being paid to other survivors under the running award.

(b) *Effective date of reduction to running awards*.—(1) *Benefits payable prior to filing of application*. If benefits would be payable to the additional survivor from a date prior to the date VA received the additional survivor's application, the effective date of any reduction in the running award will be the date of the additional survivor's potential entitlement.

(2) *Benefits payable from the date of application*. If benefits would be payable to the additional survivor from the date VA received the additional survivor's application, VA will reduce the running award on the later of the following dates:

(i) The date VA received the additional survivor's application, or

(ii) The first day of the month that follows the month for which VA last paid benefits to the original survivor(s).

(c) *Effective date for award to additional survivor*. If an award for the additional survivor is warranted, the full rate to which the additional survivor is entitled is payable to the additional survivor from the effective date of that award.

(d) *Resumption of previous level of payments to other survivors*. If entitlement is not established for the additional survivor, benefits previously being paid to other survivors will be resumed, if otherwise in order, from the date of the reduction in the running award.

(e) *Exception*. This section does not apply to cases governed by § 5.524, ''Awards of dependency and indemnity compensation benefits to children when there is a retroactive award to a school child.''

(Authority: 38 U.S.C. 1313, 5110(a), (e), 5112)

§ 5.574 Effective dates of awards and discontinuances of special monthly dependency and indemnity compensation.

(a) *Effective date of award*—(1) *General rule*. The effective date for an award of special monthly dependency and indemnity compensation (DIC) will be the date VA receives the application for special monthly DIC or the date entitlement arose, as defined in [regulation that will be published in a future Notice of Proposed Rulemaking], whichever date is later.

(2) *Exception—cases involving a retroactive award of basic DIC*. When an award of basic DIC is effective for a period prior to the date of receipt of the application and a spouse or parent is also entitled to special monthly DIC at the time of that basic DIC award, the effective date for special monthly DIC will be the later of the following dates:

(i) The effective date of the basic DIC award, or

(ii) The date entitlement to special monthly DIC arose. *See* [regulation that will be published in a future Notice of Proposed Rulemaking] (defining ''date entitlement arose'').

(3) *Surviving spouse or parent in receipt of hospital, institutional, or domiciliary care at VA expense*. If the surviving spouse or parent is provided hospital, institutional, or domiciliary care at VA expense, the effective date of any special monthly DIC award based on the need for aid and attendance under § 5.511(a) or (b) will be the date of departure from the medical facility.

(b) *Effective date of discontinuance*—(1) *Aid and attendance*. When a parent or surviving spouse is no longer in need of aid and attendance, VA will discontinue special monthly DIC based upon the need of aid and attendance effective the first day of the month that follows the month for which VA last paid that benefit.

(2) *Housebound*. When a surviving spouse is no longer housebound, VA will discontinue special monthly DIC based upon housebound status effective the first day of the month that follows the month for which VA last paid that benefit.

(Authority: 38 U.S.C. 501(a), 1311(c) and (d), 1315(g), 5110, 5112)

§§ 5.575–5.579 [Reserved]

[FR Doc. 05–21026 Filed 10–20–05; 8:45 am]

BILLING CODE 8320–01–P

Reader Aids

Federal Register

Vol. 70, No. 203

Friday, October 21, 2005

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal__register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, OCTOBER

57483–57724 3
57725–57992 4
57993–58290 5
58291–58602 6
58603–58968 7
58969–59208 11
59209–59620 12
59621–59986 13
59987–60202 14
60203–60404 17
60405–60714 18
60715–61024 19
61025–61210 20
61211–61348 21

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7936 58281
7937 58283
7938 58285
7939 58287
7940 59209
7941 59977
7942 59979
7943 59981
7944 59983
7945 59985
7946 61013
7947 61015
7948 61017
7949 61019

Executive Orders:
11145 (Continued by 13385) 57989
11183 (Continued by 13385) 57989
11287 (Continued by 13385) 57989
12131 (Continued by 13385) 57989
12196 (Continued by 13385) 57989
12216 (Amended by 13385) 57989
12367 (Continued by 13385) 57989
12382 (Continued by 13385) 57989
12473 (Amended by 13387) 60697
12905 (Continued by 13385) 57989
12958 (See 13387).....60697
12978 (See Notice of October 19, 2005).....61209
12994 (Continued by 13385) 57989
13226 (Amended by 13385) 57989
13231 (Continued by 13385) 57989
13237 (Continued by 13385) 57989
13256 (Continued by 13385) 57989
13265 (Continued by 13385) 57989
13270 (Continued by 13385) 57989
13316 (Superseded in part by 13385).....57989
13231 (Amended by 13385) 57989
13283 (Revoked by 13385) 57989
13326 (Revoked by 13385) 57989
13328 (Revoked by 13385) 57989
13369 (Amended by 13386) 58289
13385 57989
13386 58289
13387 60697

Administrative Orders:
Presidential Determinations:
No. 2005–38 of September 26, 2005 60397
No. 2005–39 of September 28, 2005 60399
No. 2005–40 of September 28, 2005 60401
No. 2005–41 of September 29, 2005 60403
Notices:
Notice of October 17, 2005 61023
Notice of October 19, 2005 61209

5 CFR
532 61211
1650 59621

6 CFR
7 61211
13 59209

7 CFR
54 58969
62 58969
205 61217
300 57993
301 57993
302 57993
305 57993
318 57993
319 57993
322 57993
330 57993
340 57993
351 57993
352 57993
353 57993
354 57993
355 57994
360 57993
371 57993
380 57993
915 59622
927 59625
979 57995

981 60405
983 61220
1005 59221
1007 59221
1902 59224
4279 57483
4287 57483
Proposed Rules:
51 61068
301 ....58084, 59280
319 59283
1030 58086
1219 ....59678, 61238
1260 58095
1437 57520

9 CFR

77 ....58291, 61025, 61226
93 57486
327 57725

10 CFR

430 ....59122, 60407
431 60407

11 CFR

Proposed Rules:
100 60744

12 CFR

34 59987
204 58603
225 59987
229 60418
323 59987
333 60420
564 59987
620 58293
621 58293
650 58293
651 58293
652 58293
653 58293
654 58293
655 58293
722 59987
1700 59628
Proposed Rules:
3 61068
208 61068
225 61068
226 60235
307 60015
325 61068
331 60019
362 60019
567 61068

13 CFR

126 58974

14 CFR

21 59932
25 ....57726, 57728, 57730, 58605, 59630, 59632, 59635, 59988, 60422
39 ....57487, 57491, 57493, 57732, 57734, 57736, 57739, 57740, 57998, 58000, 58002, 58005, 58007, 58257, 58293, 58295, 58298, 58300, 58303, 58305, 59229, 59231, 59233, 59236, 59237, 59240, 59243, 59244, 59246, 59252, 59256, 59258, 59263, 59266, 59636, 59638, 59640, 59644, 59647, 60203, 60205, 60206, 60211, 61226, 61229
71 ....57497, 57498, 57746, 58307, 58308, 58607, 59651, 59652, 59653, 59990, 59992, 60132, 60424, 61026
73 58607
95 57499
97 ....57504, 57746, 60715, 61027
119 58796
121 ....58796, 59932
135 ....58796, 59932
145 ....58796, 59932
183 59932
Proposed Rules:
1 58308
25 58308
39 ....57804, 58100, 58103, 58107, 58110, 58352, 58355, 58357, 58358, 58620, 58623, 58626, 58628, 58631, 58634, 60244, 60246, 60453, 60744, 61078, 61239
71 57805
91 58508
121 ....58508, 58966, 58967
125 58508
129 58508
135 ....58966, 58967
382 61241
1260 60456

15 CFR

902 61233
Proposed Rules:
7 59678

16 CFR

Proposed Rules:
23 57807
305 60716
Ch. II 60031

17 CFR

200 61030
Proposed Rules:
1 58985
145 58985
147 58985

18 CFR

153 60426
157 60426
375 60426
Proposed Rules:
2 ....58636, 60748
33 ....58636, 60748
131 60456
292 60456

19 CFR

12 ....58009, 61031
102 58009
141 58009
144 58009
146 58009
163 58009

20 CFR

Proposed Rules:
404 ....58999, 60251, 60463
408 60251
411 60748
416 ....58999, 60251, 60463

21 CFR

1 57505
20 57505
310 58974
341 58974
510 57927
866 57748
Proposed Rules:
101 60749
133 60751
589 58570

22 CFR

96 59654

24 CFR

983 59892
Proposed Rules:
3280 61178
3282 61178
3288 61178

25 CFR

161 58882
Proposed Rules:
517 60470

26 CFR

1 ....57509, 57750, 60132
54 59620
801 60214
Proposed Rules:
1 ....57523, 57807, 57930, 60475
301 ....57523, 60475
801 60256

27 CFR

9 ....59993, 59996

29 CFR

697 57722
1610 57510
2560 59620
2590 59620
4022 60002
4044 60002
Proposed Rules:
1910 59290
1926 59290

30 CFR

732 61194
Proposed Rules:
46 57808
48 57808
50 57808
56 57808
57 57808
75 57808
77 57808
117 57524
915 60478
936 60481

31 CFR

29 60003

32 CFR

179 58016
504 60723
631 60728

33 CFR

100 ....58055, 61032, 61034
117 ....58056, 58057, 58059, 58308, 59655
165 ....58608, 60004
Proposed Rules:
165 58646

34 CFR

668 61037
674 61037
682 61037
685 61037

36 CFR

1230 58978

37 CFR

201 58310
256 58310
Proposed Rules:
201 57526

38 CFR

Proposed Rules:
5 61326

39 CFR

111 61037
Proposed Rules:
111 60036

40 CFR

3 59848
9 ....59402, 59848, 60134
35 61039
51 ....59582, 59848
52 ....57511, 57750, 58311, 58313, 58321, 58325, 58978, 59657, 60008, 60010, 60735, 60738, 60740, 60741, 61232
60 59848
62 ....57762, 57764, 58328, 61044
63 ....57513, 59402, 59848
69 59848
70 59848
71 59848
80 58330
81 ....59657, 61232
82 60443
122 60134
123 59848
142 59848
145 59848
162 59848
166 61232
180 59268
233 59848
257 59848
258 59848
260 59402
261 ....57769, 60217
264 59402
265 59402
266 59402
270 59402
271 ....59402, 59848
281 59848
403 ....59848, 60134
501 59848
710 60217
745 59848
763 59848
Proposed Rules:
51 ....59680, 61081
52 ....57531, 58112, 58119,

58138, 58146, 58154, 58167, 59681, 59688, 59690, 60036, 60037, 60769, 61081, 61104
62 .....57531, 57811, 57812, 58361, 61106
63.....57534
69.....59690
81.....59690
158.....61242
194.....61107
302.....57813
355.....57813
372.....57822
403.....60199

41 CFR

60–1.....58946
301–10.....61046
301–11.....60221
301–74.....60221

42 CFR

73.....61047
405.....57785
412.....57785
413.....57785
415.....57785
419.....57785
422.....57785
431.....58260
457.....58260
483.....58834
485.....57785
Proposed Rules:
411.....59182
421.....58649
1001.....59015

43 CFR

3000.....58854
3100.....58854
3110.....58854
3120.....58854
3130.....58854
3140.....58610
3200.....58854
3470.....58854
3500.....58854
3600.....58854
3800.....58854
3830.....58854
3833.....58854
3835.....58854
3836.....58854
3860.....58854
3870.....58854
Proposed Rules:
4.....58167
2560.....58654

44 CFR

65.....57786, 57788
67.....57791
206.....60443
Proposed Rules:
67.....57848, 57850

45 CFR

Proposed Rules:
302.....60038
303.....60038
307.....60038
Ch. XXV.....60257

46 CFR

296.....59400
Proposed Rules:
389.....60770

47 CFR

1.....61049
5.....59276
15.....60742
22.....61049
24.....61049
25.....59276
27.....58061, 61049
51.....60222
63.....60222
64.....59664, 60222
73 .....59277, 59279, 60742
90.....61049
97.....59276
Proposed Rules:
22.....60770
24.....60770
27.....60770
63.....60259
64.....59704, 60259
73 .....59292, 59293, 59294, 59295, 60781

48 CFR

Ch. 2.....58980
204.....58980
215.....58980
252.....58980
Proposed Rules:
2.....60782
4.....60782
52.....60782
1835.....60484
1852.....60484

49 CFR

172.....59119
303.....58616
387.....58065
591.....57793
592.....57793
594.....57793
Proposed Rules:
29.....58175
192.....57536
387.....61111
393.....58657
571.....57549

50 CFR

17 .....58335, 59808, 59952, 60658, 60886
222.....60013
223.....60013
622.....57802
648 .....57517, 57802, 58351, 60449, 60450, 61233
660 .....58066, 59296, 61063, 61235
679 .....57518, 57803, 58983, 59675, 59676, 60742, 61067
Proposed Rules:
17 .....57851, 58361, 60051, 60608
21.....59710, 60052
622.....60058
635.....58177, 58366

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT OCTOBER 21, 2005

AGRICULTURE DEPARTMENT

Rural Utilities Service

Electric standards and specifications for materials and construction:

Bulletin 1728F-804 (12.47/7.2 kV Line Construction); incorporation by reference; published 4-21-05

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Northeastern United States fisheries—

Atlantic sea scallop; published 8-22-05

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

New York; published 10-5-05

HOMELAND SECURITY DEPARTMENT

Classified national security information; published 10-21-05

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Audit requirement for credit union service organizations; published 9-21-05

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 10-6-05

BAE Systems (Operations) Ltd.; published 10-6-05

Boeing; published 9-16-05

Fokker; published 10-6-05

Lycoming; published 9-16-05

McDonnell Douglas; published 9-16-05

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Occupant crash protection—

Seat belt assemblies; published 8-22-05

RULES GOING INTO EFFECT OCTOBER 22, 2005

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

National Organic Program:

Allowed and Prohibited Substances (Livestock); National List; amendments; published 10-21-05

Pistachios grown in—

California; published 10-21-05

FEDERAL RESERVE SYSTEM

Availability of funds and collection of checks (Regulation CC):

Check processing operations restructuring; amendments; published 8-12-05

COMMENTS DUE NEXT WEEK

AGENCY FOR INTERNATIONAL DEVELOPMENT

Assistance awards to U.S. non-Governmental organizations; marking requirements; Open for comments until further notice; published 8-26-05 [FR 05-16698]

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton classing, testing and standards:

Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

Walnuts grown in—

California; Walnut Marketing Board, membership; comments due by 10-25-05; published 8-26-05 [FR 05-17055]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Exotic Newcastle disease; disease status change—

Argentina; comments due by 10-24-05; published 8-23-05 [FR 05-16689]

AGRICULTURE DEPARTMENT

Forest Service

Oil and gas operations:

Onshore Federal and Indian oil and gas leases; approval of operations (Order No.1); comments due by 10-25-05; published 8-26-05 [FR 05-17051]

AGRICULTURE DEPARTMENT

Natural Resources Conservation Service

Reports and guidance documents; availability, etc.:

National Handbook of Conservation Practices; Open for comments until further notice; published 5-9-05 [FR 05-09150]

AGRICULTURE DEPARTMENT

Rural Housing Service

Program regulations:

Construction and repair; surety requirements; comments due by 10-25-05; published 8-26-05 [FR 05-17026]

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Meetings; Sunshine Act; Open for comments until further notice; published 10-4-05 [FR 05-20022]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Marine mammals:

Commercial fishing operations; incidental taking—

Fisheries categorized according to frequency of incidental takes; 2005 list; comments due by 10-24-05; published 8-25-05 [FR 05-16939]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

DEFENSE DEPARTMENT

Acquisition regulations:

Pilot Mentor-Protege Program; Open for comments until further notice; published 12-15-04 [FR 04-27351]

EDUCATION DEPARTMENT

Grants and cooperative agreements; availability, etc.:

Vocational and adult education—

Smaller Learning Communities Program; Open for comments until further notice; published 2-25-05 [FR E5-00767]

ENERGY DEPARTMENT

Meetings:

Environmental Management Site-Specific Advisory Board—

Oak Ridge Reservation, TN; Open for comments until further notice; published 11-19-04 [FR 04-25693]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Commercial and industrial equipment; energy efficiency program:

Test procedures and efficiency standards—

Commercial packaged boilers; Open for comments until further notice; published 10-21-04 [FR 04-17730]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Hydrochloric acid production; comments due by 10-24-05; published 8-24-05 [FR 05-16813]

Air pollution control:

Interstate transport of fine particulate matter and ozone reduction; response to Section 126 petitions; Acid Rain Program revisions; comments due by 10-24-05; published 8-24-05 [FR 05-15529]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Illinois; comments due by 10-24-05; published 9-22-05 [FR 05-18955]

Kentucky; comments due by 10-24-05; published 9-22-05 [FR 05-18959]

Tennessee; comments due by 10-24-05; published 9-22-05 [FR 05-18952]

Air quality implementation plans; approval and promulgation; various States:

Texas; comments due by 10-28-05; published 9-28-05 [FR 05-19357]

Environmental statements; availability, etc.:
Coastal nonpoint pollution control program—
Minnesota and Texas; Open for comments until further notice; published 10-16-03 [FR 03-26087]
Hazardous waste program authorizations:
North Dakota; comments due by 10-26-05; published 9-26-05 [FR 05-19136]
South Dakota; comments due by 10-27-05; published 9-27-05 [FR 05-19255]
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Myclobutanil; comments due by 10-24-05; published 8-24-05 [FR 05-16805]
Water pollution control:
National Pollutant Discharge Elimination System—
Concentrated animal feeding operations in New Mexico and Oklahoma; general permit for discharges; Open for comments until further notice; published 12-7-04 [FR 04-26817]
Texas; general permit for territorial seas; Open for comments until further notice; published 9-6-05 [FR 05-17614]
Water pollution; effluent guidelines for point source categories:
Meat and poultry products processing facilities; Open for comments until further notice; published 9-8-04 [FR 04-12017]

FEDERAL COMMUNICATIONS COMMISSION
Committees; establishment, renewal, termination, etc.:
Technological Advisory Council; Open for comments until further notice; published 3-18-05 [FR 05-05403]
Common carrier services:
Interconnection—
Incumbent local exchange carriers unbounding obligations; local competition provisions; wireline services offering advanced telecommunications capability; Open for comments until further notice; published 12-29-04 [FR 04-28531]
International fixed public radiocommunication services—
Satellite network earth stations and space stations; spectrum usage; comments due by 10-28-05; published 9-28-05 [FR 05-19160]

FEDERAL ELECTION COMMISSION
Bipartisan Campaign Reform Act; implementation:
Non-Federal funds; to solicit and to direct definitions; comments due by 10-28-05; published 9-28-05 [FR 05-19330]

HEALTH AND HUMAN SERVICES DEPARTMENT
Centers for Medicare & Medicaid Services
Medicaid:
State allotments for payment of Medicare Part B premiums for qualifying individuals; comments due by 10-25-05; published 8-26-05 [FR 05-16973]
State disproportionate share hospital payments; comments due by 10-25-05; published 8-26-05 [FR 05-16974]

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Reports and guidance documents; availability, etc.:
Evaluating safety of antimicrobial new animal drugs with regard to their microbiological effects on bacteria of human health concern; Open for comments until further notice; published 10-27-03 [FR 03-27113]
Medical devices—
Dental noble metal alloys and base metal alloys; Class II special controls; Open for comments until further notice; published 8-23-04 [FR 04-19179]

HOMELAND SECURITY DEPARTMENT
Coast Guard
Anchorage regulations:
Maryland; Open for comments until further notice; published 1-14-04 [FR 04-00749]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Grants and cooperative agreements; availability, etc.:
Homeless assistance; excess and surplus Federal properties; Open for comments until further notice; published 8-5-05 [FR 05-15251]

INTERIOR DEPARTMENT
Indian Affairs Bureau
Indian tribes, acknowledgment of existence determinations, etc.:
Western Shoshone; comments due by 10-28-05; published 9-28-05 [FR 05-19322]

INTERIOR DEPARTMENT
Land Management Bureau
Oil and gas operations:
Onshore Federal and Indian oil and gas leases; approval of operations (Order No.1); comments due by 10-25-05; published 8-26-05 [FR 05-17051]

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species permit applications
Recovery plans—
Paiute cutthroat trout; Open for comments until further notice; published 9-10-04 [FR 04-20517]
Endangered and threatened species:
Critical habitat designations—
Coachella Valley milk-vetch; comments due by 10-27-05; published 9-27-05 [FR 05-19098]
Findings on petitions, etc.—
California spotted owl; comments due by 10-28-05; published 10-14-05 [FR 05-20646]

JUSTICE DEPARTMENT
Justice Programs Office
Crime victim services:
International Terrorism Victim Expense Reimbursement Program; comments due by 10-24-05; published 8-24-05 [FR 05-16495]

LABOR DEPARTMENT
Labor-Management Standards Office
Standards of conduct:
Labor organization officer and employee reports; comments due by 10-28-05; published 8-29-05 [FR 05-16907]

NUCLEAR REGULATORY COMMISSION
Environmental statements; availability, etc.:
Fort Wayne State Developmental Center; Open for comments until further notice; published 5-10-04 [FR 04-10516]
Rulemaking petitions:
Nevada; comments due by 10-26-05; published 8-12-05 [FR 05-15990]

PERSONNEL MANAGEMENT OFFICE
Retirement:
Federal Employees Retirement System (FERS)—
Retirement credit for certain Government service performed abroad; comments due by 10-28-05; published 8-29-05 [FR 05-17053]

SMALL BUSINESS ADMINISTRATION
Disaster loan areas:
Maine; Open for comments until further notice; published 2-17-04 [FR 04-03374]

SOCIAL SECURITY ADMINISTRATION
Social security benefits and supplemental security income:
Federal, old age, survivors, and disability insurance; and aged, blind, and disabled—
Initial disability claims adjudication; administrative review process; comments due by 10-25-05; published 7-27-05 [FR 05-14845]

OFFICE OF UNITED STATES TRADE REPRESENTATIVE
Trade Representative, Office of United States
Generalized System of Preferences:
2003 Annual Product Review, 2002 Annual Country Practices Review, and previously deferred product decisions; petitions disposition; Open for comments until further notice; published 7-6-04 [FR 04-15361]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 10-24-05; published 8-23-05 [FR 05-16457]
Boeing; comments due by 10-24-05; published 9-7-05 [FR 05-17670]
Bombardier; comments due by 10-24-05; published 8-23-05 [FR 05-16533]
Construcciones Aeronauticas, S.A.;

comments due by 10-24-05; published 9-22-05 [FR 05-18906]
General Electric Co.; comments due by 10-24-05; published 8-23-05 [FR 05-16709]
Gulfstream; comments due by 10-26-05; published 9-26-05 [FR 05-19141]
Short Brothers; comments due by 10-25-05; published 8-26-05 [FR 05-16750]
Turbomeca S.A.; comments due by 10-25-05; published 8-26-05 [FR 05-16834]
Airworthiness standards:
Special conditions—
Premier Avionics Design Ltd.; Cessna 441 airplane; electronic flight instrumentation system installation; comments due by 10-28-05; published 9-28-05 [FR 05-19289]
Area navigation routes; comments due by 10-28-05; published 9-28-05 [FR 05-19290]
Class B airspace; comments due by 10-27-05; published 8-23-05 [FR 05-16743]
Class E airspace; comments due by 10-24-05; published 9-9-05 [FR 05-17836]

TRANSPORTATION DEPARTMENT
Federal Motor Carrier Safety Administration
Motor vehicle safety standards:
Commercial driver's license standards; school bus endorsement; comments due by 10-28-05; published 9-28-05 [FR 05-19292]

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Civil monetary penalties; inflation adjustment; comments due by 10-24-05; published 9-8-05 [FR 05-17747]
Motor vehicle safety standards:
Child restraint systems—
Recordkeeping requirements; comments due by 10-24-05; published 9-9-05 [FR 05-17844]

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Special rule regarding certain section 951 pro rata share allocations; comments due by 10-24-05; published 8-25-05 [FR 05-16610]
Subchapter T cooperatives; return requirements; comments due by 10-27-05; published 7-29-05 [FR 05-15060]

TREASURY DEPARTMENT
Alcohol and Tobacco Tax and Trade Bureau
Alcoholic beverages:
Imported natural wine; certification requirements; cross-reference; comments due by 10-24-05; published 8-24-05 [FR 05-16771]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 2360/P.L. 109–90

Department of Homeland Security Appropriations Act, 2006 (Oct. 18, 2005; 119 Stat. 2064)

Last List October 17, 2005

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.