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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Parts 121 and 123

**RIN 3245–AF41**

## Small Business Size Standards, Inflation Adjustment to Size Standards; Business Loan Program; Disaster Assistance Loan Program

**AGENCY:** Small Business Administration (SBA).

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** SBA is adjusting its monetary-based size standards (e.g., receipts, net income, net worth, and financial assets), for the effect of inflation that has occurred since the last inflation adjustment in February 2002. Since the last inflation adjustment, the general level of prices has increased 8.7%. This action would restore small business eligibility to businesses that have lost that status due to inflation. In addition, this rule changes the process for determining the size of small business concerns applying for SBA Business Loans and Economic Injury Disaster Loans (EIDL) from a test considering only the primary industry of the applicant, to a two-part test considering both the primary industry of the applicant and the primary industry of the applicant with affiliates. This rule also changes the date on which SBA determines size status for purpose of EIDL applications for businesses located in disaster areas declared as a result of Hurricanes Katrina, Rita, and Wilma.

**DATES:** *Effective Date:* December 6, 2005.

*Applicability Dates:* For purposes of Federal procurements, this rule applies to solicitations, except for noncompetitive section 8(a) contracts, issued on or after January 5, 2006. For purposes of noncompetitive section 8(a) contracting actions, the new size standards are applicable to offers of requirements that are accepted by SBA on or after January 5, 2006.

*Comment Period:* Comments must be received by SBA on or before January 5, 2006.

**ADDRESSES:** You may submit comments identified by RIN 3245–AF41 by any of the following methods: (1) Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments; (2) Fax: (202) 205–6390; or (3) Mail/Hand Delivery/Courier: Gary M. Jackson, Assistant Administrator for Size Standards, 409 Third Street, SW., Mail Code, 6530, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Carl Jordan or Diane Heal, Office of Size Standards, at (202) 205–6618 or at *sizestandards@sba.gov.*

**SUPPLEMENTARY INFORMATION:**

### Inflationary Adjustment

SBA is adjusting certain monetary-based size standards (e.g., receipts, net income, net worth, and financial assets) for the effect of inflation that has occurred since the last inflation adjustment that was effectuated on February 22, 2002 (67 FR 3041, January 23, 2002). From the third quarter of 2001 (the ending period for the last inflation adjustment) to the second quarter of 2005, the general level of prices in the United States increased approximately 8.7 percent as measured by the chain-type price index for Gross Domestic Product (GDP). The purpose of this action is to maintain the value of size standards in inflation-adjusted terms and to restore eligibility to businesses that may have lost their small business status due solely to price level increases rather than from increased business activity.

While inflationary adjustments are not made on a fixed schedule, prior adjustments occurred in 2002, 1994 (59 FR 16513, April 7, 1994), 1984 (49 FR 5024, February 9, 1984) and 1975 (40 FR 32824 as corrected by 40 FR 36310, August 5, 1975). This interim final rule also satisfies 13 CFR 121.102(c) requiring SBA to assess the impact of inflation on its monetary-based size standards at least once every five years. This provision provides assurances to the public that SBA is monitoring inflation and is making a decision whether or not to adjust size standards within a reasonable period of time since its last inflation adjustment.

In this rule, SBA is modifying its size standards after three-and-one-half years in recognition that enough inflation has occurred to allow for an increase to SBA's ''anchor'' size standard of $6 million by a half-million dollar increment. SBA believes that this level of adjustment to its anchor size standard, while small, is nonetheless a meaningful increase which affects the small business eligibility of a relatively significant number of businesses. This rule also increases higher monetary size standards by $1 million to $2.5 million, depending on the current size standard. For example, the $21 million size standard for Computer Systems Design Services increases to $23 million since an 8.7 percent increase to that level of the size standard supports a $2 million increase (as explained in next section). As discussed in the regulatory flexibility analysis, SBA estimates that approximately 12,000 businesses would regain small business status as a result of this rule.

Inflation has no impact on industry size standards based on number of employees, refining capacity, or electric generation. Thus, this rule makes no adjustment to these non-monetary size standards. Any change to a non-monetary size standard will be as a result of a specific review of industry characteristics.

### How Does SBA Adjust Size Standards for Inflation?

The methodology for adjusting the size standards for inflation is as follows:

1. *Selection of inflation measure:* SBA used the chain-type price index for GDP as published by the U.S. Department of Commerce, Bureau of Economic Analysis (BEA), which is a broad measure of inflation for the economy as a whole, and is available on a quarterly basis.

2. *Selection of a base period:* SBA selected the third quarter of 2001 as the base period since this was the ending period of the last broad-based inflation adjustment in 2002. The chain-type price index for GDP stood at 102.690 at that time.

3. *Selection of an end period:* We selected the second quarter of 2005 as the end period for this inflation adjustment since it is the latest available quarterly data published by the BEA.

The chain type price index for GDP stood at 111.612 at that time.

4. *Calculation of inflation:* Based on these price indexes, inflation increased 8.7% between the base and ending periods $(((111.612/102.690) - 1.00) \times 100 = 8.7\%)$.

5. *Application of the inflation adjustment to the monetary-based size standards:* The current size standards were multiplied by 1.087 and rounded to the closest $0.5 million.

**Special Situations Regarding Inflation Adjustment**

*Small Business Investment Company (SBIC) Program*

Certain monetary-based size standards are not changed in this rule. The size standards for agricultural industries and for ''smaller enterprises'' under the SBIC Program are set by statute and, therefore, cannot be changed through rulemaking. SBA has elected not to change the alternate net worth and net income size standard for the Small Business Investment Companies (SBIC) Program. In 1994, the average net worth and net income criteria were increased threefold. Therefore, the current size standards remain in place for the SBIC Program and no further increase is deemed necessary at this time.

*Size Standards Adjusted Since 2002*

SBA has changed several receipts-based size standards since the last inflation adjustment in 2002. SBA is applying the full inflation adjustment of 8.7 percent to those receipts-based size standards as well. When SBA establishes or revises a size standard, it does so in relation to other existing size standards to ensure that industries with similar characteristics have similar size standards. To provide a smaller adjustment, while technically precise, would be inconsistent with the size standards decision-making process.

*Size Standards of $2 Million or Less*

At the time of the 2002 adjustment, prices had not increased by an amount sufficient to support increasing size standards of $2 million or less. The cumulative effects of inflation from the 2002 adjustment of 15.8 percent and the current adjustment of 8.7 percent is sufficient to increase those size standards by a half-million dollar increment. Therefore, this interim final rule increases size standards of $2 million or less by $0.5 million. Affected industries include real-estate agents and cattle feedlots.

*Program-Based Size Standards*

Most SBA programs apply size standards established for industries defined by the North American Industry Classification System (NAICS). This rule lists the size standard for each NAICS industry with a monetary-based size standard (except for the $750,000 statutorily established agricultural size standard). SBA has also established size standard(s) on a program basis rather than an industry basis, which are adjusted in the same manner as the industry-based size standards (except for the SBIC program as discussed above). The following table lists the program-based size standards and the changes adopted by this rule.

| Program | CFR citation | Size standard | | |
|---|---|---|---|---|
| | | Current size standard (in millions) | Measurement | New size standard (in millions) |
| 504 Program | 13 CFR 121.301(b) | $7.0 | Net Worth | $7.5 |
| | | $2.5 | Net Income | * $2.5 (retained) |
| Surety Bond Guarantee Assistance | 13 CFR 121.301(d) | $6.0 | Average Annual Receipts | $6.5 |
| Sales of Government Property Other Than Manufacturing (which uses employee-based size standards). | 13 CFR 121.502 | $6.0 | Average Annual Receipts | $6.5 |
| Stockpile Purchases | 13 CFR 121.512 | $48.5 | Average Annual Receipts | $51.5 |

* The $2.5 million size standard is not being adjusted at this time since the inflation rate supports a change significantly less than $0.5 million.

**Determining Size Eligibility for SBA Business Loans and Economic Injury Disaster Loans**

In 2004, SBA adopted a policy to determine size eligibility for its Business Loan and EIDL programs based on the primary industry of the applicant (69 FR 29192, May 21, 2004). Prior to that time, SBA utilized a two-step process that determined size eligibility for these programs based on the primary industry of the applicant and the primary industry of the applicant including its affiliates. SBA subsequently concluded that the two-step process was not only unnecessary but also the wording was unclear, causing confusion in its proper application (67 FR 70342, November 22, 2002). Since the implementation of the 2004 provision, SBA has come to the realization that a two-step size eligibility process is necessary to ensure that its financial loan programs equitably assist small businesses that have affiliates. Several loans that would have been approved under the previous two-step process have been denied under the existing regulation. However, SBA believes that those businesses should have been considered eligible for its small business financial assistance programs because the size of the applicant's affiliates are within the size standard for the industries in which they operate. Therefore, SBA is establishing a new two-step size eligibility provision for its financial assistance programs.

The provision contained in this rule is very similar to SBA's previous regulation, but with additional language explaining how to determine size eligibility. The first step is to determine the primary industry and size of the applicant alone (i.e., without affiliates). If the applicant's size exceeds the applicable size standard, it is deemed ineligible. If the applicant's size does not exceed the applicable size standard, and has affiliates, the second step is triggered. The second step of the analysis is to determine the primary industry and size of the applicant including its affiliates. The applicant is eligible if the combined size of the applicant and its affiliates does not exceed either the size standard for the applicant's primary industry or the size standard for the primary industry of the applicant and its affiliates, whichever is higher.

The selection of the higher of the two size standards under the two-part test avoids a number of problems that existed when SBA only considered the size standard for the primary industry of the applicant (as it had done before 2004). For example, two businesses operating in the same group of industries with a different distribution

of receipts or employees could result in a larger business qualifying for SBA assistance while a smaller business is denied. Under this rule's two-step process, the applicant must be small within its primary industry, but will not be found ineligible in cases where the size standard for the primary industry of the applicant and its affiliates is lower than the size standard of the applicant's primary industry.

In some cases, the primary industry of the applicant alone and the primary industry of the applicant combined with its affiliates may have size standards based on a different measure of size. For example, a retail store applicant whose primary industry including its affiliates is wholesale trade will have the primary industry of a retail store based on average annual receipts while the primary industry of the applicant with affiliates is wholesale trade which is based on number of employees. In applying the two-step process, the size of the applicant combined with its affiliates must be compared against the same measure of size (receipts or employment) for the applicable size standard. Thus, in this scenario, if a retail store applicant (with a size standard based on receipts) whose primary industry including its affiliates is wholesale trade (with a size standard based on employees) is eligible under the receipts-based size standard, but ineligible under the employee-based size standard, the size standard which gives the benefit of the doubt to the applicant should be used.

The above criteria for determining size eligibility for SBA's financial assistance programs depend on designating the primary industry of the applicant with and without affiliates. SBA's regulations at 13 CFR 121.107 provide the following guidance in making this designation:

> In determining the primary industry (kind of work) in which a concern or a concern combined with its affiliates is engaged, SBA considers the distribution of receipts, employees and costs of doing business among the different industries in which business operations occurred for the most recently completed fiscal year. SBA may also consider other factors, such as the distribution of patents, contract awards, and assets.

Under this guidance, a determination must first be made of the kind of work a business performs and which among those activities represents the largest activity. Consideration of the percentage distribution of receipts and other factors among the various business activities may be relied upon in identifying the business's main activity. The industry this activity falls into is based on the industry definitions established by the NAICS. These definitions are listed in the NAICS United States, 2002 manual and may also be found in the U.S. Bureau of the Census Web site at *http://www.census.gov/epcd/naics02/*.

For example, a business generating 70 percent of receipts from selling carpets and vinyl tiles to the general public and 30 percent of receipts from window treatments is primarily a floor covering retail store since that represents both a majority of its work and is its largest single business activity. NAICS classifies this activity under the industry of ''Floor Covering Stores'', NAICS code 442210. SBA's size standard for this industry is $6.5 million in average annual receipts.

The determination of primary industry for applicants with affiliates involves a more detailed analysis, but is essentially the same process as above. For the applicant and each affiliate, identify the types of business activities performed and the level of revenues, employees or other appropriate factors. The business activity that accounts for the largest single activity represents the primary industry of the applicant and its affiliates. The examination of receipts should be the first consideration in determining primary industry. In some cases, however, receipts may not provide a clear picture, and it will be necessary to examine number of employees (emphasis should be placed on full-time employees) or other factors. In every case, the decision should be reasonable and justified.

For example, there is an applicant that has two affiliates engaged in five business activities as follows:

| Business activity | NAICS code | Size | | Company |
|---|---|---|---|---|
| | | Sales | Employees | |
| Carpet sales | 442210 | $1,000,000 | 10 | Applicant. |
| Wall covering sales | 442291 | 400,000 | 4 | Applicant. |
| Blind manufacturing | 337920 | 10,000,000 | 25 | Affiliate 1. |
| Draperies manufacturing | 314121 | 500,000 | 5 | Affiliate 1. |
| Interior design | 541410 | 500,000 | 8 | Affiliate 2. |

The total size of the business is 52 employees and $12.4 million in sales. Blind manufacturing represents its largest activity, measured in terms of either sales or employees, and therefore, is the primary industry of the applicant and its affiliates. With a total of 52 employees, the applicant and its affiliates do not exceed the 500 employee size standard for NAICS 337920, Blind and Shade Manufacturing.

**Justification for Determining the Size Status of Businesses Affected by the Hurricanes on the Date SBA Accepts EIDL Applications From Those Businesses**

SBA is also changing the date as of which size status is determined for purposes of Economic Injury Disaster Loan (EIDL) applications submitted by businesses located in disaster areas declared as a result of Hurricanes Katrina, Rita, and Wilma. Existing regulations at 13 CFR 123.300(b) require an applicant for an EIDL loan to be small as of the date the disaster commenced, as set forth in the disaster declaration. SBA is changing the date on which SBA determines size status of those businesses to ''the date SBA accepts the application for processing.''

This amendment would provide immediate access to SBA's EIDL program to those businesses that would have been ineligible prior to Hurricanes Katrina, Rita, and Wilma based solely as a result of inflation that has occurred since the SBA last adjusted its monetary-based size standards in 2002. Thousands of small businesses suffered substantial economic injury as a direct result of the hurricanes. EIDLs would provide funds to eligible small businesses to meet their ordinary and necessary operating expenses that they are unable to meet as a direct result of Hurricanes Katrina, Rita, or Wilma. This amendment to the date as of which businesses in the declared disaster areas are deemed small for purposes of the EIDL program would support the continuing operation of small businesses in the Gulf Coast region and in Florida, create jobs, and facilitate economic recovery of those communities.

**Justification for Publication as an Interim Final Rule**

In general, SBA publishes a proposed rule for public comment before issuing a final rule, in accordance with the Administrative Procedure Act (APA) and SBA regulations, 5 U.S.C. 553 and 13 CFR 101.108. The APA provides an exception to this standard rulemaking process, however, in situations where an agency finds good cause to adopt a rule without prior public participation. (See 5 U.S.C. 553(b)(3)(B).) The good cause requirement is satisfied when prior public participation is impracticable, unnecessary, or contrary to the public interest. Under those conditions, an agency may publish an interim final rule without first soliciting public comment.

In applying the good cause exception to standard rulemaking procedures, Congress recognized that emergencies (such as a response to a natural disaster) might arise justifying issuance of a rule without prior public participation. On August 29, 2005, the President declared major disaster areas in Louisiana, Mississippi, and Alabama in the aftermath of Hurricane Katrina. The President made the same declarations with respect to Louisiana and Texas as Hurricane Rita destroyed even more of the Gulf Coast region. On October 24, 2005, the President issued a disaster declaration pertaining to the areas in the state of Florida struck by Hurricane Wilma. These natural disasters have affected U.S. businesses in the declared disaster areas and across the Nation. Some of the affected businesses qualify as ''small'' under SBA size standards and are eligible for SBA assistance. However, some of the affected businesses have lost eligibility solely as a result of the inflation that has occurred since the SBA last adjusted its monetary-based size standards in 2002. This rule is necessary to make available SBA assistance to those businesses. In particular, this rule would make the EIDL program available to those businesses located in the disaster areas declared as a result of Hurricanes Katrina, Rita, and Wilma. Any delay in the adoption of these inflationary adjustments could cause serious harm to these businesses. In addition, small businesses would benefit from the changes to SBA's method of determining size eligibility for SBA's Business Loan and EIDL programs because it would expand availability of SBA assistance. Immediate implementation of this rule would facilitate economic recovery of the Gulf Coast region and is therefore in the best interest of the public.

Accordingly, SBA finds that good cause exists to publish this rule as an interim final rule because of the urgent need to make disaster loans and other SBA assistance available to businesses that should be considered small, but no longer qualify under SBA's existing size standards due to inflation. Furthermore, advance solicitation of comments for this rulemaking would be impracticable and contrary to the public interest, as it would delay the delivery of critical assistance to these businesses by a minimum of four to six months. It is likely that some would be forced to cease operations before a rule could be promulgated under standard notice and comment rulemaking procedures.

SBA's rationale for preparing this action as an interim final rule is consistent with the Agency's statutory obligation to act in the public interest in determining eligibility for Federal assistance under the Small Business Act, 15 U.S.C. 633(d). It is also consistent with 13 CFR 123.1, under which SBA reserves the right to amend the Disaster Loan Program regulations without advance notice in response to disasters. Pursuant to those authorities, SBA has determined that it is in the public interest to give immediate effect to this rule. The failure to adopt this rule could work to the detriment of many small businesses.

Although this rule is being published as an interim final rule, comments are hereby being solicited from interested parties. These comments must be received on or before January 5, 2006. SBA may then consider these comments in making any necessary revisions to these regulations.

**Justification for Immediate Effective Date of Interim Final Rule**

The APA requires that ''publication or service of a substantive rule shall be made not less than 30 days before its effective date, except * * * as otherwise provided by the agency for good cause found and published with the rule,'' 5 U.S.C. 553(d)(3). SBA finds that good cause exists to make this final rule effective the same day it is published in the **Federal Register**.

The purpose of the APA provision delaying the effective date of a rule for 30 days after publication is to provide interested and affected members of the public sufficient time to adjust their behavior before the rule takes effect. In this case, however, the 30-day delay is unnecessary because this interim final rule would not require businesses or SBA to make significant changes to their current procedures for applying for SBA assistance, or determining the status of businesses seeking SBA assistance, including Business Loans or EIDLs. SBA would begin applying the new size standards to businesses and the two-part size eligibility test upon publication of this interim final rule. For purposes of Federal procurements, however, the applicability dates are delayed for 30 days after the date of publication in this rule as described in the Dates section of the preamble for this rule. SBA believes, based on its contacts with interested members of the public, that there is strong interest in immediate implementation of this rule. This action is in the public interest and does not tend to adversely affect any interested parties. SBA expects little if any adverse comments on the inflation-adjusted size standards. Past inflation adjustments by SBA have received widespread support.

**Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612) and the Paperwork Reduction Act (44 U.S.C. Ch. 35)**

The Office of Management and Budget (OMB) has determined that this rule constitutes a ''significant regulatory action'' under Executive Order 12866. A general discussion of the need for this regulatory action and its potential costs and benefits follows.

**Regulatory Impact Analysis**

*i. Is there a need for the regulatory action?*

SBA's statutory mission is to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To effectively assist intended beneficiaries of these programs, SBA must establish distinct definitions of which businesses are deemed small businesses. The Small Business Act (15 U.S.C. 632(a)) (Act) delegates to the SBA Administrator the responsibility for establishing small business definitions. The Act also requires that small business definitions vary to reflect industry differences. The supplementary information to this interim final rule explains the approach SBA follows when adjusting size standards for inflation. Based on the rise in the general level of prices, SBA believes that an inflation adjustment to size standards is needed to better reflect small businesses in industries with monetary-based size standards.

*ii. What are the potential benefits and costs of this regulatory action?*

The benefits of a size standard increase to a more appropriate level would accrue to three groups: (1) Businesses that benefit by gaining small

business status from the higher size standard that also use small business assistance programs; (2) growing small businesses that may exceed the current size standards in the near future and that will retain small business status from the higher size standard; and (3) Federal agencies that award contracts under procurement programs that require small business status.

The most significant benefit to businesses obtaining small business status as a result of this rule is eligibility for Federal small business assistance programs. Under this rule, approximately 11,600 additional firms generating 0.6 percent of sales in the adjusted industries will obtain small business status and become eligible for these programs. These include SBA's financial assistance programs, economic injury disaster loans, Federal procurement preference programs for small businesses (including 8(a) firms, small disadvantaged businesses, small businesses located in Historically Underutilized Business Zones (HUBZone), women-owned small businesses, and veteran-owned and service disabled veteran-owned small businesses, and Federal contracts awarded through full and open competition after application of the HUBZone or small disadvantaged business price evaluation preference or adjustment). Through the assistance of these programs, small businesses may benefit by becoming more knowledgeable, stable, and competitive businesses.

SBA estimates that up to $400 million in Federal contracts could be awarded to firms becoming newly-designated as small businesses under this rule. In fiscal year 2004, small businesses obtained $39.2 billion out of $170.5 billion in Federal contracts in industries with a monetary-based size standard. This estimate assumes that about half of the newly-defined small businesses participate in Federal contracting and they could obtain the same proportion of their industry share (one-half of 0.6 percent) of the remaining large business awards (($170.5 billion − $39.2 billion − $131.3 billion) × 0.003 = $0.393 billion).

SBA views the additional amount of projected contract activity as the potential amount of transfer from non-small to newly-designated small firms. This does not represent the creation of new contracting activity by the Federal government, merely a possible transfer or reallocation to different sized firms.

Under the SBA's 7(a) Guaranteed Loan Program, SBA estimates that approximately $86.5 million in new Federal loan guarantees could be made to these newly-defined small businesses. In fiscal year 2004, small businesses received $12.5 billion in loan guarantees under the 7(a) loan program in industries with a monetary-based size standard. Most of the newly-defined small businesses have 50 or more employees. SBA guaranteed 2,404 loans worth $1.1 billion to small businesses with 50 or more employees. Based on an analysis of the Advocacy-Census Bureau data, only about 1.6 percent of businesses within the size range of the newly-defined small businesses participate in the 7(a) program. Assuming this level of participation, 186 additional loans could be guaranteed to the 11,600 newly defined businesses (11,600 × 0.016 = 186). The value of these loans is estimated by applying the average size loan to small businesses with 50 or more employees of $465,000 to the number of additional loans ($465,000 × 186 = $86,490).

The newly defined small businesses would also benefit from SBA's Economic Injury Disaster Loan (EIDL) Program. Since this program is contingent upon the occurrence and severity of a disaster, no meaningful estimate of benefits can be projected for future disasters.

To the extent that up to 11,600 additional firms could become active in Federal small business programs, this may entail some additional administrative costs to the Federal Government associated with additional bidders for Federal small business procurement programs, additional firms seeking SBA-guaranteed lending programs, and additional firms eligible for enrollment in Central Contractor Registration's Dynamic Small Business Search database. Among businesses in this group seeking SBA assistance, there could be some additional costs associated with compliance and verification of small business status and protests of small business status. These costs are likely to generate minimal incremental administrative costs since mechanisms are currently in place to handle these administrative requirements.

The costs to the Federal Government may be higher on some Federal contracts as a result of this rule. SBA believes, however, that there will be only minor distributional effects among large and small businesses relating to Federal procurement.

The increase in the number of newly eligible small businesses is not enough to significantly affect current small businesses. Moreover, with a small amount of estimated lending to the newly defined small businesses as discussed above, it is unlikely that currently-defined small businesses would be denied SBA financial assistance due to a larger pool of eligible small businesses. These additional loan guarantees totaling $86.5 million or less will have virtually no impact on the overall availability of loans for SBA's financial assistance programs, which guaranteed about 88,000 loans totaling more than $17 billion in fiscal year 2004.

The revision to the current monetary-based size standard is consistent with SBA's statutory mandate to assist small business. This regulatory action promotes the Administration's objectives. One of SBA's goals in support of the Administration's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, government contracts, and management and technical assistance. Reviewing and modifying size standards where appropriate, including periodic inflation adjustments, ensures that intended beneficiaries have access to small business programs designed to assist them. Size standards do not interfere with State, local, and tribal governments in the exercise of their government functions. In a few cases, state and local governments have voluntarily adopted SBA's size standards for their programs to eliminate the need to establish an administrative mechanism to develop their own size standards.

For purposes of Executive Order 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 3 of that Order.

This regulation would 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 responsibility among the various levels of government. Therefore, under Executive Order 13132, SBA determines that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

SBA has determined that this rule does not impose any new information collection requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520.

Under the Regulatory Flexibility Act (RFA), an inflation adjustment to monetary-based size standards as a result of this rule may have a significant economic impact on a substantial number of small entities. SBA does not expect that the implementation of a two-step process to determine small business eligibility for its financial assistance program will have a significant economic impact of a

substantial number of small businesses. As discussed in the Regulatory Impact Analysis, the vast majority of 7(a) loans are made to small businesses well below the size standard, and they usually do not have complicated organizational structures. However, the provision is important to equitably evaluate the small business status of some applicants that do have affiliates that operate in various industries. Immediately below, SBA sets forth an initial regulatory flexibility analysis (IRFA) of the inflation adjustment to size standards addressing the reasons for promulgating the rule and its objectives of the rule; SBA's descriptions and estimate of the number of small entities to which the rule will apply; the projected reporting recordkeeping and other compliance requirements of the rule; the relevant Federal rules which may duplicate, overlap or conflict with the rule; and alternatives considered by SBA.

(1) What is the reason for this action?

As discussed in the supplemental information, the purpose of this rule is to restore the small business eligibility of businesses that have grown above the size standard due to inflation rather than due to increased business activity. A review of the latest inflation indexes indicates that inflation has increased a sufficient amount to warrant an increase to the current monetary-based size standards.

(2) What are the objectives and legal basis for the rule?

The revision to the monetary-based size standards for inflation more appropriately defines the size of businesses. This rule merely restores small business eligibility in real terms. Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) gives SBA the authority to establish and change size standards. Within its administrative discretion, SBA implemented a policy in its regulations to review the effect of inflation on size standards at least every five years (13 CFR 121.102(c)) and make any changes as appropriate.

(3) What is SBA's description and estimate of the number of small entities to which the rule will apply?

SBA estimates that there will be approximately 11,600 newly designated small businesses, distributed as follows by NAICS Sector:

| Sector | Name of sector | Number of firms |
|---|---|---|
| 11 | Agriculture | 59 |
| 21 | Mining | 672 |
| 23 | Construction | 285 |
| 44–45 | Retail Trade | 2,159 |
| 48–49 | Transportation | 211 |
| 51 | Information | 89 |
| 52 | Finance and Insurance. | 520 |
| 53 | Real Estate | 1,846 |
| 54 | Professional Services. | 2,674 |
| 56 | Administration and Support. | 472 |
| 61 | Educational Services. | 201 |
| 62 | Health Care | 1,171 |
| 71 | Arts, Entertainment and Recreation. | 184 |
| 72 | Accommodation and Food Services. | 420 |
| 81 | Other Services | 635 |
| | Total | 11,598 |

Source: U.S. Small Business Administration, Office of Advocacy, 2002 data provided by the Statistics of U.S. Business Division of the U.S. Census Bureau.

The percentage increase in the number of small businesses that will result from this rule, compared to the existing base of small businesses, is estimated to be about two-tenths of one percent. The special tabulation for the SBA's Office of Advocacy obtained from the Bureau of the Census reports 5,043,335 firms in the industries with monetary-based size standards. Within these industries, 96.0 percent of businesses are currently defined as small under the existing size standards. Under this rule, that percentage will increase to 96.2%. The percentage increase of annual sales attributed to these newly defined small businesses is likely to approximate 0.6 percent. Currently-defined small businesses under monetary-based size standards generate 25.7 percent of sales. Under this rule, the percentage of sales attributable to small businesses will increase to 26.4%.

(4) What are the potential benefits of the rule?

The most significant benefit to small businesses obtaining small business status is their eligibility for Federal small business assistance programs. These include SBA's financial assistance programs and Federal procurement preference programs for small business, 8(a) firms, small disadvantaged businesses, and small businesses located in historically underutilized business zones (HUBZone).

(5) Will this rule impose any additional reporting or recordkeeping requirements on small businesses?

This rule does not impose any new information collection requirements from SBA which require approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. A new size standard does not impose any additional reporting, record keeping or compliance requirements on small entities. Increasing size standards expands access to SBA programs that assist small businesses, but does not impose a regulatory burden as they neither regulate nor control business behavior.

(6) What are the relevant Federal rules which may duplicate, overlap or conflict with this rule?

This rule overlaps with other Federal rules that use SBA's size standards to define a small business. Under § 3(a)(2)(C) of the Small Business Act, unless specifically authorized by statute, Federal agencies must use SBA's size standards to define a small business. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988–57991, dated November 24, 1995). SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

SBA cannot estimate the impact of a size standard change on each and every Federal program that uses its size standards. In cases where a size standard is not appropriate, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards with the approval of the SBA Administrator (13 CFR 121.902). For purposes of a regulatory flexibility analysis, agencies must consult with SBA's Office of Advocacy when developing different size standards for their programs.

(7) What alternatives did SBA consider?

SBA considered two alternatives to this rule. First, SBA considered waiting until price levels increased by a greater amount before proposing an adjustment to its receipt-based size standards. Previous inflation adjustments ranged between 16 percent and 100 percent, whereas this increase is 8.7 percent. However, SBA now believes that more frequent adjustments are necessary since smaller amounts of inflation can change the eligibility of significant number of businesses.

Second, SBA considered waiting until its review of issues that were raised in the Agency's Advance Notice of Proposed Rulemaking of December 3, 2004 (69 FR 70197) was completed. Ultimately, SBA rejected this approach as it could not predict with precision

the time for completion of its full review, the degree of inflation that could occur while the review was underway, or the final disposition of the issues that were raised in the December 3, 2004 notice. SBA did not want to unnecessarily penalize firms during these deliberations.

**List of Subjects**

*13 CFR Part 121*

Administrative practice and procedure, Government procurement, Government property, Loan programs—business, Small business.

*13 CFR Part 123*

Disaster assistance, Loan programs—business, Small business.

■ For the reasons set forth in the preamble, amend parts 121 and 123 of title 13 Code of Federal Regulations as follows:

## PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

**Authority:** 15 U.S.C. 632(a), 634(b) (6), 637(a), 644(c), and 662(5); and Sec. 304, Pub. L. 103–403, 108 Stat. 4175, 4188.

■ 2. Amend § 121.201 by revising the size standards to the referenced NAICS Codes in the table ''SIZE STANDARDS BY NAICS INDUSTRY'' under sections 11, 21 through 23, 44–45, 48–49, 51 through 56, 61, 62, 71, 72 and 81 and footnotes 9 and 15 to read as follows:

**§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?**

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| | **Sector 11—Agriculture, Forestry, Fishing and Hunting** | | |
| * | * * * * * | * | * |
| | **Subsector 112—Animal Production** | | |
| * | * * * * * | * | * |
| 112112 | Cattle Feedlots | $2.00 | |
| * | * * * * * | * | * |
| 112310 | Chicken Egg Production | $11.5 | |
| * | * * * * * | * | * |
| | **Subsector 113—Forestry and Logging** | | |
| 113110 | Timber Tract Operations | $6.5 | |
| 113210 | Forest Nurseries and Gathering of Forest Products | $6.5 | |
| * | * * * * * | * | * |
| | **Subsector 114—Fishing, Hunting and Trapping** | | |
| 114111 | Finfish Fishing | $4.0 | |
| 114112 | Shellfish Fishing | $4.0 | |
| 114119 | Other Marine Fishing | $4.0 | |
| 114210 | Hunting and Trapping | $4.0 | |
| | **Subsector 115—Support Activities for Agriculture and Forestry** | | |
| 115111 | Cotton Ginning | $6.5 | |
| 115112 | Soil Preparation, Planting, and Cultivating | $6.5 | |
| 115113 | Crop Harvesting, Primarily by Machine | $6.5 | |
| 115114 | Postharvest Crop Activities (except Cotton Ginning) | $6.5 | |
| 115115 | Farm Labor Contractors and Crew Leaders | $6.5 | |
| 115116 | Farm Management Services | $6.5 | |
| 115210 | Support Activities for Animal Production | $6.5 | |
| 115310 | Support Activities for Forestry | $6.5 | |
| *Except,* | Forest Fire Suppression [17] | [17] $16.5 | |
| *Except,* | Fuels Management Services [17] | [17] $16.5 | |
| | **Sector 21—Mining** | | |
| | **Subsector 212—Mining (except Oil and Gas)** | | |
| * | * * * * * | * | * |
| | **Subsector 213—Support Activities for Mining** | | |

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| * | * * * * | * | * |
| 213112 | Support Activities for Oil and Gas Operations | $6.5 | |
| 213113 | Support Activities for Coal Mining | $6.5 | |
| 213114 | Support Activities for Metal Mining | $6.5 | |
| 213115 | Support Activities for Nonmetallic Minerals (except Fuels) | $6.5 | |
| | **Sector 22—Utilities** | | |
| | **Subsector 221—Utilities** | | |
| * | * * * * | * | * |
| 221310 | Water Supply and Irrigation Systems | $6.5 | |
| 221320 | Sewage Treatment Facilities | $6.5 | |
| 221330 | Steam and Air-Conditioning Supply | $11.5 | |
| | **Sector 23—Construction** | | |
| | **Subsector 236—Construction of Buildings** | | |
| 236115 | New Single-Family Housing Construction (except Operative Builders) | $31.0 | |
| 236116 | New Multifamily Housing Construction (except Operative Builders) | $31.0 | |
| 236117 | New Housing Operative Builders | $31.0 | |
| 236118 | Residential Remodelers | $31.0 | |
| 236210 | Industrial Building Construction | $31.0 | |
| 236220 | Commercial and Institutional Building Construction | $31.0 | |
| | **Subsector 237—Heavy and Civil Engineering Construction** | | |
| 237110 | Water and Sewer Line and Related Structures Construction | $31.0 | |
| 237120 | Oil and Gas Pipeline and Related Structures Construction | $31.0 | |
| 237130 | Power and Communication Line and Related Structures Construction | $31.0 | |
| 237210 | Land Subdivision | $6.5 | |
| 237310 | Highway, Street, and Bridge Construction | $31.0 | |
| 237990 | Other Heavy and Civil Engineering Construction | $31.0 | |
| *Except,* | Dredging and Surface Cleanup Activities [2] | [2] $18.5 | |
| | **Subsector 238—Specialty Trade Contractors** | | |
| 238110 | Poured Concrete Foundation and Structure Contractors | $13.0 | |
| 238120 | Structural Steel and Precast Concrete Contractors | $13.0 | |
| 238130 | Framing Contractors | $13.0 | |
| 238140 | Masonry Contractors | $13.0 | |
| 238150 | Glass and Glazing Contractors | $13.0 | |
| 238160 | Roofing Contractors | $13.0 | |
| 238170 | Siding Contractors | $13.0 | |
| 238190 | Other Foundation, Structure, and Building Exterior Contractors | $13.0 | |
| 238210 | Electrical Contractors | $13.0 | |
| 238220 | Plumbing, Heating, and Air-Conditioning Contractors | $13.0 | |
| 238290 | Other Building Equipment Contractors | $13.0 | |
| 238310 | Drywall and Insulation Contractors | $13.0 | |
| 238320 | Painting and Wall Covering Contractors | $13.0 | |
| 238330 | Flooring Contractors | $13.0 | |
| 238340 | Tile and Terrazzo Contractors | $13.0 | |
| 238350 | Finish Carpentry Contractors | $13.0 | |
| 238390 | Other Building Finishing Contractors | $13.0 | |
| 238910 | Site Preparation Contractors | $13.0 | |
| 238990 | All Other Specialty Trade Contractors [13] | [13] $13.0 | |
| 238990 | Building and Property Specialty Trade Services [13] | [13] $13.0 | |
| * | * * * * | * | * |
| | **Sectors 44–45—Retail Trade** (Not applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.) | | |
| | **Subsector 441—Motor Vehicle and Parts Dealers** | | |
| 441110 | New Car Dealers | $26.5 | |
| 441120 | Used Car Dealers | $21.0 | |
| 441210 | Recreational Vehicle Dealers | $6.5 | |

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| 441221 | Motorcycle Dealers | $6.5 | |
| 441222 | Boat Dealers | $6.5 | |
| 441229 | All Other Motor Vehicle Dealers | $6.5 | |
| *Except,* | Aircraft Dealers, Retail | $9.0 | |
| 441310 | Automotive Parts and Accessories Stores | $6.5 | |
| 441320 | Tire Dealers | $6.5 | |
| | **Subsector 442—Furniture and Home Furnishings Stores** | | |
| 442110 | Furniture Stores | $6.5 | |
| 442210 | Floor Covering Stores | $6.5 | |
| 442291 | Window Treatment Stores | $6.5 | |
| 442299 | All Other Home Furnishings Stores | $6.5 | |
| | **Subsector 443—Electronics and Appliance Stores** | | |
| 443111 | Household Appliance Stores | $8.0 | |
| 443112 | Radio, Television and Other Electronics Stores | $8.0 | |
| 443120 | Computer and Software Stores | $8.0 | |
| 443130 | Camera and Photographic Supplies Stores | $6.5 | |
| | **Subsector 444—Building Material and Garden Equipment and Supplies Dealers** | | |
| 444110 | Home Centers | $6.5 | |
| 444120 | Paint and Wallpaper Stores | $6.5 | |
| 444130 | Hardware Stores | $6.5 | |
| 444190 | Other Building Material Dealers | $6.5 | |
| 444210 | Outdoor Power Equipment Stores | $6.5 | |
| 444220 | Nursery and Garden Centers | $6.5 | |
| | **Subsector 445—Food and Beverage Stores** | | |
| 445110 | Supermarkets and Other Grocery (except Convenience) Stores | $25.0 | |
| 445120 | Convenience Stores | $25.0 | |
| 445210 | Meat Markets | $6.5 | |
| 445220 | Fish and Seafood Markets | $6.5 | |
| 445230 | Fruit and Vegetable Markets | $6.5 | |
| 445291 | Baked Goods Stores | $6.5 | |
| 445292 | Confectionery and Nut Stores | $6.5 | |
| 445299 | All Other Specialty Food Stores | $6.5 | |
| 445310 | Beer, Wine and Liquor Stores | $6.5 | |
| | **Subsector 446—Health and Personal Care Stores** | | |
| 446110 | Pharmacies and Drug Stores | $6.5 | |
| 446120 | Cosmetics, Beauty Supplies and Perfume Stores | $6.5 | |
| 446130 | Optical Goods Stores | $6.5 | |
| 446191 | Food (Health) Supplement Stores | $6.5 | |
| 446199 | All Other Health and Personal Care Stores | $6.5 | |
| | **Subsector 447—Gasoline Stations** | | |
| 447110 | Gasoline Stations with Convenience Stores | $25.0 | |
| 447190 | Other Gasoline Stations | $8.0 | |
| | **Subsector 448—Clothing and Clothing Accessories Stores** | | |
| 448110 | Men's Clothing Stores | $8.0 | |
| 448120 | Women's Clothing Stores | $8.0 | |
| 448130 | Children's and Infants' Clothing Stores | $6.5 | |
| 448140 | Family Clothing Stores | $8.0 | |
| 448150 | Clothing Accessories Stores | $6.5 | |
| 448190 | Other Clothing Stores | $6.5 | |
| 448210 | Shoe Stores | $8.0 | |
| 448310 | Jewelry Stores | $6.5 | |
| 448320 | Luggage and Leather Goods Stores | $6.5 | |
| | **Subsector 451—Sporting Good, Hobby, Book and Music Stores** | | |
| 451110 | Sporting Goods Stores | $6.5 | |
| 451120 | Hobby, Toy and Game Stores | $6.5 | |

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| 451130 | Sewing, Needlework and Piece Goods Stores | $6.5 | |
| 451140 | Musical Instrument and Supplies Stores | $6.5 | |
| 451211 | Book Stores | $6.5 | |
| 451212 | News Dealers and Newsstands | $6.5 | |
| 451220 | Prerecorded Tape, Compact Disc and Record Stores | $6.5 | |
| | **Subsector 452—General Merchandise Stores** | | |
| 452111 | Department Stores (except Discount Department Stores) | $25.0 | |
| 452112 | Discount Department Stores | $25.0 | |
| 452910 | Warehouse Clubs and Superstores | $25.0 | |
| 452990 | All Other General Merchandise Stores | $10.5 | |
| | **Subsector 453—Miscellaneous Store Retailers** | | |
| 453110 | Florists | $6.5 | |
| 453210 | Office Supplies and Stationery Stores | $6.5 | |
| 453220 | Gift, Novelty and Souvenir Stores | $6.5 | |
| 453310 | Used Merchandise Stores | $6.5 | |
| 453910 | Pet and Pet Supplies Stores | $6.5 | |
| 453920 | Art Dealers | $6.5 | |
| 453930 | Manufactured (Mobile) Home Dealers | $12.0 | |
| 453991 | Tobacco Stores | $6.5 | |
| 453998 | All Other Miscellaneous Store Retailers (except Tobacco Stores) | $6.5 | |
| | **Subsector 454—Nonstore Retailers** | | |
| 454111 | Electronic Shopping | $23.0 | |
| 454112 | Electronic Auctions | $23.0 | |
| 454113 | Mail-Order Houses | $23.0 | |
| 454210 | Vending Machine Operators | $6.5 | |
| 454311 | Heating Oil Dealers | $11.5 | |
| 454312 | Liquefied Petroleum Gas (Bottled Gas) Dealers | $6.5 | |
| 454319 | Other Fuel Dealers | $6.5 | |
| 454390 | Other Direct Selling Establishments | $6.5 | |
| | **Sectors 48–49—Transportation** | | |
| | **Subsector 481—Air Transportation** | | |
| * | * * * * * | * | * |
| 481211 | Nonscheduled Chartered Passenger Air Transportation | | 1,500 |
| *Except,* | Offshore Marine Air Transportation Services | $25.5 | |
| 481212 | Nonscheduled Chartered Freight Air Transportation | | 1,500 |
| *Except,* | Offshore Marine Air Transportation Services | $25.5 | |
| 481219 | Other Nonscheduled Air Transportation | $6.5 | |
| * | * * * * * | * | * |
| | **Subsector 484—Truck Transportation** | | |
| 484110 | General Freight Trucking, Local | $23.5 | |
| 484121 | General Freight Trucking, Long-Distance, Truckload | $23.5 | |
| 484122 | General Freight Trucking, Long-Distance, Less Than Truckload | $23.5 | |
| 484210 | Used Household and Office Goods Moving | $23.5 | |
| 484220 | Specialized Freight (except Used Goods) Trucking, Local | $23.5 | |
| 484230 | Specialized Freight (except Used Goods) Trucking, Long-Distance | $23.5 | |
| | **Subsector 485—Transit and Ground Passenger Transportation** | | |
| 485111 | Mixed Mode Transit Systems | $6.5 | |
| 485112 | Commuter Rail Systems | $6.5 | |
| 485113 | Bus and Motor Vehicle Transit Systems | $6.5 | |
| 485119 | Other Urban Transit Systems | $6.5 | |
| 485210 | Interurban and Rural Bus Transportation | $6.5 | |
| 485310 | Taxi Service | $6.5 | |
| 485320 | Limousine Service | $6.5 | |
| 485410 | School and Employee Bus Transportation | $6.5 | |
| 485510 | Charter Bus Industry | $6.5 | |
| 485991 | Special Needs Transportation | $6.5 | |

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| 485999 | All Other Transit and Ground Passenger Transportation | $6.5 | |
| | **Subsector 486—Pipeline Transportation** | | |
| * | * * * * * | * | * |
| 486210 | Pipeline Transportation of Natural Gas | $6.5 | |
| * | * * * * * | * | * |
| 486990 | All Other Pipeline Transportation | $31.5 | |
| | **Subsector 487—Scenic and Sightseeing Transportation** | | |
| 487110 | Scenic and Sightseeing Transportation, Land | $6.5 | |
| 487210 | Scenic and Sightseeing Transportation, Water | $6.5 | |
| 487990 | Scenic and Sightseeing Transportation, Other | $6.5 | |
| | **Subsector 488—Support Activities for Transportation** | | |
| 488111 | Air Traffic Control | $6.5 | |
| 488119 | Other Airport Operations | $6.5 | |
| 488190 | Other Support Activities for Air Transportation | $6.5 | |
| 488210 | Support Activities for Rail Transportation | $6.5 | |
| 488310 | Port and Harbor Operations | $23.5 | |
| 488320 | Marine Cargo Handling | $23.5 | |
| 488330 | Navigational Services to Shipping | $6.5 | |
| 488390 | Other Support Activities for Water Transportation | $6.5 | |
| 488410 | Motor Vehicle Towing | $6.5 | |
| 488490 | Other Support Activities for Road Transportation | $6.5 | |
| 488510 | Freight Transportation Arrangement [10] | [10] $6.5 | |
| *Except,* | Non-Vessel Owning Common Carriers and Household Goods Forwarders | $23.5 | |
| 488991 | Packing and Crating | $23.5 | |
| 488999 | All Other Support Activities for Transportation | $6.5 | |
| | **Subsector 491—Postal Service** | | |
| 491110 | Postal Service | $6.5 | |
| | **Subsector 492—Couriers and Messengers** | | |
| * | * * * * * | * | * |
| 492210 | Local Messengers and Local Delivery | $23.5 | |
| | **Subsector 493—Warehousing and Storage** | | |
| 493110 | General Warehousing and Storage | $23.5 | |
| 493120 | Refrigerated Warehousing and Storage | $23.5 | |
| 493130 | Farm Product Warehousing and Storage | $23.5 | |
| 493190 | Other Warehousing and Storage | $23.5 | |
| | **Sector 51—Information** | | |
| | **Subsector 511—Publishing Industries (except Internet)** | | |
| * | * * * * * | * | * |
| 511210 | Software Publishers | $23.0 | |
| | **Subsector 512—Motion Picture and Sound Recording Industries** | | |
| 512110 | Motion Picture and Video Production | $27.0 | |
| 512120 | Motion Picture and Video Distribution | $27.0 | |
| 512131 | Motion Picture Theaters (except Drive-Ins) | $6.5 | |
| 512132 | Drive-In Motion Picture Theaters | $6.5 | |
| 512191 | Teleproduction and Other Postproduction Services | $27.0 | |
| 512199 | Other Motion Picture and Video Industries | $6.5 | |
| 512210 | Record Production | $6.5 | |

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| * | * * * * | * | * |
| 512240 | Sound Recording Studios | $6.5 | |
| 512290 | Other Sound Recording Industries | $6.5 | |
| | **Subsector 515—Broadcasting (except Internet)** | | |
| 515111 | Radio Networks | $6.5 | |
| 515112 | Radio Stations | $6.5 | |
| 515120 | Television Broadcasting | $13.0 | |
| 515210 | Cable and Other Subscription Programming | $13.5 | |
| * | * * * * | * | * |
| | **Subsector 517—Telecommunications** | | |
| * | * * * * | * | * |
| 517410 | Satellite Telecommunications | $13.5 | |
| 517510 | Cable and Other Program Distribution | $13.5 | |
| 517910 | Other Telecommunications | $13.5 | |
| | **Subsector 518—Internet Service Providers, Web Search Portals, and Data Processing Services** | | |
| 518111 | Internet Service Providers | $23.0 | |
| 518112 | Web Search Portals | $6.5 | |
| 518210 | Data Processing, Hosting, and Related Services | $23.0 | |
| | **Subsector 519—Other Information Services** | | |
| 519110 | News Syndicates | $6.5 | |
| 519120 | Libraries and Archives | $6.5 | |
| 519190 | All Other Information Services | $6.5 | |
| | **Sector 52—Finance and Insurance** | | |
| | **Subsector 522—Credit Intermediation and Related Activities** | | |
| 522110 | Commercial Banking [8] | [8] $165 million in assets | |
| 522120 | Savings Institutions [8] | [8] $165 million in assets | |
| 522130 | Credit Unions [8] | [8] $165 million in assets | |
| 522190 | Other Depository Credit Intermediation [8] | [8] $165 million in assets | |
| 522210 | Credit Card Issuing [8] | [8] $165 million in assets | |
| 522220 | Sales Financing | $6.5 | |
| 522291 | Consumer Lending | $6.5 | |
| 522292 | Real Estate Credit | $6.5 | |
| 522293 | International Trade Financing [8] | [8] $165 million in assets | |
| 522294 | Secondary Market Financing | $6.5 | |
| 522298 | All Other Non-Depository Credit Intermediation | $6.5 | |
| 522310 | Mortgage and Nonmortgage Loan Brokers | $6.5 | |
| 522320 | Financial Transactions Processing, Reserve, and Clearing House Activities | $6.5 | |
| 522390 | Other Activities Related to Credit Intermediation | $6.5 | |
| | **Subsector 523—Financial Investments and Related Activities** | | |
| 523110 | Investment Banking and Securities Dealing | $6.5 | |
| 523120 | Securities Brokerage | $6.5 | |
| 523130 | Commodity Contracts Dealing | $6.5 | |
| 523140 | Commodity Contracts Brokerage | $6.5 | |
| 523210 | Securities and Commodity Exchanges | $6.5 | |
| 523910 | Miscellaneous Intermediation | $6.5 | |
| 523920 | Portfolio Management | $6.5 | |
| 523930 | Investment Advice | $6.5 | |

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| 523991 | Trust, Fiduciary and Custody Activities | $6.5 | |
| 523999 | Miscellaneous Financial Investment Activities | $6.5 | |
| | **Subsector 524—Insurance Carriers and Related Activities** | | |
| 524113 | Direct Life Insurance Carriers | $6.5 | |
| 524114 | Direct Health and Medical Insurance Carriers | $6.5 | |
| * | * * * * * | * | * |
| 524127 | Direct Title Insurance Carriers | $6.5 | |
| 524128 | Other Direct Insurance (except Life, Health and Medical) Carriers | $6.5 | |
| 524130 | Reinsurance Carriers | $6.5 | |
| 524210 | Insurance Agencies and Brokerages | $6.5 | |
| 524291 | Claims Adjusting | $6.5 | |
| 524292 | Third Party Administration of Insurance and Pension Funds | $6.5 | |
| 524298 | All Other Insurance Related Activities | $6.5 | |
| | **Subsector 525—Funds, Trusts and Other Financial Vehicles** | | |
| 525110 | Pension Funds | $6.5 | |
| 525120 | Health and Welfare Funds | $6.5 | |
| 525190 | Other Insurance Funds | $6.5 | |
| 525910 | Open-End Investment Funds | $6.5 | |
| 525920 | Trusts, Estates, and Agency Accounts | $6.5 | |
| 525930 | Real Estate Investment Trusts | $6.5 | |
| 525990 | Other Financial Vehicles | $6.5 | |
| | **Sector 53—Real Estate and Rental and Leasing** | | |
| | **Subsector 531—Real Estate** | | |
| 531110 | Lessors of Residential Buildings and Dwellings | $6.5 | |
| 531120 | Lessors of Nonresidential Buildings (except Miniwarehouses) | $6.5 | |
| 531130 | Lessors of Miniwarehouses and Self Storage Units | $23.5 | |
| 531190 | Lessors of Other Real Estate Property | $6.5 | |
| *Except,* | Leasing of Building Space to Federal Government by Owners [9] | [9] $19.0 | |
| 531210 | Offices of Real Estate Agents and Brokers [10] | [10] $2.0 | |
| 531311 | Residential Property Managers | $2.0 | |
| 531312 | Nonresidential Property Managers | $2.0 | |
| 531320 | Offices of Real Estate Appraisers | $2.0 | |
| 531390 | Other Activities Related to Real Estate | $2.0 | |
| | **Subsector 532—Rental and Leasing Services** | | |
| 532111 | Passenger Car Rental | $23.5 | |
| 532112 | Passenger Car Leasing | $23.5 | |
| 532120 | Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing | $23.5 | |
| 532210 | Consumer Electronics and Appliances Rental | $6.5 | |
| 532220 | Formal Wear and Costume Rental | $6.5 | |
| 532230 | Video Tape and Disc Rental | $6.5 | |
| 532291 | Home Health Equipment Rental | $6.5 | |
| 532292 | Recreational Goods Rental | $6.5 | |
| 532299 | All Other Consumer Goods Rental | $6.5 | |
| 532310 | General Rental Centers | $6.5 | |
| 532411 | Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing | $6.5 | |
| 532412 | Construction, Mining and Forestry Machinery and Equipment Rental and Leasing | $6.5 | |
| 532420 | Office Machinery and Equipment Rental and Leasing | $23.0 | |
| 532490 | Other Commercial and Industrial Machinery and Equipment Rental and Leasing | $6.5 | |
| | **Subsector 533—Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)** | | |
| 533110 | Lessors of Nonfinancial Intangible Assets (except Copyrighted Works) | $6.5 | |
| | **Sector 54—Professional, Scientific and Technical Services** | | |
| | **Subsector 541—Professional, Scientific and Technical Services** | | |
| 541110 | Offices of Lawyers | $6.5 | |
| 541191 | Title Abstract and Settlement Offices | $6.5 | |
| 541199 | All Other Legal Services | $6.5 | |
| 541211 | Offices of Certified Public Accountants | $7.5 | |

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| 541213 | Tax Preparation Services | $6.5 | |
| 541214 | Payroll Services | $7.5 | |
| 541219 | Other Accounting Services | $7.5 | |
| 541310 | Architectural Services | $4.5 | |
| 541320 | Landscape Architectural Services | $6.5 | |
| 541330 | Engineering Services | $4.5 | |
| *Except,* | Military and Aerospace Equipment and Military Weapons | $25.0 | |
| *Except,* | Contracts and Subcontracts for Engineering Services Awarded Under the National Energy Policy Act of 1992. | $25.0 | |
| *Except,* | Marine Engineering and Naval Architecture | $17.0 | |
| 541340 | Drafting Services | $6.5 | |
| *Except,* | Map Drafting | $4.5 | |
| 541350 | Building Inspection Services | $6.5 | |
| 541360 | Geophysical Surveying and Mapping Services | $4.5 | |
| 541370 | Surveying and Mapping (except Geophysical) Services | $4.5 | |
| 541380 | Testing Laboratories | $11.0 | |
| 541410 | Interior Design Services | $6.5 | |
| 541420 | Industrial Design Services | $6.5 | |
| 541430 | Graphic Design Services | $6.5 | |
| 541490 | Other Specialized Design Services | $6.5 | |
| 541511 | Custom Computer Programming Services | $23.0 | |
| 541512 | Computer Systems Design Services | $23.0 | |
| 541513 | Computer Facilities Management Services | $23.0 | |
| 541519 | Other Computer Related Services | $23.0 | |
| *Except,* | Information Technology Value Added Resellers [18] | | [18] 150 |
| 541611 | Administrative Management and General Management Consulting Services | $6.5 | |
| 541612 | Human Resources and Executive Search Consulting Services | $6.5 | |
| 541613 | Marketing Consulting Services | $6.5 | |
| 541614 | Process, Physical Distribution and Logistics Consulting Services | $6.5 | |
| 541618 | Other Management Consulting Services | $6.5 | |
| 541620 | Environmental Consulting Services | $6.5 | |
| 541690 | Other Scientific and Technical Consulting Services | $6.5 | |
| | * * * * * * * | | |
| 541720 | Research and Development in the Social Sciences and Humanities | $6.5 | |
| 541810 | Advertising Agencies [10] | [10] $6.5 | |
| 541820 | Public Relations Agencies | $6.5 | |
| 541830 | Media Buying Agencies | $6.5 | |
| 541840 | Media Representatives | $6.5 | |
| 541850 | Display Advertising | $6.5 | |
| 541860 | Direct Mail Advertising | $6.5 | |
| 541870 | Advertising Material Distribution Services | $6.5 | |
| 541890 | Other Services Related to Advertising | $6.5 | |
| 541910 | Marketing Research and Public Opinion Polling | $6.5 | |
| 541921 | Photography Studios, Portrait | $6.5 | |
| 541922 | Commercial Photography | $6.5 | |
| 541930 | Translation and Interpretation Services | $6.5 | |
| 541940 | Veterinary Services | $6.5 | |
| 541990 | All Other Professional, Scientific and Technical Services | $6.5 | |
| | **Sector 55—Management of Companies and Enterprises** | | |
| | **Subsector 551—Management of Companies and Enterprises** | | |
| 551111 | Offices of Bank Holding Companies | $6.5 | |
| 551112 | Offices of Other Holding Companies | $6.5 | |
| | **Sector 56—Administrative and Support, Waste Management and Remediation Services** | | |
| | **Subsector 561—Administrative and Support Services** | | |
| 561110 | Office Administrative Services | $6.5 | |
| 561210 | Facilities Support Services [12] | [12] $32.5 | |
| 561310 | Employment Placement Agencies | $6.5 | |
| 561320 | Temporary Help Services | $12.5 | |
| 561330 | Employee Leasing Services | $12.5 | |
| 561410 | Document Preparation Services | $6.5 | |
| 561421 | Telephone Answering Services | $6.5 | |
| 561422 | Telemarketing Bureaus | $6.5 | |
| 561431 | Private Mail Centers | $6.5 | |
| 561439 | Other Business Service Centers (including Copy Shops) | $6.5 | |

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| 561440 | Collection Agencies | $6.5 | |
| 561450 | Credit Bureaus | $6.5 | |
| 561491 | Repossession Services | $6.5 | |
| 561492 | Court Reporting and Stenotype Services | $6.5 | |
| 561499 | All Other Business Support Services | $6.5 | |
| 561510 | Travel Agencies [10] | [10] $3.510 | |
| 561520 | Tour Operators [10] | [10] $6.5 | |
| 561591 | Convention and Visitors Bureaus | $6.5 | |
| 561599 | All Other Travel Arrangement and Reservation Services | $6.5 | |
| 561611 | Investigation Services | $11.5 | |
| 561612 | Security Guards and Patrol Services | $11.5 | |
| 561613 | Armored Car Services | $11.5 | |
| 561621 | Security Systems Services (except Locksmiths) | $11.5 | |
| 561622 | Locksmiths | $6.5 | |
| 561710 | Exterminating and Pest Control Services | $6.5 | |
| 561720 | Janitorial Services | $15.0 | |
| 561730 | Landscaping Services | $6.5 | |
| 561740 | Carpet and Upholstery Cleaning Services | $4.5 | |
| 561790 | Other Services to Buildings and Dwellings | $6.5 | |
| 561910 | Packaging and Labeling Services | $6.5 | |
| 561920 | Convention and Trade Show Organizers [10] | [10] $6.5 | |
| 561990 | All Other Support Services | $6.5 | |
| | **Subsector 562—Waste Management and Remediation Services** | | |
| 562111 | Solid Waste Collection | $11.5 | |
| 562112 | Hazardous Waste Collection | $11.5 | |
| 562119 | Other Waste Collection | $11.5 | |
| 562211 | Hazardous Waste Treatment and Disposal | $11.5 | |
| 562212 | Solid Waste Landfill | $11.5 | |
| 562213 | Solid Waste Combustors and Incinerators | $11.5 | |
| 562219 | Other Nonhazardous Waste Treatment and Disposal | $11.5 | |
| 562910 | Remediation Services | $13.0 | |
| *Except,* | Environmental Remediation Services [14] | | [14] 500 |
| 562920 | Materials Recovery Facilities | $11.5 | |
| 562991 | Septic Tank and Related Services | $6.5 | |
| 562998 | All Other Miscellaneous Waste Management Services | $6.5 | |
| | **Sector 61—Educational Services** | | |
| | **Subsector 611—Educational Services** | | |
| 611110 | Elementary and Secondary Schools | $6.5 | |
| 611210 | Junior Colleges | $6.5 | |
| 611310 | Colleges, Universities and Professional Schools | $6.5 | |
| 611410 | Business and Secretarial Schools | $6.5 | |
| 611420 | Computer Training | $6.5 | |
| 611430 | Professional and Management Development Training | $6.5 | |
| 611511 | Cosmetology and Barber Schools | $6.5 | |
| 611512 | Flight Training | $23.5 | |
| 611513 | Apprenticeship Training | $6.5 | |
| 611519 | Other Technical and Trade Schools | $6.5 | |
| *Except,* | Job Corps Centers [16] | [16] $32.5 | |
| 611610 | Fine Arts Schools | $6.5 | |
| 611620 | Sports and Recreation Instruction | $6.5 | |
| 611630 | Language Schools | $6.5 | |
| 611691 | Exam Preparation and Tutoring | $6.5 | |
| 611692 | Automobile Driving Schools | $6.5 | |
| 611699 | All Other Miscellaneous Schools and Instruction | $6.5 | |
| 611710 | Educational Support Services | $6.5 | |
| | **Sector 62—Health Care and Social Assistance** | | |
| | **Subsector 621—Ambulatory Health Care Services** | | |
| 621111 | Offices of Physicians (except Mental Health Specialists) | $9.0 | |
| 621112 | Offices of Physicians, Mental Health Specialists | $9.0 | |
| 621210 | Offices of Dentists | $6.5 | |
| 621310 | Offices of Chiropractors | $6.5 | |
| 621320 | Offices of Optometrists | $6.5 | |
| 621330 | Offices of Mental Health Practitioners (except Physicians) | $6.5 | |

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| 621340 | Offices of Physical, Occupational and Speech Therapists and Audiologists | $6.5 | |
| 621391 | Offices of Podiatrists | $6.5 | |
| 621399 | Offices of All Other Miscellaneous Health Practitioners | $6.5 | |
| 621410 | Family Planning Centers | $9.0 | |
| 621420 | Outpatient Mental Health and Substance Abuse Centers | $9.0 | |
| 621491 | HMO Medical Centers | $9.0 | |
| 621492 | Kidney Dialysis Centers | $31.5 | |
| 621493 | Freestanding Ambulatory Surgical and Emergency Centers | $9.0 | |
| 621498 | All Other Outpatient Care Centers | $9.0 | |
| 621511 | Medical Laboratories | $12.5 | |
| 621512 | Diagnostic Imaging Centers | $12.5 | |
| 621610 | Home Health Care Services | $12.5 | |
| 621910 | Ambulance Services | $6.5 | |
| 621991 | Blood and Organ Banks | $9.0 | |
| 621999 | All Other Miscellaneous Ambulatory Health Care Services | $9.0 | |
| | **Subsector 622—Hospitals** | | |
| 622110 | General Medical and Surgical Hospitals | $31.5 | |
| 622210 | Psychiatric and Substance Abuse Hospitals | $31.5 | |
| 622310 | Specialty (except Psychiatric and Substance Abuse) Hospitals | $31.5 | |
| | **Subsector 623—Nursing and Residential Care Facilities** | | |
| 623110 | Nursing Care Facilities | $12.5 | |
| 623210 | Residential Mental Retardation Facilities | $9.0 | |
| 623220 | Residential Mental Health and Substance Abuse Facilities | $6.5 | |
| 623311 | Continuing Care Retirement Communities | $12.5 | |
| 623312 | Homes for the Elderly | $6.5 | |
| 623990 | Other Residential Care Facilities | $6.5 | |
| | **Subsector 624—Social Assistance** | | |
| 624110 | Child and Youth Services | $6.5 | |
| 624120 | Services for the Elderly and Persons with Disabilities | $6.5 | |
| 624190 | Other Individual and Family Services | $6.5 | |
| 624210 | Community Food Services | $6.5 | |
| 624221 | Temporary Shelters | $6.5 | |
| 624229 | Other Community Housing Services | $6.5 | |
| 624230 | Emergency and Other Relief Services | $6.5 | |
| 624310 | Vocational Rehabilitation Services | $6.5 | |
| 624410 | Child Day Care Services | $6.5 | |
| | **Sector 71—Arts, Entertainment and Recreation** | | |
| | **Subsector 711—Performing Arts, Spectator Sports and Related Industries** | | |
| 711110 | Theater Companies and Dinner Theaters | $6.5 | |
| 711120 | Dance Companies | $6.5 | |
| 711130 | Musical Groups and Artists | $6.5 | |
| 711190 | Other Performing Arts Companies | $6.5 | |
| 711211 | Sports Teams and Clubs | $6.5 | |
| 711212 | Race Tracks | $6.5 | |
| 711219 | Other Spectator Sports | $6.5 | |
| 711310 | Promoters of Performing Arts, Sports and Similar Events with Facilities | $6.5 | |
| 711320 | Promoters of Performing Arts, Sports and Similar Events without Facilities | $6.5 | |
| 711410 | Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures | $6.5 | |
| 711510 | Independent Artists, Writers, and Performers | $6.5 | |
| | **Subsector 712—Museums, Historical Sites and Similar Institutions** | | |
| 712110 | Museums | $6.5 | |
| 712120 | Historical Sites | $6.5 | |
| 712130 | Zoos and Botanical Gardens | $6.5 | |
| 712190 | Nature Parks and Other Similar Institutions | $6.5 | |
| | **Subsector 713—Amusement, Gambling and Recreation Industries** | | |
| 713110 | Amusement and Theme Parks | $6.5 | |
| 713120 | Amusement Arcades | $6.5 | |
| 713210 | Casinos (except Casino Hotels) | $6.5 | |

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| 713290 | Other Gambling Industries | $6.5 | |
| 713910 | Golf Courses and Country Clubs | $6.5 | |
| 713920 | Skiing Facilities | $6.5 | |
| 713930 | Marinas | $6.5 | |
| 713940 | Fitness and Recreational Sports Centers | $6.5 | |
| 713950 | Bowling Centers | $6.5 | |
| 713990 | All Other Amusement and Recreation Industries | $6.5 | |
| | **Sector 72—Accommodation and Food Services** | | |
| | **Subsector 721—Accommodation** | | |
| 721110 | Hotels (except Casino Hotels) and Motels | $6.5 | |
| 721120 | Casino Hotels | $6.5 | |
| 721191 | Bed and Breakfast Inns | $6.5 | |
| 721199 | All Other Traveler Accommodation | $6.5 | |
| 721211 | RV (Recreational Vehicle) Parks and Campgrounds | $6.5 | |
| 721214 | Recreational and Vacation Camps (except Campgrounds) | $6.5 | |
| 721310 | Rooming and Boarding Houses | $6.5 | |
| | **Subsector 722—Food Services and Drinking Places** | | |
| 722110 | Full-Service Restaurants | $6.5 | |
| 722211 | Limited-Service Restaurants | $6.5 | |
| 722212 | Cafeterias | $6.5 | |
| 722213 | Snack and Nonalcoholic Beverage Bars | $6.5 | |
| 722310 | Food Service Contractors | $19.0 | |
| 722320 | Caterers | $6.5 | |
| 722330 | Mobile Food Services | $6.5 | |
| 722410 | Drinking Places (Alcoholic Beverages) | $6.5 | |
| | **Sector 81—Other Services** | | |
| | **Subsector 811—Repair and Maintenance** | | |
| 811111 | General Automotive Repair | $6.5 | |
| 811112 | Automotive Exhaust System Repair | $6.5 | |
| 811113 | Automotive Transmission Repair | $6.5 | |
| 811118 | Other Automotive Mechanical and Electrical Repair and Maintenance | $6.5 | |
| 811121 | Automotive Body, Paint and Interior Repair and Maintenance | $6.5 | |
| 811122 | Automotive Glass Replacement Shops | $6.5 | |
| 811191 | Automotive Oil Change and Lubrication Shops | $6.5 | |
| 811192 | Car Washes | $6.5 | |
| 811198 | All Other Automotive Repair and Maintenance | $6.5 | |
| 811211 | Consumer Electronics Repair and Maintenance | $6.5 | |
| 811212 | Computer and Office Machine Repair and Maintenance | $23.0 | |
| 811213 | Communication Equipment Repair and Maintenance | $6.5 | |
| 811219 | Other Electronic and Precision Equipment Repair and Maintenance | $6.5 | |
| 811310 | Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance. | $6.5 | |
| 811411 | Home and Garden Equipment Repair and Maintenance | $6.5 | |
| 811412 | Appliance Repair and Maintenance | $6.5 | |
| 811420 | Reupholstery and Furniture Repair | $6.5 | |
| 811430 | Footwear and Leather Goods Repair | $6.5 | |
| 811490 | Other Personal and Household Goods Repair and Maintenance | $6.5 | |
| | **Subsector 812—Personal and Laundry Services** | | |
| 812111 | Barber Shops | $6.5 | |
| 812112 | Beauty Salons | $6.5 | |
| 812113 | Nail Salons | $6.5 | |
| 812191 | Diet and Weight Reducing Centers | $6.5 | |
| 812199 | Other Personal Care Services | $6.5 | |
| 812210 | Funeral Homes and Funeral Services | $6.5 | |
| 812220 | Cemeteries and Crematories | $6.5 | |
| 812310 | Coin-Operated Laundries and Drycleaners | $6.5 | |
| 812320 | Drycleaning and Laundry Services (except Coin-Operated) | $4.5 | |
| 812331 | Linen Supply | $13.0 | |
| 812332 | Industrial Launderers | $13.0 | |
| 812910 | Pet Care (except Veterinary) Services | $6.5 | |
| 812921 | Photo Finishing Laboratories (except One-Hour) | $6.5 | |

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

| NAICS codes | NAICS U.S. industry title | Size standards in millions of dollars | Size standards in number of employees |
|---|---|---|---|
| 812922 | One-Hour Photo Finishing | $6.5 | |
| 812930 | Parking Lots and Garages | $6.5 | |
| 812990 | All Other Personal Services | $6.5 | |
| **Subsector 813—Religious, Grantmaking, Civic, Professional and Similar Organizations** | | | |
| 813110 | Religious Organizations | $6.5 | |
| 813211 | Grantmaking Foundations | $6.5 | |
| 813212 | Voluntary Health Organizations | $6.5 | |
| 813219 | Other Grantmaking and Giving Services | $6.5 | |
| 813311 | Human Rights Organizations | $6.5 | |
| 813312 | Environment, Conservation and Wildlife Organizations | $6.5 | |
| 813319 | Other Social Advocacy Organizations | $6.5 | |
| 813410 | Civic and Social Organizations | $6.5 | |
| 813910 | Business Associations | $6.5 | |
| 813920 | Professional Organizations | $6.5 | |
| 813930 | Labor Unions and Similar Labor Organizations | $6.5 | |
| 813940 | Political Organizations | $6.5 | |
| 813990 | Other Similar Organizations (except Business, Professional, Labor, and Political Organizations). | $6.5 | |

Footnotes

* * * * * * *

9. *NAICS code 531190*—Leasing of building space to the Federal Government by Owners: For Government procurement, a size standard of $19.0 million in gross receipts applies to the owners of building space leased to the Federal Government. The standard does not apply to an agent.

* * * * * * *

15. *Subsector 483*—Water Transportation—Offshore Marine Services: The applicable size standard shall be $25.5 million for firms furnishing specific transportation services to concerns engaged in offshore oil and/or natural gas exploration, drilling production, or marine research; such services encompass passenger and freight transportation, anchor handling, and related logistical services to and from the work site or at sea.

* * * * * * *

■ 3. Amend § 121.301 as follows:

■ a. Revise paragraphs (a) and (d)(1);

■ b. Amend paragraph (b)(2) introductory text by removing the term ''$7 million'' and inserting ''$7.5 million'' in its place.

The revised paragraphs read as follows:

**§ 121.301 What size standards are applicable to financial assistance programs?**

(a) For Business Loans and Disaster Loans (other than physical disaster loans), an applicant business concern must satisfy two criteria:

(1) The size of the applicant alone (without affiliates) must not exceed the size standard designated for the industry in which the applicant is primarily engaged; and

(2) The size of the applicant combined with its affiliates must not exceed the size standard designated for either the primary industry of the applicant alone or the primary industry of the applicant and its affiliates, whichever is higher. These size standards are set forth in § 121.201.

* * * * *

(d) * * *

(1) Any construction (general or special trade) concern or concern performing a contract for services is small if, together with its affiliates, its average annual receipts does not exceed $6.5 million.

* * * * *

■ 4. Amend § 121.302 by revising paragraph (c) to read as follows:

**§ 121.302 When does SBA determine the size status of an applicant?**

* * * * *

(c) For disaster loan assistance (other than physical disaster loans), size status is determined as of the date the disaster commenced, as set forth in the Disaster Declaration. For economic injury disaster loan assistance under disaster declarations for Hurricanes Katrina, Rita, and Wilma, size status is determined as of the date SBA accepts the application for processing, and for applications submitted before December 6, 2005, whether denied because of size status or pending, such applications shall be deemed resubmitted on December 6, 2005. For pre-disaster mitigation loans, size status is determined as of the date SBA accepts a complete Pre-Disaster Mitigation Small Business Loan Application for processing. Refer to § 123.408 of this chapter to find out what SBA considers to be a complete Pre-Disaster Mitigation Small Business Loan Application.

* * * * *

■ 5. Amend § 121.502 by revising paragraph (a)(2) to read as follows:

**§ 121.502 What size standards are applicable to programs for sales and lease of Government property?**

(a) * * *

(1) * * *

(2) A concern not primarily engaged in manufacturing is small for sales or leases of Government property if it has annual receipts not exceeding $6.5 million.

* * * * *

■ 6. Amend § 121.512 by revising paragraph (b) to read as follows:

**§ 121.512 What is the size standard for stockpile purchases?**

(a) * * *

(b) Its annual receipts, together with its affiliates, do not exceed $51.5 million.

## PART 123—DISASTER LOAN PROGRAM

■ 7. The authority citation for part 123 continues to read as follows:

**Authority:** 15 U.S.C. 634(b)(6), 636(b), 636(c) and 636(f); Public Law 102–395, 106 Stat. 1828, 1864; Public Law 103–75, 107 Stat. 739; and Public Law 106–50, 113 Stat. 245.

■ 8. Amend § 123.300 by revising paragraph (b) to read as follow:

**§ 123.300 Is my business eligible to apply for an economic injury disaster loan?**

* * * * *

(b) Economic injury disaster loans are available only if you were a small business (as defined in part 121 of this chapter) when the declared disaster commenced (except disaster declarations for Hurricanes Katrina, Rita, and Wilma, for which size status is determined as of the date SBA accepts the application for processing, and for applications submitted before December 6, 2005, whether denied because of size status or pending, such applications shall be deemed resubmitted on December 6, 2005), you and your affiliates and principal owners (20% or more ownership interest) have used all reasonably available funds, and you are unable to obtain credit elsewhere (see § 123.104).

* * * * *

Dated: November 4, 2005.

**Hector V. Barreto,**

*Administrator.*

[FR Doc. 05–23435 Filed 12–5–05; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2005–23176; Directorate Identifier 2005–NM–220–AD; Amendment 39–14396; AD 2005–25–03]**

**RIN 2120–AA64**

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

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 737–600, –700, –700C, and –800 series airplanes. This AD requires replacing the point ''D'' splice fitting between windows number 1 and 2 with a new splice fitting, performing an eddy current inspection for cracking of the holes in the structure common to the new splice fitting, including doing any related investigative actions; and corrective actions if necessary. This AD results from full-scale fuselage fatigue testing on the splice fitting that failed prior to the design objective on Boeing Model 737–800 series airplanes, and a report of a cracked splice fitting on an operational airplane. We are issuing this AD to prevent cracking of the existing fitting that may result in cracking through the skin and consequent decompression of the flight cabin.

**DATES:** This AD becomes effective December 21, 2005.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of December 21, 2005.

We must receive comments on this AD by February 6, 2006.

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

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

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

**FOR FURTHER INFORMATION CONTACT:** Sue Lucier, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6438; fax (425) 917–6590.

**SUPPLEMENTARY INFORMATION:**

### Discussion

We have received a report indicating that during the Model 737–800 series airplanes full-scale fuselage fatigue test, the splice fitting failed prior to the design service objective. Additionally, we have received a report indicating that a cracked splice fitting was found on an airplane with less than 13,500 total flight cycles. This condition, if not corrected, could result in cracking of the existing fitting that may cause cracking through the skin and consequent decompression of the flight cabin.

### Relevant Service Information

We have reviewed Boeing Alert Service Bulletin (ASB) 737–53A1222, Revision 2, dated October 20, 2005. The ASB describes procedures for replacing the splice fitting between windows number 1 and 2, at point ''D'' on the windowsill with a new splice fitting, and performing related investigative actions. Those investigative actions include performing an open hole eddy current inspection for cracking of the fastener holes, and a special detailed inspection for cracking of 12 fasteners in the adjacent structure. The ASB also describes procedures for repetitive external detailed inspections of the skin near the six skin fasteners below the splice fitting. The ASB specifies that if cracking is detected, to contact Boeing for further instructions. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

### FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. For this reason, we are issuing this AD to prevent cracking of the existing fitting that may result in cracking through the skin and consequent decompression of the flight cabin. This AD requires accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the AD and the ASB.''

### Differences Between the AD and the ASB

Where the ASB specifies contacting Boeing if any cracking is detected, this AD requires that, repair of any cracking be accomplished before further flight, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO).

Although the ASB specifies performing repetitive external detailed inspections of the skin near the six skin fasteners below the splice fitting, this AD does not require those inspections. These differences have been coordinated with the manufacturer.

### Interim Action

We consider this AD to be an interim action. We are currently considering requiring repetitive external detailed inspections for cracking of the skin near the six skin fasteners below the splice fitting. However the planned compliance time for accomplishing those inspections would necessitate allowing enough time to provide notice and opportunity for prior public comment on the merits of requiring those inspections.

**Similar Models**

The splice fitting between windows number 1 and 2, at point ''D'' on the windowsill, on certain Boeing Model 737–600, –700, –700C series airplanes is identical to the splice fitting on the affected Model 737–800 series airplanes. Therefore, all of these models may be subject to the same unsafe condition.

**FAA's Determination of the Effective Date**

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

**Comments Invited**

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2005–23176; Directorate Identifier 2005–NM–220–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

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

**Examining the Dockets**

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

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2005–25–03 Boeing:** Amendment 39–14396. Docket No. FAA–2005–23176; Directorate Identifier 2005–NM–220–AD.

**Effective Date**

(a) This AD becomes effective December 21, 2005.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Boeing Model 737–600, –700, –700C, and –800 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin (ASB) 737–53A1222, Revision 2, dated October 20, 2005.

**Unsafe Condition**

(d) This AD results from full-scale fuselage fatigue testing on the splice fitting that failed prior to the design objective on Boeing Model 737–800 series airplanes, and a report of a cracked splice fitting on an operational airplane. We are issuing this AD to prevent cracking of the existing fitting that may result in cracking through the skin and consequent decompression of the flight cabin.

**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.

**Replacing the Splice Fittings**

(f) Replace the splice fittings with new splice fittings in accordance with the Accomplishment Instructions of Boeing ASB 737–53A1222, Revision 2, dated October 20, 2005, at the times specified in paragraph (f)(1) or (f)(2) of this AD, as applicable. Before further flight, do any related investigative actions by accomplishing all the applicable actions specified in the Accomplishment Instructions.

(1) For airplanes that have accumulated less than 13,500 total flight cycles as of the effective date of this AD: Replace prior to the accumulation of 13,500 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 13,500 or more total flight cycles as of the effective date of this AD: Replace at the later of the times specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD.

(i) Prior the accumulation of 18,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs first.

(ii) Within 90 days after the effective date of this AD.

**Corrective Actions**

(g) If any cracking is found during any inspection required by this AD, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, or with a method approved in accordance with the procedures specified in paragraph (i) of this AD.

**Acceptable Method of Compliance**

(h) Replacing the splice fitting before the effective date of this AD in accordance with Boeing Service Bulletin 737–53–1222, dated June 6, 2002; or Boeing ASB 737–53A1222, Revision 1, dated January 30, 2003, is acceptable for compliance with the requirements of paragraph (f) of 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) 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.

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

**Material Incorporated by Reference**

(j) You must use Boeing Alert Service Bulletin 737–53A1222, Revision 2, dated October 20, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on November 25, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05–23601 Filed 12–5–05; 8:45 am]

BILLING CODE 4910–13–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[CO–001–0076a; FRL–8004–9]**

## Approval and Promulgation of Air Quality Implementation Plans; CO; $PM_{10}$ Designation of Areas for Air Quality Planning Purposes, Lamar; State Implementation Plan Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical correction.

**SUMMARY:** When EPA approved the Colorado State Implementation Plan (SIP) revision that requested redesignation of the Lamar area from nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers ($PM_{10}$) EPA provided response to comments and in one of the response to comments, misstated our response to the comment. In this action we are making a correction to the preamble by clarifying our response to the comment raised to correct our misstatement.

**DATES:** This correction is effective on January 5, 2006.

**FOR FURTHER INFORMATION CONTACT:** Libby Faulk, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 999 18th Street, Suite 200, Denver, Colorado 80202–2466, phone (303) 312–6083, and e-mail at: *faulk.libby@epa.gov*.

**SUPPLEMENTARY INFORMATION:** (i) Throughout this document, wherever *we, us* or *our* is used it means the Environmental Protection Agency.

(ii) The initials *SIP* mean or refer to State Implementation Plan.

(iii) The word *State* means the State of Colorado, unless the context indicates otherwise.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that when an agency for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because this was a misstatement in a response to comment and does not affect the outcome of the action and therefore meets the good cause exception. Thus, notice and public comment procedures are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

### I. Correction

Correction for the **Federal Register** Document Published on October 25, 2005 (70 FR 61563).

On October 25, 2005 we published a final rule approving Lamar's $PM_{10}$ SIP submitted by the Governor of Colorado on July 31, 2002. When we published this rule, we responded to public comments that were received during the public comment period in the proposed rule that was published on August 5, 2006 (69 FR 47366). In one of our response to comments, we misstated our response by stating that ''the CAA does not provide EPA with the authority to regulate air emissions from CAFOs'' (70 FR 61565). This is incorrect. EPA does have the authority to regulate air emissions from any source as defined under the Clean Air Act (CAA). Therefore, we are correcting our misstatement in the preamble. The comment received was the following:

> The commenter expressed concern regarding the proposed **Federal Register** notice stating that the $PM_{10}$ emissions are mainly wind blown. The commenter believes that this statement ignores the fact that there is a major combined animal feeding operation (CAFO) in Lamar that is a significant source of $PM_{10}$ emissions and that the $PM_{10}$ and precursor emissions from the source were not properly considered in determining attainment.

EPA's revised response is the following:

> Based on EPA's review of the Lamar, Colorado $PM_{10}$ Maintenance Plan and Technical Support Documentation (TSD), the State of Colorado did include $PM_{10}$ emissions from the combined animal feeding operation (CAFO) for the Lamar emissions inventory. The CAFO emissions are included in the area source emissions under wind erosion from the feedlot. The State also included the $PM_{10}$ emissions from the above emission source in its modeling analysis and the area continues to show attainment in future years. As for precursor emissions, the State added a secondary particulate concentration as part of its modeling effort to show attainment. The particulate concentration was comprised of ammonium nitrates and sulfates particles and was based on filter samples collected in Lamar. Further detailed information regarding the State's submittal is located within the docket of the final rule (70 FR 61563, October 25, 2005).

### II. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not

subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, 209 Stat. 48 (1995)). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement, 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of January 5, 2006. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

Dated: November 28, 2005.

**Robert E. Roberts,**

*Regional Administrator, Region VIII.*

[FR Doc. 05–23668 Filed 12–5–05; 8:45 am]

BILLING CODE 6560–50–P

# Proposed Rules

Federal Register
Vol. 70, No. 233
Tuesday, December 6, 2005

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2005–23196; Directorate Identifier 2005–NM–187–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 747–200C, –200F, –400, –400D, and –400F Series Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 747–200C, –200F, –400, –400D, and –400F series airplanes. This proposed AD would require repetitive inspections for cracks in the overlapping (upper) skin, upper fastener row of the lap joints of the fuselage skin in sections 41, 42, and 46; and related investigative and corrective actions, if necessary. This proposed AD results from fatigue tests and an analysis that identified areas of the fuselage lap joints where fatigue cracks can occur. We are proposing this AD to detect and correct fatigue cracks in the overlapping (upper) skin, upper fastener row of the lap joints of the fuselage skin in sections 41, 42, and 46, which could adversely affect the structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by January 20, 2006.

**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.

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

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

**SUPPLEMENTARY INFORMATION:**

### 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–2005–23196; Directorate Identifier 2005–NM–187–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 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

We have received a report indicating that the airplane manufacturer has completed extended pressure fatigue tests on 747–100SR and 747–400 fuselage test articles. Analysis of these test results have identified areas of the fuselage lap joints where fatigue cracks can occur on Boeing Model 747–200C, –200F, –400, –400D, and –400F series airplanes. Fatigue cracks in the overlapping (upper) skin, upper fastener row of the lap joints of the fuselage skin in sections 41, 42, and 46, if not detected and corrected in a timely manner, could adversely affect the structural integrity of the airplane.

### Other Relevant Rulemaking

We have previously issued AD 94–12–04, amendment 39–8932 (59 FR 30277, June 13, 1994), applicable to certain Boeing Model 747–100, –200, –300, 747SP, and 747SR series airplanes. That AD requires repetitive inspections to detect cracking in the upper row of certain fuselage skin lap joints, and repair, if necessary. This proposed AD addresses a similar unsafe condition on a different group of airplanes and would not affect the current requirements of AD 94–12–04.

We also previously issued AD 2004–07–22, amendment 39–13566 (69 FR 18250, April 7, 2004), applicable to all Boeing Model 747 series airplanes. (A final rule correction was published in the **Federal Register** on May 3, 2004 (69 FR 24063)). That AD requires that the FAA-approved maintenance inspection program be revised to include inspections that will give no less than the required damage tolerance rating for each structural significant item, and repair or cracked structure. The proposed AD would not affect the current requirements of that AD.

**Relevant Service Information**

We have reviewed Boeing Alert Service Bulletin 747–53A2499, dated August 11, 2005. The service bulletin describes procedures for repetitive external surface high frequency eddy current (HFEC), external low frequency eddy current (LFEC), and internal LFEC inspections, as applicable, for cracks in the overlapping (upper) skin, upper fastener row of the lap joints of the fuselage skin in sections 41, 42, and 46; and any applicable related investigative and corrective actions, if necessary. The related investigative actions involve doing open-hole HFEC inspections of the fastener holes to find the total crack length. The corrective actions involve repairing any cracked lap joint and doing open-hole HFEC inspection of the skin at all existing fastener locations common to the repair. The intervals for doing the repetitive inspections are 1,500, 2,400, or 3,000 flight cycles, depending on the airplane configuration. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

**FAA's Determination and Requirements of the Proposed AD**

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

**Difference Between Proposed Rule and Service Bulletin**

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

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

**Costs of Compliance**

There are about 796 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 153 airplanes of U.S. registry. The proposed inspections would take about 534 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $5,310,630, or $34,710 per airplane, per inspection cycle.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**Boeing:** Docket No. FAA–2005–23196; Directorate Identifier 2005–NM–187–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by January 20, 2006.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Boeing Model 747–200C, –200F, –400, –400D, and –400F series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–53A2499, dated August 11, 2005.

**Unsafe Condition**

(d) This AD results from fatigue tests and an analysis that identified areas of the fuselage lap joints where fatigue cracks can occur. We are issuing this AD to detect and correct fatigue cracks in the overlapping (upper) skin, upper fastener row of the lap joints of the fuselage skin in sections 41, 42, and 46, which could adversely affect the structural integrity of the airplane.

**Compliance**

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

**Initial Inspections and Related Investigative and Corrective Actions**

(f) At the applicable time specified in Table 1 of this AD: Do an external surface high frequency eddy current (HFEC), external low frequency eddy current (LFEC), and internal LFEC inspections, as applicable, for cracks in the overlapping (upper) skin, upper fastener row of the lap joints of the fuselage skin in sections 41, 42, and 46, and any applicable related investigative and corrective actions by doing all of the actions in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2499, dated August 11, 2005, except as provided by paragraph (h) of this AD. Do any applicable related investigative and corrective actions before further flight.

TABLE 1.—INITIAL COMPLIANCE TIME

| For airplanes on which Structural Significant Items (SSIs) F–25G, F–25H, and F–25I— | Inspect— |
|---|---|
| (1) Have not been inspected in accordance with paragraph (d) of AD 2004–07–22, amendment 39–13566, using the HFEC method. | Before the accumulation of 22,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later. |
| (2) Have been inspected in accordance with paragraph (d) of AD 2004–07–22, amendment 39–13566, using the HFEC method. | Within 3,000 flight cycles after the most recent Supplemental Structural Inspection Document (SSID) inspection of each applicable structural significant item (as given in Boeing Document D6–35022, ''SSID for Model 747 Airplanes,'' Revision G, dated December 2000), or within 1,000 flight cycles after the effective date of this AD, whichever occurs later. |

**Repetitive Inspections**

(g) Repeat the applicable inspections required by paragraph (f) of this AD thereafter at intervals not to exceed those specified in paragraph 1.E., ''Compliance'' (including the note) of Boeing Alert Service Bulletin 747–53A2499, dated August 11, 2005.

**Exception to Service Bulletin Instructions**

(h) Where the service bulletin specifies to contact Boeing for appropriate action, before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

**Alternative Methods of Compliance (AMOCs)**

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

(2) 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.

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

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

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05–23654 Filed 12–5–05; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2005–23197; Directorate Identifier 2005–NM–109–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 Series Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain McDonnell Douglas Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes. This proposed AD would require repetitive inspections for stress corrosion cracks of the main fuselage frame, and corrective actions if necessary. This proposed AD also would provide an optional terminating action for the repetitive inspections. This proposed AD results from several reports of cracking of the main fuselage frame. We are proposing this AD to detect and correct stress corrosion cracking of the main fuselage frame, which could result in extensive damage to adjacent structure, and reduced structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by January 20, 2006.

**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.

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

**FOR FURTHER INFORMATION CONTACT:** Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5324; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Include the docket number ''FAA–2005–23197; Directorate Identifier 2005–NM–109–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 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**

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

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

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America agreed to undertake the task of identifying and implementing procedures to ensure the continued structural airworthiness of aging transport category airplanes. An Airworthiness Assurance Working Group (AAWG) was established in August 1988, with members representing aircraft manufacturers, operators, regulatory authorities, and other aviation industry representatives worldwide. The objective of the AAWG was to sponsor ''Task Groups'' to:

1. Select service bulletins, applicable to each airplane model in the transport fleet, to be recommended for mandatory modification of aging airplanes;

2. Develop corrosion-directed inspections and prevention programs;

3. Review the adequacy of each operator's structural maintenance program;

4. Review and update the Supplemental Inspection Documents (SID); and

5. Assess repair quality.

In addition, we have received several reports of cracking of the main fuselage frame on McDonnell Douglas Model DC 9–10 series airplanes at station Y=642.000. The cracking has been attributed to stress corrosion. The AAWG task group for McDonnell Douglas Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes has determined that we should mandate inspections for cracks of the main fuselage frame, and repair if necessary, in accordance with the service bulletin described below. Stress corrosion cracking, if not detected and corrected, could propagate and result in extensive damage to adjacent structure, and reduced structural integrity of the airplane.

The subject area on certain McDonnell Douglas Model DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes is identical to that on the affected Model DC 9–10 series airplanes. Therefore, all of these models may be subject to the same unsafe condition.

**Relevant Service Information**

We have reviewed McDonnell Douglas DC–9 Service Bulletin 53–168, dated November 17, 1983; including McDonnell Douglas Service Sketch 3529, dated August 23, 1983 (attached to the service bulletin). The service bulletin describes procedures for repetitive inspections for stress corrosion cracks of the main fuselage frame at Station Y=642.000 (for Model DC–9–10 and DC–9–20 series airplanes), Station Y=756.000 (for Model DC–9–30 series airplanes), Station Y=794.000 (for Model DC–9–40 series airplanes), and Station Y=851.000 (for Model DC–9–50 series airplanes). The service bulletin specifies that operators should use one of four inspection methods during each repetitive inspection cycle: optical-aided visual, dye-penetrant, eddy current, or ultrasonic. The service bulletin specifies that operators should record all inspection results, and send a report to the manufacturer. If no crack is found, the service bulletin provides procedures for repeating the inspection until the frame is replaced. If any crack is found in a pocket area and the crack is within the trim-out limits specified in Service Sketch 3529, the service bulletin provides procedures for repeating the inspection until the frame is replaced. If any crack is found in a pocket area and the crack exceeds the trim-out limits specified in Service Sketch 3529, the service bulletin specifies that the corrective action is replacing the frame. In addition, if any crack is found in the web, the service bulletin specifies that the corrective action is replacing the frame. The service bulletin specifies that replacing the frame with a new or serviceable frame made of 7075–T73 aluminum material terminates the repetitive inspection requirements for that frame only. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

**FAA's Determination and Requirements of the Proposed AD**

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

Operators should note that, while it is not the FAA's usual policy to allow flight with known cracks, this AD permits further flight with cracking within certain limits. The manufacturer has advised us that they have data showing that the fuselage frame with the trim-out area, specified in McDonnell Douglas Service Sketch 3529, meets the certification basis of the airplane. The cracked frame supports limit load without detrimental permanent deformation, and ultimate load without failure. The repetitive inspection interval of 3,400 flight hours for this area (specified in paragraph (h)(1) of this proposed AD) is intended to detect crack growth caused by stress corrosion until the terminating action is accomplished. In consideration of these findings and the FAA's criteria for flight with known cracking, further flight with cracking within certain limits is permissible.

**Differences Between the Proposed AD and the Service Information**

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

Although the service bulletin does not give a compliance time for replacing the frame if a crack is found in a pocket area and the crack exceeds the limits specified in Service Sketch 3529; or if a crack is found in the web; this

proposed AD would require doing that replacement before further flight.

Although the service bulletin does not give a compliance time for doing the inspection for crack growth if a crack in the pocket area is within the trim-out limits specified in Service Sketch 3529, this proposed AD would require doing that inspection before further flight.

### Clarification of Inspection Terminology

In this proposed AD, the ''optical-aided visual inspection'' specified in the service bulletin is referred to as a ''detailed inspection.'' We have included the definition for a detailed inspection in a note in the proposed AD.

### Costs of Compliance

There are about 1,017 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

| Action | Work hours | Average labor rate per hour | Parts | Cost per airplane | Number of U.S.-registered airplanes | Fleet cost |
|---|---|---|---|---|---|---|
| Inspection, per inspection cycle. | 2 | $65 | $0 | $130, per inspection cycle | 376 | $48,880, per inspection cycle. |
| Optional terminating acton (replacing the frame). | [1] 96 | 65 | 7,305 | $13,545 ..... | 376 | Up to $5,092,920. |

[1] Per airplane.

### Authority for This Rulemaking

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

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

### Regulatory Findings

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

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

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

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

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

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

**McDonnell Douglas:** Docket No. FAA–2005–23197; Directorate Identifier 2005–NM–109–AD.

#### Comments Due Date

(a) The FAA must receive comments on this AD action by January 20, 2006.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to McDonnell Douglas Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–33F, DC–9–34, DC–9–34F, DC–9–32F (C–9A, C–9B), DC–9–41, and DC–9–51 airplanes; certificated in any category; as identified in McDonnell Douglas DC–9 Service Bulletin 53–168, dated November 17, 1983.

#### Unsafe Condition

(d) This AD results from several reports of cracking of the main fuselage frame. We are issuing this AD to detect and correct stress corrosion cracking of the main fuselage frame, which could result in extensive damage to adjacent structure, and reduced structural integrity of the airplane.

#### Compliance

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

#### Service Bulletin Reference

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of McDonnell Douglas DC–9 Service Bulletin 53–168, dated November 17, 1983, including McDonnell Douglas Service Sketch 3529, dated August 23, 1983.

#### Repetitive Inspections and Corrective Actions

(g) Prior to the accumulation of 15,000 total flight hours, or within 3,400 flight hours after the effective date of this AD, whichever occurs later: Do a detailed inspection, dye-penetrant inspection, eddy current inspection, or ultrasonic inspection for stress corrosion cracks of the main fuselage frame in accordance with the service bulletin. Except as provided by paragraph (h) of this AD, repeat the inspection thereafter at intervals not to exceed 8,000 flight hours until the replacement in paragraph (i) of this AD is accomplished.

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

lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

**Corrective Actions**

(h) If any crack is found during any inspection required by this AD, do the applicable action in paragraph (h)(1), (h)(2), or (h)(3) of this AD.

(1) If the crack is in the pocket area and the crack is within the trim-out limits specified in McDonnell Douglas Service Sketch 3529, dated August 23, 1983: Repeat the inspection specified in paragraph (g) of this AD at intervals not to exceed 3,400 flight hours until the action in paragraph (i) of this AD is accomplished.

(2) If the crack is in the pocket area and the crack exceeds the trim-out limits specified in McDonnell Douglas Service Sketch 3529, dated August 23, 1983, before further flight: Do the action in paragraph (i) of this AD.

(3) If the crack is in the web, before further flight: Do the action in paragraph (i) of this AD.

**Optional Terminating Action**

(i) Replacing the frame with a new or serviceable frame made of 7075–T73 aluminum material in accordance with the service bulletin terminates the repetitive inspection requirements of this AD for that frame only.

**No Reporting Required**

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

**Parts Installation**

(k) After the effective date of this AD, no person may install on any airplane a frame made of 7075–T6 aluminum material.

**Alternative Methods of Compliance (AMOCs)**

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

Issued in Renton, Washington, on November 25, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05–23655 Filed 12–5–05; 8:45 am]

**BILLING CODE 4910–13–P**

# Notices

Federal Register

Vol. 70, No. 233

Tuesday, December 6, 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

### Forest Service

### Helena National Forest, Broadwater County, MT, Cabin Gulch Vegetation Treatment Project

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an Environmental Impact Statement (EIS).

**SUMMARY:** The Helena National Forest is going to prepare an environmental impact statement for vegetation management actions in the Cabin Gulch and North Fork of Deep Creek drainages. The purpose and need for action is to restore and maintain the health of these fire dependent ecosystems, including increasing the resistance and resilience of these areas to catastrophic disturbance from fire events and/or disease and insect outbreaks. In addition to the vegetation actions, some roadwork is proposed to reduce sedimentation sources to the West Fork of Cabin Gulch; one road is proposed for closure; and one new road is being proposed for construction.

**DATES:** Comments concerning the proposed action must be received by January 9, 2006. The draft EIS is expected to be available to the public in March of 2006 and the final EIS is expected to be available to the public in June of 2006.

**ADDRESSES:** Send written comments or for further information, mail correspondence to or call Sharon Scott—Team Leader, Helena Ranger District, 2001 Poplar Street, Helena, MT 59601 (Phone 406.449.5490), or Dave Carroll, NEPA Coordinator, 2880 Skyway Drive, Helena, MT 59601 (Phone 406.449.5201).

**SUPPLEMENTARY INFORMATION:**

#### Purpose and Need for Action

Most of Montana has been under drought conditions for the past 7 years. Insect and disease problems are impacting this area. The Helena National Forest has identified a need to improve the forest health of this area. Since fires have been suppressed and controlled in this area, the number of small trees in the dry forest types (lower elevation, south and west facing slopes) has greatly increased. This has created a need to reduce current and future fuel buildup throughout the area. Douglas-fir are being killed by the Douglas-fir bark beetle, and Lodgepole pine and whitebark pine are being killed by the mountain pine beetle. The whitebark pine is also being killed by white pine blister rust. Aspen stands and grassland/sagebrush areas are declining on the landscape. There is also an opportunity for a research study involving Douglas-fir and prescribed fire. The purpose and need for action is to restore and maintain the health of these fire dependent ecosystems, including increasing the resistance and resilience of these areas to catastrophic disturbance from fire events and/or disease and insect outbreaks. Also, the West Fork of Cabin Gulch road is directly contributing sediment to the creek, and needs corrective action.

#### Proposed Action

The types of treatments being proposed are thinnings; patch cuts; reduction of encroaching species on the whitebark pine and aspen stands; reclamation of sagebrush and grassland meadows; prescribed fire; and road decommisioning and construction. The harvest of green trees and salvage of dead and dying trees are part of this proposal. These actions are consistent with the Forest Plan Management Area direction for the area. A project in conjunction with research scientists from the Rocky Mountain Research Station and entomologists from the Forest Health Protection office of the Regional Office is another important part of our proposal. The research project will evaluate the effects of silvicultural thinnings and prescribed fire and the resultant impact of the residual stand/trees susceptibility to Douglas-fir beetle activity.

To accomplish these actions we envision the use of the following activities: Commercial timber harvest (removing wood as a forest product), slashing (cutting trees that aren't valuable as a product and leaving them on site), burning (burning encompasses underburning, and mixed severity burning), and using equipment to ''chew up'' small trees and juniper (the piece of equipment is called a masticator). The logging systems being considered include cable or skyline logging, tractor logging and helicopter logging. This proposal includes 9 miles of temporary road. Those roads would be fully recontoured following this project.

*Specifics of the Proposed Action Are:* Thinning 2,100 acres; Patch cutting 325 acres; Douglas-fir thinning and prescribed fire research 550 acres; Whitebark Pine Restoration 100 acres; Aspen Restoration 100 acres; Grassland/Shrubland Reclaimation 375 acres.

*Underburning:* This will be primarily on the acres listed in the above components of the proposed action.

*Mixed severity burn:* 475 acres.

We are also proposing to close the West Fork of Cabin Gulch road by recontouring the road (approximately 3 miles). We are proposing to build a permanent road, 0.6 miles in length, that would allow people to access the upper portion of the West Fork of Cabin Gulch from the North Fork of Deep Creek.

*Responsible Official:* Kevin Riordan—Forest Supervisor, 2880 Skyway Drive, Helena, MT 59601.

#### Nature of Decision To Be Made

*The nature of the decision is:* Whether or not to implement the proposed action or an alternative to the proposed action that addresses the purpose and need for action. The following components define the nature of the decision at this point: Which treatment areas have the greatest benefit in increasing the areas' resistance and resilience to catastrophic disurbances such as wildfire or insect and disease outbreaks; Which areas may be of interest from a research perspective relative to fire and Douglas-fir bark beetle activity; and Whether or not Forest Plan amendment(s) are required? At this point in time it appears there may need to be a site specific, Forest Plan amendment relative to big game hiding cover.

#### Scoping Process

- Scoping Package (mailing)—November 2005.
- Scoping Meeting—December 2005 in Townsend, MT.
- NOI—December 9, 2005.
- Post on Web site—December 2005.
- DEIS Public Meetings—April 2006.

- DEIS Comment Period—March–April, 2006.
- FEIS and ROD—June 2006.

**Comment Requested**

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. Comments are due by January 9, 2006.

A draft environmental impact statement will be prepared for comment. The comment period on the draft EIS is expected to be from mid-March through April of 2006. This date will be established when the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the [enter correct time period] comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: November 29, 2005.

**Kevin Riordan,**

*Forest Supervisor.*

[FR Doc. 05–23605 Filed 12–5–05; 8:45 am]

BILLING CODE 3410–11–P

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## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

### Notice of Request for Extension of a Currently Approved Information Collection

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Proposed collection; comments requested.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's intention to request an extension for a currently approved information collection in support of the program for the 1890 Land Grant Institutions Rural Entrepreneurial Program Outreach Initiative.

**DATES:** Comments on this notice must be received by February 6, 2006 to be considered.

**FOR FURTHER INFORMATION CONTACT:** Mr. Edgar L. Lewis, Program Manager, Rural Development, USDA, STOP 3252, Room 4221, 1400 Independence Avenue, SW., Washington, DC 20250–3252. Telephone: (202) 690–3407, E-mail: *edgar.lewis@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* 1890 Land Grant Institutions Rural Entrepreneurial Program Outreach Initiative.

*OMB Number:* 0570–0041.

*Expiration Date of Approval:* March 31, 2006.

*Type of Request:* Extension of a currently approved information collection.

*Abstract:* The purpose of the 1890 Land Grant Institutions Rural Entrepreneurial Program Outreach Initiative is to provide technical assistance for business creation in economically challenged rural communities, for educational programs to develop and improve upon the professional skills of rural entrepreneurs, and for outreach and promotion of USDA Rural Development's programs in small rural communities with the greatest economic need. This initiative seeks to create a working partnership between USDA Rural Development and the 1890 Institutions through cooperative agreements.

*Estimate of Burden:* Public reporting burden for this collection is estimated to average 15 minutes to 15 hours per response.

*Respondents:* Only 1890 Land Grant Institutions of Higher Education and Tuskegee University.

*Estimated Number of Respondents:* 18.

*Estimated Number of Responses per Respondent:* 17.

*Estimated Number of Responses:* 297.

*Estimated Total Annual Burden on Respondents:* 762 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch (202) 692–0043.

**Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of Rural Development, including whether the information will have practical utility; (b) the accuracy of Rural Development's estimate of the burden to collect the required information, including the validity of the strategy used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments on the paperwork burden may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: November 30, 2005.

**Roberta D. Purcell,**

*Acting Administrator, Rural Business-Cooperative Service.*

[FR Doc. E5–6886 Filed 12–5–05; 8:45 am]

**BILLING CODE 3410–XY–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**(A–533–817, C–533–818, A–560–805, C–560–806, A–475–826, C–475–827, A–588–847, A–580–836, C–580–837)**

### Continuation of Antidumping and Countervailing Duty Orders: Certain Cut–to-Length Carbon–Quality Steel Plate from India, Indonesia, Italy, Japan, and Korea

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

**SUMMARY:** As a result of the determinations by the Department of Commerce (''the Department'') and the International Trade Commission (''ITC'') that revocation of the antidumping (''AD'') orders on certain cut–to-length carbon–quality steel plate (''CTL Plate'') from India, Indonesia, Italy, Japan, and Korea would likely lead to continuation or recurrence of dumping; that revocation of the countervailing duty (''CVD'') orders on CTL Plate from India, Indonesia, Italy, and Korea would likely lead to continuation or recurrence of a countervailable subsidy; and that revocation of these AD and CVD orders would likely lead to a continuation or recurrence of material injury to an industry in the United States, the Department is publishing this notice of continuation of these AD and CVD orders.

**EFFECTIVE DATE:** December 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Roberto Facundus (AD orders), Darla Brown (CVD orders), or David Goldberger, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3464, (202) 482–2849, or (202) 482–4136, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On January 3, 2005, the Department initiated and the ITC instituted sunset reviews of the AD orders on CTL Plate from India, Indonesia, Italy, Japan, and Korea and CVD orders on CTL Plate from India, Indonesia, Italy and Korea, pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), respectively. *See Notice of Initiation of Five-year (''Sunset'') Reviews*, 70 FR 75 (January 3, 2005). As a result of its reviews, the Department found that revocation of the AD orders would likely lead to continuation or recurrence of dumping and that revocation of the CVD orders would be likely to lead to continuation or recurrence of subsidization, and notified the ITC of the margins of dumping and the subsidy rates likely to prevail were the orders to be revoked. *See Certain Cut–To-Length Carbon–Quality Steel Plate from France, India, Indonesia, Italy, Japan, and the Republic of Korea; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 45655 (August 8, 2005); *Final Results of Expedited Sunset Review of Countervailing Duty Order: Certain Cut–To-Length Carbon–Quality Steel Plate From India*, 70 FR 45691 (August 8, 2005); *Final Results of Expedited Sunset Review of Countervailing Duty Order: Certain Cut–To-Length Carbon–Quality Steel Plate From Indonesia*, 70 FR 45692 (August 8, 2005); *Final Results of Expedited Sunset Review of Countervailing Duty Order: Certain Cut–To-Length Carbon–Quality Steel Plate From Italy*, 70 FR 45694 (August 8, 2005), *Final Results of Expedited Sunset Review of Countervailing Duty Order: Certain Cut–To-Length Carbon–Quality Steel Plate From Korea*, 70 FR 45689 (August 8, 2005), (collectively, ''*Final Results*'').

On November 28, 2005, the ITC determined that revocation of the AD orders on CTL Plate from India, Indonesia, Italy, Japan, and Korea and CVD orders on CTL Plate from India, Indonesia, Italy and Korea, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. *See Cut–to-Length Carbon–Quality Steel Plate From France, India, Indonesia, Italy, Japan, and Korea*, 70 FR 71331 (November 28, 2005) (''ITC Determination'') and USITC Publication 3816 (October 2005), entitled *Cut–To-Length Carbon Steel Plate from France, India, Indonesia, Italy, Japan, and Korea* (Investigation Nos. 701–TA–388–391 and 731–TA–816–821 (Review)).

### Scope of the Orders

The merchandise covered by the AD and CVD orders is certain hot–rolled carbon–quality steel: (1) Universal mill plates (*i.e.*, flat- rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut–to-length (not in coils) and without patterns in relief), of iron or non–alloy-quality steel; and (2) flat–rolled products, hot–rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut–to-length (not in coils). Steel products included in the scope of these orders are of rectangular, square, circular or other shape and of rectangular or non–rectangular cross-section where such non–rectangular cross- section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') – for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non–metallic substances are included within the scope of these orders. Also, specifically included in the scope of these orders are high strength, low alloy (''HSLA'') steels. HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products included in this scope, regardless of Harmonized Tariff Schedule of the United States (''HTSUS'') definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is two percent or less, by weight; and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of these orders unless otherwise specifically excluded. The following products are specifically excluded from these orders: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non- metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion–resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade

S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel. The merchandise subject to these orders is currently classifiable in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by these orders is dispositive.

Regarding the scope of the order for Japan, the following additional exclusions apply with respect to abrasion–resistant steels: NK–EH–360 (NK Everhard 360) and NK–EH–500 (NK Everhard 500). NK–EH–360 has the following specifications: (a) Physical Properties: Thickness ranging from 6–50 mm, Brinell Hardness: 361 min.; (b) Heat Treatment: controlled heat treatment; and (c) Chemical Composition (percent weight): C: 0.20 max., Si: 0.55 max., Mn: 1.60 max., P: 0.030 max., S: 0.030 max., Cr: 0.40 max., Ti: 0.005–0.020, B: 0.004 max. NK–EH–500 has the following specifications: (a) Physical Properties: Thickness ranging from 6–50 mm, Brinell Hardness: 477 min.; (b) Heat Treatment: Controlled heat treatment; and (c) Chemical Composition (percent weight): C: 0.35 max., Si: 0.55 max., Mn: 1.60 max., P: 0.030 max., S: 0.030 max., Cr: 0.80 max., Ti: 0.005–0.020, B: 0.004 max.

**Determination**

As a result of the determinations by the Department and the ITC that revocation of these AD and CVD orders would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy, and of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the AD orders on CTL Plate from India, Indonesia, Italy, Japan, and Korea and CVD orders on CTL Plate from India, Indonesia, Italy and Korea. U.S. Customs and Border Protection will continue to collect cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this Notice of Continuation.

Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of these orders not later than October 2010.

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

Dated: November 30, 2005.

**Stephen J. Claeys,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5–6906 Filed 12–6–05; 8:45 am]

BILLING CODE 3510–DS–S

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–831]**

### Fresh Garlic From the People's Republic of China: Extension of Time Limit for the Preliminary Results of New Shipper Reviews

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

**EFFECTIVE DATE:** December 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Sochieta Moth or Ryan Douglas, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0168 and (202) 482–1277, respectively.

**Background**

The Department of Commerce (''the Department'') published an antidumping duty order on fresh garlic from the People's Republic of China on November 16, 1994. *See Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 28462. On July 11, 2005, the Department published the semi–annual initiation of new shipper reviews in this proceeding (*see Fresh Garlic From the People's Republic of China; Initiation of New Shipper Reviews*, 70 FR 39733 (July 11, 2005)) for the period November 1, 2004, through April 30, 2005, for three exporters: Shandong Chengshun Farm Produce Trading Company, Ltd. (''Chengshun''); Xi'an XiongLi Foodstuff Co., Ltd. (''XiongLi''); and Shenzhen Fanhui Import and Export Co., Ltd.(''Fanhui''). The preliminary results of these reviews are currently due no later than December 27, 2005. On September 14, 2005, the Department rescinded the new shipper review with respect to XiongLi, pursuant to XiongLi's timely submission to withdraw its request to these reviews (*see Fresh Garlic From the People's Republic of China: Rescission of Antidumping Duty New Shipper Review*, 70 FR 54358 (September 14, 2005)). On October 3, 2005, the Department initiated a new shipper review of fresh garlic from the PRC for Qufu Dongbao Import and Export Trade Co., Ltd. (''Dongbao'') (*see Fresh Garlic From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review*, 70 FR 57561 (October 3, 2005)). The preliminary results to these reviews are currently due no later than March 22, 2006. On October 26, 2005, the Department initiated a new shipper review of fresh garlic from the PRC for Anqiu Friend Food Co., Ltd. (''Anqiu Friend'') (*see Fresh Garlic From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review*, 70 FR 61787 (October 26, 2005)). The preliminary results to this review are currently due no later than April 18, 2006.

**Extension of Time Limit for Preliminary Results**

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), provides that the Department will issue the preliminary results of a new shipper review of an antidumping duty order within 180 days after the day on which the review was initiated (*see also*, 19 CFR 351.214 (i)(1) (2005)). The Act provides further that the Department may extend that 180–day period to 300 days if it determines that the case is extraordinarily complicated (19 CFR 351.214 (i)(2)).

The Department has determined that these reviews are extraordinarily complicated and that it is not practicable to complete the preliminary results of these reviews by the current deadlines of December 27, 2005, March 22, 2006, and April 18, 2006. There are significant and complicated issues surrounding the Department's normal value calculation, particularly with respect to the valuation of the fresh garlic bulb. The Department requires additional time to properly analyze the respondents' questionnaires responses, issue supplemental questionnaires, and conduct any appropriate verifications in theses new shipper reviews. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the Department is extending the time limit for the preliminary results to these reviews of Chengshun and Fanhui by 120 days, until no later than April 26, 2006. The

Department is also extending the time limits for the preliminary results of Dongbao by 35 days and for Anqiu Friend by 8 days, until no later than April 26, 2006. Thus, the Department will issue the preliminary results for Dongbao and Anqiu Friend concurrently with the preliminary results for Chengshun and Fanhui on April 26, 2006.

We are issuing this notice in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: November 30, 2005.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E5–6901 Filed 12–5–05; 8:45 am]

BILLING CODE 3510–DS–S

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Applications for Duty–Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

Docket Number: 05–047. Applicant: Dartmouth College, Thayer School of Engineering, HB 8000 Dartmouth College, Hanover, NH 03755–8000. Instrument: Nano Magneto–optic Kerr Effect Microscope. Manufacturer: Durham Magneto Optics, Ltd., UK. Intended Use: The instrument is intended to be used to study the Kerr effect which is the rotation of the polarization of light under the influence of time–varying magnetic fields in three axes. Transverse, longitudinal, and polar Kerr effects will be measured as well as time–varying combinations of these. Thin layers of several magnetic alloys inside of dielectric structures will be deposited to enhance the effect of the magnetic field to measure magnetic properties of weakly magnetic materials, and to maximize the polarization rotation of Kerr–effect materials. Application accepted by Commissioner of Customs: October 28, 2005.

Docket Number: 05–048. Applicant: Purdue University, 401 South Grant Street, West Lafayette, IN 47907. Instrument: Electron Microscope, Model Nova 200 NanoLab. Manufacturer: FEI Company, The Netherlands. Intended Use: The instrument is intended to be used for instruction in the following courses:

(1) Microstructural Characterization Techniques

(2) Introduction to Scanning Electron Microscopy

(3) Introduction to Transmission Electron Microscopy

(4) Transmission Electron Microscopy and Crystal Imperfections.

It will also be used in individualized instruction for MS and PhD Theses. Application accepted by Commissioner of Customs: November 10, 2005.

Docket Number: 05–049. Applicant: Purdue University, 401 South Grant Street, West Lafayette, IN 47907. Instrument: Electron Microscope, Model Technai G² F30 S–TWIN. Manufacturer: FEI Company, The Netherlands. Intended Use: The instrument is intended to be used for instruction in the following courses:

(1) Microstructural Characterization Techniques

(2) Introduction to Scanning Electron Microscopy

(3) Introduction to Transmission Electron Microscopy

(4) Transmission Electron Microscopy and Crystal Imperfections.

It will also be used in individualized instruction for MS and PhD Theses. Application accepted by Commissioner of Customs: November 10, 2005.

Docket Number: 05–050. Applicant: The Ohio State University, Materials Science and Engineering, 2041 College Road, Columbus, OH 43210. Instrument: Electron Microscope, Model Titan F30 S–TWIN. Manufacturer: FEI Company, The Netherlands. Intended Use: The instrument is intended to be used in a multi–disciplinary central instrumentation facility and will be used to study many different types of solid state materials. It will be used for general morphological and structural studies of ceramics and metals, including high–temperature superconductors, high–temperature metal alloys, evaporated metal films, silicon–germanium quantum dots, soils and geological materials, polymers and possibly some biological samples. It will be used measure the morphology and orientation of grains and particles, as well as the structure, long and short range ordering, number and type of defects and the elemental composition of various phases in the materials. Application accepted by Commissioner of Customs: November 16, 2005.

Docket Number: 05–051. Applicant: The Rockefeller University, 1230 York Avenue, New York, NY 10021. Instrument: Electron Microscope, Model Technai G² 12 Bio Twin. Manufacturer: FEI Company, The Netherlands. Intended Use: The instrument is intended to be used in a central facility that is available for use by all researchers at the University. The center provides highly specialized state–of-the–art equipment for both optical and electron microscopy, as well as training in its use. The staff are available to provide experimental assistance and advice. About 65 of 75 of the laboratories will be used by a wide variety of researchers working on a broad range of experimental systems, from viruses and bacteria to sections of brain tissue. The new very high resolution microscope for cell biology will allow visualization of a single cell or bacterium filling an 8 x 11 page. Application accepted by Commissioner of Customs: November 18, 2005.

**Gerald A. Zerdy,**

*Program Manager, Statutory Import Programs Staff.*

[FR Doc. E5–6909 Filed 12–5–05; 8:45 am]

BILLING CODE 3510–DS–S

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Export Trade Certificate of Review

**ACTION:** Notice of application.

**SUMMARY:** Export Trading Company Affairs (''ETCA''), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll free number) or E-mail at *oetca@ita.doc.gov*.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register**, identifying the applicant and summarizing its proposed export conduct.

**Request for Public Comments**

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 7021H, Washington, DC 20230, or transmit by E-mail at *oetca@ita.doc.gov*. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 05–00002.'' A summary of the application follows.

**Summary of the Application**

*Applicant:* California Tomato Export Group (''CTEG''), 230 Thunderbird Drive, Aptos, California 95003; Contact: Rodger Wasson, Consultant; Telephone: (831) 254–5405.

*Application No.:* 05–00002.

*Date Deemed Submitted:* November 21, 2005.

*Members (in addition to applicant)*: CTEG is a newly formed export joint venture comprising the following members: Ingomar Packing Company, Los Banos, CA; Los Gatos Tomato Products, Huron, CA; and SK Foods, Lemoore, CA.

CTEG seeks a Certificate to engage in the Export Trade Activities and Methods of Operation described below in the following Export Trade and Export Markets:

**Export Trade**

*Products*

CTEG plans to export processed tomato products. Products that are included are tomato paste, diced tomatoes, canned foodservice tomatoes, canned retail tomatoes, and formulated glass retail products.

**Export Markets**

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

**Export Trade Activities and Methods of Operation**

CTEG seeks certification for the following activities and exchanges of information:

CTEG and/or one or more of its Members may on behalf of and with the advice and assistance of its Members:

*1. Export Promotion of Processed Tomatoes*

a. Research, develop and conduct promotion and public relations activities to develop demand for the exported products of the member companies;

b. Seek export promotional funds jointly to combine efforts to promote the companies' exports aimed at expanding existing markets and creating new markets;

c. Develop and disseminate industry news reports of interest to foreign buyers. Provide information collectively to prospective export buyers regarding items such as crop inventory and structure of the U.S. processed tomato industry; and

d. Organize joint representation at world tomato conferences;

*2. Investment*

Invest jointly in export infrastructure, activities, and operations, such as:

a. Bill and collect from foreign buyers and provide collective accounting, tax, legal and consulting assistance and services;

b. Write contracts for export payment terms;

c. Organize and conduct joint representation at tomato industry conferences where foreign buyers are present;

d. Develop and maintain a website/newsletter and marketing brochures with product and crop information for the benefit of foreign customers;

e. Purchase/rent warehouse facilities to conduct export operations;

f. Combine purchases of inputs for export operations;

g. Negotiate and enter into agreements with providers of transportation services for the export of processed tomato products;

h. Consolidate CTEG shipments to export markets;

i. Administer phytosanitary protocols to qualify the processed tomato products for export markets;

*3. Funding*

Apply for and utilize export assistance and incentive programs, as well as arrange financing through bank holding companies, governmental programs, and other arrangements;

*4. Export Market Development*

a. Design and develop foreign marketing strategies for CTEG's export markets; and

b. Design, develop, and market generic corporate and/or CTEG labels for export;

*5. Export Sales Prices*

Establish export sale prices, minimum export sale prices, target export sales prices and/or minimum target export sale prices, and other terms of sale;

*6. Joint Bidding*

Engage in joint bidding or other joint selling arrangements for export processed exported tomatoes and allocate export sales resulting from such arrangements;

*7. Quantities*

Agree on quantities of processed tomatoes to be exported, provided each member shall be required to dedicate only such quantity or quantities as each such member shall independently determine;

*8. Foreign Buyer Negotiations*

Participate in negotiations and enter into agreements with foreign buyers (including governments and private persons) regarding:

a. The quantities, time periods, prices and terms and conditions in connection with actual or potential bona fide export opportunities; and

b. Non-tariff trade barriers in the export markets;

*9. Refusals to Deal*

Refuse to quote prices for export products, or to market or sell export products, to or for any customer in the export processed tomato market, or any countries or geographical areas in the export markets;

*10. Market and Customer Allocation*

Allocate geographic areas or countries in the export markets and/or customers in the export markets among members of the California Tomato Export Group;

*11. Exclusive and Nonexclusive Export Intermediaries*

Enter into exclusive and nonexclusive agreements appointing one or more export intermediaries for the sale of export products with price, quantity, territorial and/or customer restrictions. ''Export Intermediary'' means a person who acts as a distributor, sales representative, sales or marketing agent, broker, or who performs similar functions including providing or arranging for the provision of export trade facilitation services;

*12. Meetings*

Meet with members of the Certificate and manager of the Certificate present;

*13. Non-Member Activities*

a. Enter into agreements with non-members, whether or not exclusive, to provide export trade facilitation services;

b. Purchase tomatoes from non-members to fulfill specific export sales obligations, provided that CTEG and/or its members shall make such purchases only on a transaction-by-transaction basis and when the members are unable to supply, in a timely manner, the requisite products at a price competitive under the circumstances. In no event shall a non-member be included in any deliberations concerning any export activities and operations; and

*14. Government Liaison*

Advise and cooperate with the United States and foreign governments in:

a. Establishing procedures regulating the export of processed tomato products, and

b. Fulfilling the phytosanitary and/or funding requirements imposed by foreign governments for export of the processed tomato products.

CTEG may exchange the following information with and among the Members as necessary to carry out export trade activities and methods of operation:

1. Information about export sales and marketing efforts; selling strategies, contract and spot pricing in the export markets;

2. Information regarding projected demand in the export markets;

3. Information about the customary terms of sales in export markets;

4. Information about export prices and availability of competitor's processed tomato products for sale in the export markets;

5. Specifications for processed tomato products by customers in the export markets;

6. Information about terms and conditions of contracts for sale in the export markets to be considered and/or bid on by CTEG and its members;

7. Information about the price, quality, source, and delivery dates of processed tomato products available for export by CTEG members;

8. Information about joint bidding and/or selling arrangements for export markets;

9. Information regarding terms, conditions, and specifications of particular export contracts for sale or to be considered and/or bid on by the CTEG;

10. Information about expenses specific to exporting to and within the export markets, sales and distribution networks established by CTEG or its members in export markets;

11. Information about export customer credit terms and credit history;

12. Information about United States and foreign legislation and regulations, including federal marketing order programs, affecting sales to the export markets;

13. Information about joint bidding or selling arrangements for the export markets and allocations of sales resulting from such arrangements among the members;

14. Information about expenses specific to exporting to and within the export markets, including without limitation, transportation, trans-or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation; financing, customs, duties, and taxes;

15. Information about CTEG's or its members' export operations, including without limitation, sales and distribution networks established by CTEG or its members in the export markets, and prior export sales by members (including export price information);

16. Information regarding the forecasted quantity of processed tomatoes secured through contracts by each member for upcoming seasons;

17. Information regarding the potential available supply of processed tomato products available for export and not committed to domestic markets in upcoming seasons; and

18. Information about global tomato crop supply, including planting intentions, growing conditions, weather, disease, transportation, consumer trends, health news, regulatory impacts and information that impacts on the availability, conditions and costs to foreign buyers.

Dated: December 1, 2005.

**Jeffrey Anspacher,**

*Director, Export Trading Company Affairs.*

[FR Doc. E5–6872 Filed 12–5–05; 8:45 am]

BILLING CODE 3510–DR–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Vessel Monitoring System for Atlantic Highly Migratory Species

**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 February 6, 2006.

**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 Chris Rilling, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, phone (301) 713–2347 or *Chris.Rilling@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

Vessels fishing for Atlantic highly migratory species (HMS) with pelagic longline, bottom longline, or gillnet gear on board are required to install and

operate a vessel monitoring system (VMS). VMS is required in these fisheries to aid in enforcement and protection of closed areas. These areas were closed to reduce bycatch in HMS fisheries, to aid in rebuilding overfished stocks, and to protect protected species such as right whales. The automatic position reports are required to be submitted on an hourly basis whenever the vessel is at sea. The placement of VMS units on fishing vessels allows the National Marine Fisheries Service (NMFS) to determine vessel locations and complements the Agency's efforts to monitor and enforce compliance with applicable regulations, including time/area closures. Vessel operators who are purchasing and installing a VMS unit for the first time are required to follow an equipment installation checklist and submit it to NMFS. The checklist provides information on the hardware and communications service selected by each vessel. NMFS uses the returned checklists to ensure that position reports are received and to aid NMFS in troubleshooting problems.

The regulations implementing the VMS requirements are at 50 CFR 635.69(a). Further information can be found in the final rules 68 FR 45619, 68 FR 74746, 69 FR 19979 and 69 FR 51010.

**II. Method of Collection**

Checklists will be submitted in paper form for vessels installing VMS for the first time. Position reports will be automatically sent electronically by the vessel monitoring system units.

**III. Data**

*OMB Number:* 0648–0372.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business and other for-profit organizations.

*Estimated Number of Respondents:* 329.

*Estimated Time Per Response:* 4 hours for VMS installation; 2 hours for annual maintenance of the equipment; 0.033 seconds per automated position report from the automated equipment, and 5 minutes to complete and return a one-time installation checklist.

*Estimated Total Annual Burden Hours:* 15,667.

*Estimated Total Annual Cost to Public:* $775,251. This is a maximum figure based upon the total number of vessels in the fleet (329), VMS maintenance ($500/year), and position reports ($1.39/day).

**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: November 30, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E5–6850 Filed 12–5–05; 8:45 am]

BILLING CODE 3510–22–P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Large Pelagic Fishing Survey

**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 February 6, 2006.

**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 Dr. Ronald J. Salz, (301) 713–2328 or *ron.salz@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Large Pelagic Fishing Survey consists of dockside and telephone surveys of recreational anglers for large pelagic fish (tunas, sharks, and billfish) in the Atlantic Ocean. The survey provides National Marine Fisheries Service with information to monitor catch of bluefin tuna, marlin and other Federally-managed species. The catch monitoring in these fisheries and collection of catch and effort statistics for all pelagic fish is required under the Atlantic Tunas Convention Act and the Magnuson-Stevens Fishery Conservation and Management Act. The information collected is essential for the U.S. to meet its reporting obligations to the International Commission for the Conservation of Atlantic Tuna.

**II. Method of Collection**

Dockside and telephone interviews are used. In lieu of telephone interviews, respondents may also provide information via faxed logsheets or online via a Web tool.

**III. Data**

*OMB Number:* 0648–0380.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Individuals or households, business or other for-profit organizations.

*Estimated Number of Respondents:* 17,000.

*Estimated Time Per Response:* 8 minutes for a telephone interview; 5 minutes for a dockside interview; 1.5 minutes to respond to a follow-up validation call for dockside interviews; 1 minute for a biological sampling of catch; and 28 minutes for a headboat effort and catch survey; 6 minutes for North Carolina winter bluefin tuna dockside interview.

*Estimated Total Annual Burden Hours:* 2,371.

*Estimated Total Annual Cost to Public:* $0.

**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: November 30, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E5–6851 Filed 12–5–05; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; NOAA Community-Based Restoration Program Progress Reports

**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 February 6, 2006.

**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 Robin Bruckner, 301–713–0174 or via the Internet at *Robin.Bruckner@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The NOAA Community-based Restoration Program (CRP) provides financial assistance on a competitive basis to implement grass-roots, community-based habitat restoration, debris prevention and removal, and barrier removal activities through individual projects or restoration partnerships. The NOAA Restoration Center (RC) within the NOAA Fisheries Service Office of Habitat Conservation, intends to continue requiring specific information on projects funded under various grants initiatives managed by the RC as part of routine progress reporting. Recipients of NOAA funds under these initiatives will be required to submit information including project location, restoration techniques used, species benefitted, acres restored, stream miles opened to access for diadromous fish, volunteer participation, and other parameters. This information collection is necessary to track and report on the large number of community-based projects being implemented with RC support around the country. This information will be used to continue populating a database of NOAA-funded habitat restoration, debris prevention and removal, and barrier removal projects. The database, with its robust querying capabilities, is instrumental to accurate and timely responses to NOAA, Department of Commerce, Congressional and Constituent inquiries. It also ensures accountability for federal funds expended for community-based activities, reported by NOAA through the Government Performance and Reporting Act acres restored performance measure. Grant recipients are required by the NOAA Grants Management Division to submit periodic performance reports and a final report for each award; this collection will stipulate the information to be provided in these reports.

### II. Method of Collection

The reporting form and format outline will be provided to funding recipients and will also be available on the Restoration Center's home page. Electronic submission of forms and progress report narratives will be encouraged but not required.

### III. Data

*OMB Number:* 0648–0472.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Not-for profit institutions; State, Local and Tribal Governments, business or other for-profit organizations.

*Estimated Number of Respondents:* 200.

*Estimated Time Per Response:* Interim reports, 9 hours and 45 minutes; and final reports, 11 hours and 45 minutes. Three semi-annual reports and one final report over a 24-month period are required for each award; however, information collected and submitted for any single report need not be collected again for subsequent reports.

*Estimated Total Annual Burden Hours:* 8,240.

*Estimated Total Annual Cost to Public:* $2,940.

### 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: November 30, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E5–6852 Filed 12–5–05; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Information Requirements for the Marine Animal Health and Stranding Response Program

**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 February 6, 2006.

**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(s) and instructions should be directed to Patricia Lawson, (301) 713–2322 or *Patricia.Lawson@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The purpose of this proposed collection of information is to enable the Marine Animal Health and Stranding Response Program (Program) of NOAA to assemble information on all tissue samples submitted to the National Biomonitoring Specimen Bank (Bank), including the National Marine Mammal Tissue Bank. These samples will be collected from marine mammals, sea turtles, sea birds, and other marine animals as needed by volunteers and researchers participating in the Program. The specimen banking information sheets will ask for basic data such as species, date collected, condition of tissue, and biology of animal sampled. This information is essential for the analysis, comparison, and interpretation of submitted specimens.

The Bank provides researchers samples that have been collected in a systematic and well-documented manner for comparing results over time to identify whether environmental and health trends exist. Without background information on all samples submitted to the Bank, scientists cannot conduct comparative and retrospective analyses and interpretation on archived marine animal tissues.

### II. Method of Collection

Respondents must send the completed data sheet along with the sample to the Bank. Online submission program should be available in early 2006.

### III. Data

*OMB Number:* None.
*Form Number:* None.
*Type of Review:* Regular submission.
*Affected Public:* Not-for-profit institutions; individuals or households; State, Local or Tribal Governments.
*Estimated Number of Respondents:* 30.
*Estimated Time Per Response:* 30 minutes.
*Estimated Total Annual Burden Hours:* 50.
*Estimated Total Annual Cost to Public:* $112.

### 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: November 30, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E5–6853 Filed 12–5–05; 8:45 am]

**BILLING CODE 3510–22–P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Spatial Assessment and Analysis of Non-Consumptive Uses in California's National Marine Sanctuaries

**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 February 6, 2006.

**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(s) and instructions should be directed to Dr. Vernon R. Leeworthy, NOS/Special Projects, 1305 East West Highway, SSMC 4, 9th Floor, Silver Spring, Maryland 20910 (or via Internet at *Bob.Leeworthy@noaa.gov*).

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The purpose of this data collection is to provide information needed to inform National Marine Sanctuary management and the greater California Marine Life Protection Act process, an assessment of the economic magnitude of private non-consumptive activities within marine sanctuaries and the ways in which marine protection affects these values. Non-consumptive recreation includes any recreation activity that does not involve removing Sanctuary resources (*e.g.*) scuba diving, snorkeling, whale watching, bird watching, viewing other wildlife, viewing/photographing scenery, surfing, kayaking, and sailing). The outcomes of the proposed research will include the first geographically organized inventory of private non-consumptive users and values, insight into how biological and physical attributes influence user behavior and values, and the economic impacts associated with these users, in terms of local expenditures and social welfare. All stages of the study will involve a formal peer review process.

Three core tasks will be completed for Channel Islands and Monterey Bay National Marine Sanctuaries:

1. Establish baseline data: (i) Total amount and spatial distribution of non-consumptive use; (ii) Socioeconomic and expenditure profiles of non-consumptive users; and (iii) Knowledge, attitudes, and perceptions of sanctuary management strategies and regulations.
2. Analyze the market and non-market economic impact of non-consumptive use.
3. Analyze how non-market use varies with respect to attributes of marine and coastal environments.

### II. Method of Collection

Information will be collected via telephone and face-to-face interviews, and aboard a NOAA vessel using computer aided technology.

### III. Data

*OMB Number:* None.
*Form Number:* None.
*Type of Review:* Regular submission.
*Affected Public:* Individuals or households.
*Estimated Number of Respondents:* 3,400.
*Estimated Time Per Response:* 52 minutes.
*Estimated Total Annual Burden Hours:* 2,945.
*Estimated Total Annual Cost to Public:* $0.

## 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: November 30, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E5–6854 Filed 12–5–05; 8:45 am]

BILLING CODE 3510–12–P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 120105B]**

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper, Coastal Pelagics, and Spiny Lobster Fisheries Off the Southern Atlantic States

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

**ACTION:** Notice; receipt of an exempted fishing permit application; request for comments.

**SUMMARY:** NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Lindsey Parker on behalf of the University of Georgia's Marine Extension Service. If granted, the EFP would authorize the applicant, with certain conditions, to collect up to 200 juvenile (undersized) snapper/grouper, 20 adult snapper/grouper, and 10 non-berried spiny lobster from the date of issuance through March 14, 2007. Specimens would be collected from Federal waters off the coast of Georgia during 2005, 2006, and 2007, and utilized by the University of Georgia's Marine Education Center and Aquarium, located on Skidaway Island near Savannah, Georgia, for display and public education.

**DATES:** Comments must be received no later than 5 p.m., eastern time, on December 21, 2005.

**ADDRESSES:** Comments on the application may be sent via fax to 727–824–5308 or mailed to: Julie Weeder, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701. Comments may be submitted by e-mail to: *meca.aquarium@noaa.gov*. Include the following text in the subject line of the e-mail: ''Comment on MECA EFP Application.'' The application and related documents are available for review upon written request to the address above or by e-mail to: *julie.weeder@noaa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Weeder, 727–551–5753; fax 727–824–5308; e-mail *julie.weeder@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

According to the applicant, The University of Georgia's Marine Education Center and Aquarium is the education branch of the University's Marine Extension Service in the School of Marine Programs. Its purpose is to serve as a resource for students, teachers, and the general public in matters related to Georgia's coastal marine environments. The facility provides a variety of education programs, including short academic classes and summer science camps for school children, classes for college students and teachers, and programs for visiting adult groups. It is free to school groups and is open to the public for a small admission charge.

The proposed collection for public display involves activities otherwise prohibited by regulations implementing the Fishery Management Plans (FMP) for the Snapper-Grouper and Spiny Lobster Fisheries of the South Atlantic Region.

The applicant requires authorization to harvest and possess the following numbers of fishes over the permit period, to be collected over multiple trips: 200 juvenile (undersized) snapper/grouper, 20 adult snapper/grouper, and 10 spiny lobster. Collections would occur in Federal waters off the coast of Georgia from the date of issuance through March 14, 2007. The applicant wishes to make four collection trips over the permit period, each of 2-day duration.

Specimens would be captured with fish trawls (up to 50 foot headrope length, mesh size from 2 1/4 inches to 4 inches, codend mesh size as small as 1 5/8 inches), sea bass traps, hook-and-line, dip nets, and fry nets. The applicant requests exemption from the requirement to use a turtle excluder device (TED) on the trawl, because many of the specimens to be collected would be too large to fit through the TED grid and would be excluded from the sample. The applicant suggests limiting tow times to 30 minutes to address concerns over incidental capture of turtles and plans to trawl in areas the applicant states are well offshore of areas of known turtle abundance.

NMFS finds that this application warrants further consideration, based on a preliminary review, and intends to issue an EFP. Possible conditions the agency may impose on this permit, if granted, include but are not limited to: Reduction in the number of fish to be collected; restrictions on the placement of traps and/or location of trawls; restrictions on the size of fish to be collected; prohibition of the harvest of any fish with visible external tags; specification of locations, dates and/or seasons allowed for collection of particular fish species; and the requirement to carry and follow standard handling and resuscitation guidelines for sea turtles. A final decision on issuance of the EFP will depend on a NMFS review of public comments received on the application, conclusions of environmental analyses conducted pursuant to the National Environmental Policy Act, and consultations with the affected states, the South Atlantic Fishery Management Council, and the U.S. Coast Guard.

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

Dated: December 1, 2005.

**Alan D. Risenhoover,**

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

[FR Doc. E5–6897 Filed 12–5–05; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 120105A]**

### Western Pacific Fishery Management Council; Public Meetings

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Western Pacific Fishery Management Council (Council) will hold its Precious Corals Plan Team (PCPT) meeting in Honolulu, HI. See **SUPPLEMENTARY INFORMATION** for agenda items).

**ADDRESSES:** The PCPT meeting will be held at the Western Pacific Fishery Management Council Office, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

**DATES:** The meeting of the PCPT will be held January 5, 2006, from 9 a.m. to 1 p.m.

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

**SUPPLEMENTARY INFORMATION:** The PCPT will meet on January 5, 2006 to discuss the following agenda items:

**Thursday, January 5, 2006**

1. Introductions
2. Review of last plan team meeting and recommendations
3. Report on the Third International Deep Sea Coral Conference
4. New coral aging data
5. Update on black coral management
6. Black coral workshop
7. Update on State of Hawaii Black Coral Regulations
8. Report on upcoming *Carijoa* research

The order in which agenda items are addressed may change. Public comment periods will be provided throughout the agenda. The Plan Team will meet as late as necessary to complete scheduled business.

Although non-emergency issues not contained in this agenda may come before the Plan Team for discussion, those issues may not be the subject of formal action during these meetings. Plan Team action will be restricted to those issues specifically listed in this document and any issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Dated: December 1, 2005.

**Emily Menashes,**

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

[FR Doc. E5–6868 Filed 12–5–05; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 102805E]**

### Vessel Monitoring Systems; Additional Approved Mobile Transmitting Units for use in the South Atlantic Rock Shrimp Fishery

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

**ACTION:** Notice of vessel monitoring systems; additional approval.

**SUMMARY:** This document provides notice of vessel monitoring systems (VMS) approved by NOAA for use by vessels participating in the Rock Shrimp Fishery of the South Atlantic Region and sets forth relevant features of the VMS.

**ADDRESSES:** To obtain copies of the list of NOAA approved VMS mobile transmitting units and NOAA approved VMS communications service providers, or information regarding the status of VMS systems being evaluated by NOAA for approval, write to NOAA Fisheries Office for Law Enforcement (OLE), 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910.

To submit a completed and signed checklist, mail or fax it to NOAA Enforcement, 7600 Sand Point Way, Seattle, WA 98115, fax 206–526–6528. VMS provider addresses can be found in the **SUPPLEMENTARY INFORMATION** section of this notice under the heading VMS Provider Addresses.

**FOR FURTHER INFORMATION CONTACT:** For current listing information Mark Oswell, Outreach Specialist, phone 301–427–2300, fax 301–427–2055. For questions regarding VMS installation, activation checklists, and status of evaluations, contact Jonathan Pinkerton, National VMS Program Manager, phone 301–427–2300; fax 301–427–2055. For questions regarding the checklist, contact Beverly Lambert, Southeast Divisional VMS Program Manager, NMFS Office for Law Enforcement, Southeast Division, phone 727–824–5344.

The public may acquire this notice, installation checklist, and relevant updates by calling 301–427–2300.

**SUPPLEMENTARY INFORMATION:**

**I. VMS Mobile Transceiver Units**

BOATRACS - FMTC/G

The Boatracs satellite communications VMS transmitting unit that meets the minimum technical requirements for the Rock Shrimp Fishery is the FMTC/G. The address for the Boatracs distributor dealer contact is provided under the heading VMS Provider Addresses.

The FMTC/G is an integrated GPS two-way satellite communications system, consisting of two major hardware components, the Mobile Communication Transceiver (MCT) and the Enhanced Display Unit (EDU). The MCT contains the antenna and integrated GPS that communicates with the satellite and contains the operating circuitry and memory. The EDU is a shock and splash resistant display and keyboard unit consisting of, a liquid crystal display, keyboard, with adjustable contrast, brightness, and audible alerts. A backlight illuminates the display for night view. The EDU has message waiting, no signal, and audible message received indicators.

The MCT is 6.7 inches high, 11.4 inches wide and weighs 11 pounds (4.99 kg). The base of the unit is 6.595 inches in diameter. The MCT draws approximately 2.3 amps of current from the power supply while transmitting and 1.2 amps when the vessel is idle.

The EDU is a hardened and splash proof keyboard display unit with a 15-line X 40-character screen that allows for both text and graphics. It is 12.72 inches wide, 9.3 inches long, 2.21 inches in depth, and weighs 3 pounds (1.36 kg) and is holster mounted in the cabin.

**II. Satellite Communication Services**

The FMTC/G utilizes KU band geostationary satellite to provide two-way date services. The data satellite transmits and receives all two-way message traffic between the vessel and NMFS, Shore Office, Network Operations Center or third party. The satellite is located 22,300 miles over the equator at 103 W. Longitude (south of Florida).

Boatracs operates a redundant NOC. This facility is online 24 hours a day,

365 days a year, including holidays. Customer service representatives are available to relay messages and provide customer service. The NOC is also the facility that allows for automatic boat-to-boat, boat-to-email, boat-to-fax, and email-to-boat service. Data on demand and information services are also provided by the NOC.

Boatracs contracts their satellite communication services from QUALCOMM Corporation of California. QUALCOMM offers 24 hours a day 365 days a year network support, and operates fully redundant earth stations in California and Nevada.

VMS units must be installed in accordance with vendor instructions and specifications. All installation costs are paid by the owner. The vessel owner is required to fax or mail the Fisheries Off the West Coast States and in the (Western Pacific Pacific Coast Groundfish Fishery Activation Fax) directly to NOAA Enforcement, 7600 Sand Point Way, Seattle, WA 98115, fax 206–526–6528.

The owner must confirm the FMTC/G operation and communications service to ensure that position reports are automatically sent to and received by OLE before leaving on their first fishing trip requiring VMS. OLE does not regard the fishing vessel as meeting the requirements until position reports are automatically received. For confirmation purposes, owners must contact NOAA Enforcement, 7600 Sand Point Way, Seattle, WA 98115, voice 206–526–6135, fax 206–526–6528.

### III. VMS Provider Addresses

Boatracs corporate office address is 9155 Brown Deer Rd, Suite 8, San Diego, CA 92121. Telephone numbers are toll free (877) 468–8722 and direct dialed (858) 458–8100. The primary point of contact is Lauri Paul, Fisheries Market Segment Executive, e-mail *lpaul@boatracs.com*, direct telephone number (858) 458–8113, and toll free (877) 468–8722 ext 113. The alternate contact is David Brandos, e-mail *dbrandos@boatracs.com*, direct telephone number (858) 458–8102, and toll free (877) 468–8722 ext 102.

Dated: December 1, 2005.

**William T. Hogarth,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. E5–6899 Filed 12–5–05; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

## National Telecommunications and Information Administration

## Proposed Information Collection; Comment Request; Public Telecommunications Facilities Program Grant Monitoring

**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 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 February 6, 2006.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Forms 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 or copies of the information collection instrument(s) and instructions should be directed to Clifton Beck, U.S. Department of Commerce, NTIA, Room H–4888, 1401 Constitution Avenue, NW., Washington, DC 20230 or via the Internet at *CBECK@ntia.doc.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The purpose of the Public Telecommunications Facilities Program is to assist, through matching funds, in the planning and construction of public telecommunications facilities in order to achieve the following objectives:

- Extend delivery of public telecommunications services to as many citizens in the United States as possible by the most efficient and economical means, including the use of broadcast and non-broadcast technologies;
- Increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and
- Strengthen the capability of existing public radio and television stations to provide public telecommunications services to the public.

### II. Method of Collection

The collection allows grantees to make all submissions either over the Internet or by mail. Reports submitted by the grantees include:

- Construction schedule/planning timetable (one time).
- Performance reports (quarterly).
- Close-out materials after completion of the project (one time).
- Annual reports for the duration of the government's interest in the equipment (annually for a ten-year period).

### III. Data

*OMB Control Number:* 0660–0001.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations; not-for-profit institutions; state and local government agencies.

*Estimated Number of Respondents:* 1,970.

*Estimated Time Per Response:* Construction Schedules/Planning Timetables—on-line, 8 hours, paper, 10 hours; Performance Reports—on-line, 48 minutes, paper, 1 hour; Close-out Reports—on-line, 16 hours, paper, 24 hours; Draft Planning Reports—on-line and paper, 40 hours; Final Planning Reports, on-line and paper, 10 hours; Annual Reports—on-line, 30 minutes, paper, 1 hour.

*Estimated Total Annual Burden Hours:* 6,779.

*Estimated Total Annual Cost to the Public:* $0.

### 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 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; (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 the information collection; they also will become a matter of public record.

Dated: November 30, 2005.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E5–6849 Filed 12–5–05; 8:45 am]

BILLING CODE 3510–60–P

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

### Statutory Invention Registration

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the extension of a currently approved 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 February 6, 2006.

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

- E-mail: *Susan.Brown@uspto.gov*. Include ''0651–0036 comment'' in the subject line of the message.
- Fax: 571–273–0112, marked to the attention of Susan Brown.
- Mail: Susan K. Brown, Records Officer, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to the attention of Robert J. Spar, Director, Office of Patent Legal Administration, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7700; or by e-mail at *bob.spar@uspto.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

A statutory invention registration is not a patent. It has the defensive attributes of a patent but does not have the enforceable attributes of a patent. In other words, a person occasionally invents something solely for personal use (not for production or sale) and does not want to go through the effort and expense of obtaining a patent on the invention. At the same time, the inventor wants to prevent someone else from later obtaining a patent on a like invention. In that situation, the inventor can register a statutory invention and have it published. Once published, it cannot be claimed by another person.

35 U.S.C. 157 authorizes the United States Patent and Trademark Office (USPTO) to publish a statutory invention registration containing the specifications and drawings of a regularly filed application for a patent without examination, providing the patentee meets all the requirements for printing, waives the right to receive a patent on the invention within a certain period of time prescribed by the USPTO, and pays all application, publication and other processing fees.

The USPTO administers 35 U.S.C. 157 through 37 CFR 1.293–1.297. Under these rules, an applicant for an original patent may request, at any time during the pendency of the applicant's pending complete application, that the specifications and drawings be published as a statutory invention registration. Any request for a statutory invention registration may be examined to determine if the requirements have been met, if the subject matter of the application is appropriate for publication, and if the requirements for publication are met.

The public may petition the USPTO to review rejection decisions within one month or such other time as is set forth in the decision refusing publication. The public may also petition the USPTO to withdraw a request to publish a statutory invention registration prior to the date of the notice of the intent to publish.

If the request for a statutory invention registration is approved, a notice to that effect will be published in the Official Gazette of the USPTO. Each statutory invention registration published will include a statement relating to the attributes of a statutory invention registration.

The public uses form PTO/SB/94, Request for Statutory Invention Registration, to request and authorize publication of a regularly-filed patent application as a Statutory Invention Registration, to waive the right to receive a United States patent on the same invention claimed in the identified patent application, to agree that the waiver will be effective upon publication of the statutory invention registration, and to state that the identified patent application complies with the requirements for printing. No forms are associated with the petition for a review of the refusal to publish a statutory invention registration or the petition to withdraw the request for publication of a statutory invention registration.

## II. Method of Collection

By mail, facsimile, or hand delivery to the USPTO when the applicant or agent files a statutory invention registration with the USPTO.

## III. Data

*OMB Number:* 0651–0036.

*Form Number(s):* PTO/SB/94.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households; business or other for-profit; not-for-profit institutions; farms; the Federal Government; and state, local or tribal governments.

*Estimated Number of Respondents:* 8 responses per year.

*Estimated Time per Response:* The USPTO estimates that it will take approximately 24 minutes each (0.40 hours) to gather, prepare, and submit the request for statutory invention registration, the petition to review the rejection decision, and the petition to withdraw the publication request, depending upon the complexity of the situation. This collection contains 1 form and 2 petitions.

*Estimated Total Annual Respondent Burden Hours:* 4 hours per year.

*Estimated Total Annual Respondent Cost Burden:* $1,144. Using the professional hourly rate of $286 per hour for associate attorneys in private firms, the USPTO estimates $1,144 per year for salary costs associated with respondents.

| Item | Estimated time for response (minutes) | Estimated annual responses | Estimated annual burden hours |
|---|---|---|---|
| Statutory Invention Registration | 24 | 5 | 2 |
| Petition to Review Rejection Decision | 24 | 1 | 1 |
| Petition to Withdraw Publication Request | 24 | 2 | 1 |
| Total | | 8 | 4 |

*Estimated Total Annual Non-hour Respondent Cost Burden:* $8,165. There are no capital start-up costs or maintenance costs associated with this information collection. However, this collection does have postage costs and filing fees.

The public may submit the paper forms and petitions in this collection to the USPTO by mail through the United States Postal Service. The USPTO estimates that the average first-class postage cost for a mailed submission will be 63 cents (based on the approved change of postage rates going into effect January 8, 2006), and that customers filing the documents associated with this information collection may choose to mail their submissions to the USPTO. Therefore, the USPTO estimates that up to 8 submissions per year may be mailed to the USPTO at an average first-class postage cost of 63 cents, for a total postage cost of $5.

There is annual non-hour cost burden in the way of filing fees associated with this collection. The estimated filing costs for this collection of $8,160 are calculated in the accompanying chart.

| Item | Responses (a) | Filing Fee ($) (b) | Total Non-Hour Cost Burden (a) × (b) |
|---|---|---|---|
| Statutory Invention Registration (requested prior to mailing of first office action, 37 CFR 1.17(n)) | 2 | 920.00 | $1,840.00 |
| Statutory Invention Registration (requested after mailing of first office action, 37 CFR 1.17(o)) | 3 | 1,840.00 | $5,520.00 |
| Petition to Review Rejection Decision (37 CFR 1.295) | 1 | 200.00 | $200.00 |
| Petition to Withdraw Publication Request (37 CFR 1.296) | 1 | 200.00 | $200.00 |
| Petition to Withdraw Publication Request on or after Date of Notice of Intent to Publish (37 CFR 1.296) | 1 | 400.00 | $400.00 |
| Total | 8 | | $8,160.00 |

The USPTO estimates that the total non-hour respondent cost burden for this collection in the form of postage costs and filing fees amounts to $8,165.

## 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 or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: November 29, 2005.

**Susan K. Brown,**

*Records Officer, USPTO, Office of Data Architecture and Services, Data Administration Division.*

[FR Doc. E5–6870 Filed 12–5–05; 8:45 am]

**BILLING CODE 3510–16–P**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Information Collection; OMB Approval Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** 30-Day Notice.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted the following public information collection request (ICR) entitled ''Volunteer Service Hour Tracking Tool''—to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. section 3506 (c)(2)(A)) A copy of the IRC, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Ms. Kari Dunn, Executive Director, Presidents Council on Service and Civic Participation, 202–606–6708. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 606–3472 between 8:30 a.m. and 5 p.m. Eastern time, Monday through Friday.

**ADDRESSES:** Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from this date of publication in the **Federal Register**:

(1) By fax to: (202) 395–6974, Atttention: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service.

(2) Electronically by e-mail to: *Katherine_T._Astrich@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

### Comments

A 60-day public comment Notice was published in the **Federal Register** on September 13, 2005. This comment period ended November 11, 2005. No public comments were received from this notice.

*Description:* The Corporation is seeking approval of its Volunteer Hour

Tracking Tool, an electronic Record of Service that provides the general public a way to track their service activities and individually record their volunteer service hours. Since the launch of the Record of Service in January of 2002, the tool has received a high level of public use and is a primary way for individuals to track their eligibility for the President's Volunteer Service Award. Use of the tracking tool is 100 percent electronic in that users establish a user ID and password that automatically creates an account accessible only to that individual user.

*Type of Review:* Renewal.

*Agency:* Corporation for National and Community Service.

*Title:* Volunteer Service Hour Tracking Tool (Record of Service).

*OMB Number:* 3045–0077.

*Agency Number:* None.

*Affected Public:* General Public.

*Total Respondents:* 100,000.

*Frequency:* Occasionally.

*Average Time Per Response:* 3 minutes.

*Estimated Total Burden Hours:* 5,000 hours.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

Dated: November 29, 2005.

**Sandy Scott,**

*Director, Acting Director, Office of Public Affairs.*

[FR Doc. E5–6884 Filed 12–5–05; 8:45 am]

BILLING CODE 6050–$$–P

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Information Collection; Submission for OMB Review, Comment Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted a public information collection request (ICR) entitled Application Instructions for State Commissions, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Corporation for National and Community Service, AmeriCorps, Amy Borgstrom, Associate Director of Policy, (202) 606–6930, or by e-mail at *ABorgstrom@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

**ADDRESSES:** Comments may be submitted, identified by the title of the information collection activity, to Office of Information and Regulatory Affairs, Attn: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**:

(1) By fax to: (202) 395–6974, Attention: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and

(2) Electronically by e-mail to: *Katherine_T._Astrich@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose 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, e.g., permitting electronic submissions of responses.

### Comments

A 60-Day public comment Notice was published in the **Federal Register** on August 24, 2005. This comment period ended October 24, 2005. No public comments were received from this notice.

*Description:* Since the President's Call to Service, many Americans have expressed a renewed desire to serve their country by volunteering in their community. Now, we have an obligation to ensure that Americans have quality opportunities to serve. The Corporation for National and Community Service (the ''Corporation'') has amended several provisions relating to the AmeriCorps national service program, and has added a rule to clarify the Corporation's requirements for program sustainability, performance measures and evaluation, capacity-building activities by AmeriCorps members, qualifications for tutors, and other requirements. The implementation of these changes through the rulemaking process includes ensuring the Corporation's information collection instruments accurately reflect these issues. In an effort to be compliant while maintaining functions essential to the operations of each State Commission and AmeriCorps program, we are submitting the enclosed request to OMB for approval of information collection activities. This submission includes application instructions for state commissions to allow subgrantees to submit grant applications.

*Type of Review:* New.

*Agency:* Corporation for National and Community Service.

*Title:* Application Instructions for State Commissions.

*OMB Number:* New.

*Agency Number:* None.

*Affected Public:* Nonprofit organizations, State, local and Tribal Governments.

*Total Respondents:* 54.

*Frequency:* Annually.

*Average Time per Response:* 10 hours.

*Estimated Total Burden Hours:* 540 hours.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

Dated: November 29, 2005.

**Rosie Mauk,**

*Director, AmeriCorps.*

[FR Doc. E5–6885 Filed 12–5–05; 8:45 am]

BILLING CODE 6050–$$–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**DATES:** Consideration will be given to all comments received by January 5, 2006.

*Title and OMB Number:* Federal Agency Retail Pharmacy Program; OMB Number 0720–0032

*Type of Request:* Revision.

*Number of Respondents:* 250.

*Responses per Respondent:* 8.

*Annual Responses:* 2,000.

*Average Burden per Response:* 8 hours.

*Annual Burden Hours:* 16,000.

*Needs and Uses:* The Department of Defense is revising the information collection requirements under current OMB control number 0720–0032. Specifically, under the revised collection of information, respondents (drug manufacturers) will base refund calculation reporting requirements on both the Federal Ceiling Price and the Federal Supply Schedule Price, whichever is lower. Prior to this rulemaking, drug manufacturers' reporting requirements addressed only the Federal Ceiling Price.

*Affected Public:* Business or other for-profit.

*Frequency:* Other (8 per year).

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer:* Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Officer for DoD Health, Room 10102, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings, WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: November 29, 2005.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 05–23661 Filed 12–5–05; 8:45 am]

BILLING CODE 5001–06–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Proposed Collection; Comment Requested

**AGENCY:** Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

**ACTION:** Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by February 6, 2006.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Program Integration) Legal Policy, ATTN: LTC Gingras, 4000 Defense Pentagon, Washington, DC 20301–4000.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call (703) 697–3387.

*Title, Associated Form, and OMB Control Number:* Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552, DD Form 149, OMB Control Number 0704–0003.

*Needs and Uses:* This information collection requirement is necessary for all Service personnel (current and former Service members) to apply to their respective Boards for Correction of Military Records (BCMR) for a correction of their military records under Title 10, United States Code section 1552. The BCMRs of the Services are the highest administrative boards and appellate review authorities in the Services for the resolution of military personnel disputes. The Service Secretaries, acting through the BCMRs, have broad powers and are duty bound to correct records if an error or injustice exists. The range of issues includes, but is not limited to, awards, clemency petitions (of courts-martial sentences), disabilities, evaluation reports, home of record, memoranda of reprimands, promotions, retirements, separations, survivor benefit plans, and titling decisions by law enforcement authorities.

Information collection is needed to provide current and former Service members with a method through which to request correction of a military record, and to provide the Services with the basic data needed to process the request.

*Affected Public:* Individuals or households.

*Annual Burden Hours:* 14,000.

*Number of Respondents:* 28,000.

*Responses per Respondent:* 1.

*Average Burden per Response:* 30 minutes.

*Frequency:* On occasion.

**SUPPLEMENTARY INFORMATION:**

**Summary of Information Collection**

The respondents for this information collection are current and former Service members requesting correction to their military records. The Service member submits to the respective Board for Correction of Military Records (BCMR) a DD Form 149, ''Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code Section 1552.'' The information from the DD Form 149 is used by the respective Service BCMR in processing the applicant's request authorized by Title 10 U.S.C. 1552. The DD Form 149 was devised to standardize applications to the BCMRs. This information is used to identify and secure the appropriate official military and medical records from the appropriate records storage facilities. Information on the form is used by the BCMRs to identify the issues and arguments raised by applicants, identify any counsel representing applicants, and determine if the applicants filed their petitions within the three-year statute of limitations established by Congress.

Dated: November 29, 2005.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 05–23662 Filed 12–5–05; 8:45 am]

BILLING CODE 5001–06–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**DATES:** Consideration will be given to all comments received by January 5, 2006.

*Title and OMB Number:* A Case Control Study to Identify Risk Factors Associated with Myocarditis or Pericarditis Among Smallpox Primary Vaccinees in the U.S. Military, OMB Number 0720–TBD.

*Type of Request:* New.
*Number of Respondents:* 400.
*Responses per Respondent:* 1.
*Annual Responses:* 400.
*Average Burden per Response:* 30 minutes.
*Annual Burden Hours:* 200.
*Needs and Uses:* Section 743 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 authorized the Secretary of Defense to establish a center devoted to ''* * *longitudinal study to evaluate data on the health condition of members of the Armed Forces upon their return from deployment * * *'' Based upon this legislation, the Assistant Secretary of Defense for Health Affairs established the DoD Center for Deployment Health Research on September 30, 1999 (OSD/HA Policy 99–028). The Department of Defense shares with the President and Congress a firm commitment to improve the health of our veterans, their families, and all who service our nation, now and in the future. The National Science and Technology Council (NSTC) Presidential Review Directive 5 (PRD–5), Planning for Health Preparedness for and Readjustment of the Military, Veterans, and their Families after Future Deployments is an interagency plan which provides a comprehensive set of recommendations designed to help ensure this obligation is met in a manner that takes into consideration the successes and failures of past deployments. A key recommendation in this plan and necessity if we are to meet this commitment is treatment, research, and surveillance efforts aimed at minimizing adverse health effects that may be experienced during and after deployment.

In its ongoing response to this legislation, DoD plans to conduct a postal survey of current and past U.S. service members who received the smallpox vaccine under the DoD Smallpox Vaccination Program, which began on December 13, 2002. Subsequent to initiation of this program, a small percentage of service members developed either myocarditis or pericarditis following a primary smallpox vaccination. (Refs: Halsell JS, *et al.*, JAMA 2003; 289:3283–9; Arness MK, *et al.*, AJE 2004; 160:642–51). In response to these cases, the DoD established additional policies and guidelines: (1) Policy for Smallpox Vaccination and Persons with Cardiac Conditions (OSD/HA, Policy 03–002), and (2) Establishment of Case Management Guidelines for Smallpox Vaccine Associated Myopericarditis (OSD/HA, June 9, 2003). The survey will obtain risk factor information from identified myocarditis or pericarditis cases and a number of smallpox vaccinated but healthy controls. The objective of the study is to understand why a small percentage of smallpox-vaccinated service members develop myocarditis or pericarditis.

*Affected Public:* Individuals or households.
*Frequency:* On Occasion.
*Respondent's Obligation:* Voluntary.
*OMB Desk Officer:* Mr. John Kraemer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Kraemer at the Office of Management and Budget, Desk Office for DoD Health, Room 10102, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings, WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: November 29, 2005.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 05–23670 Filed 12–5–05; 8:45 am]

**BILLING CODE 5001–06–M**

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**DATES:** Consideration will be given to all comments received by January 5, 2006.

*Title, Form, and OMB Number:* Transportation Discrepancy Report; DD Form 361; OMB Control Number 0702–TBD.
*Type of Request:* New.
*Number of Respondents:* 1,434.
*Responses per Respondent:* 1.
*Annual Responses:* 1,434.
*Average Burden per Response:* 1 hour.
*Annual Burden Hours:* 1,434.
*Needs and Uses:* The DoD Form 361 is essential for documenting any loss, damage, or other discrepancy which may result from the movement of Government freight by commercial transportation companies (carriers). The form is ordinarily completed by personnel working for the Federal agency for which the transportation service is provided. However, in a small minority of cases (approximately 25%), contractor personnel acting for the government may be required to complete the form.
*Affected Public:* Business or other for-profit; Federal Government.
*Frequency:* On occasion.
*Respondent's Obligation:* Required to obtain or retain benefits.
*OMB Desk Officer:* Ms. Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings, WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: November 30, 2005.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 05–23671 Filed 12–5–05; 8:45 am]

**BILLING CODE 5001–06–M**

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## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[OMB Control No. 9000–0069]**

### Federal Acquisition Regulation; Submission for OMB Review; Indirect Cost Rates

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0069).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning indirect cost rates. A request for public comments was published at 70 FR 56165 in the **Federal Register** on

September 26, 2005. No comments were received.

**DATES:** Submit comments on or before January 5, 2006.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat (MVA), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0069, Indirect Cost Rates, in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Jeritta Parnell, Contract Policy Division, GSA (202) 501–4082.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

The contractor's proposal of final indirect cost rates is necessary for the establishment of rates used to reimburse the contractor for the costs of performing under the contract. The supporting cost data are the cost accounting information normally prepared by organizations under sound management and accounting practices.The proposal and supporting data is used by the contracting official and auditor to verify and analyze the indirect costs and to determine the final indirect cost rates or to prepare the Government negotiating position if negotiation of the rates is required under the contract terms.

**B. Annual Reporting Burden**

*Respondents:* 3,000.
*Responses per Respondent:* 1.
*Annual Responses:*3,000.
*Hours per Response:*2,188.
*Total Burden Hours:* 6,564,000.

Burden hours are based on an estimated 3000 business segments that have overhead rates established annually. The hours per response are based on the sum of estimated hours per response for reporting and estimated hours per response for recordkeeping. The estimated total burden hours increased substantially from 2,469 hours to 6,564,000 hours for all respondents because we changed the method of estimating, not because the burden has increased. Prior estimates were based on the time to generate a proposal document. The new estimate is based on the time necessary to keep records, analyze information and generate a proposal document.

*Obtaining Copies of Proposals:* Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVA), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0069, Indirect Cost Rates, in all correspondence.

Dated: November 16, 2005

**Gerald Zaffos**

*Director,Contract Policy Division.*

[FR Doc. 05–23649 Filed 12–5–05; 8:45 am]

BILLING CODE 6820–EP–S

## 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 January 5, 2006.

**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: November 29, 2005.

**Angela C. Arrington,**

*Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.*

**Office of the Chief Financial Officer**

*Type of Review:* Revision.

*Title:* Survey on Ensuring Equal Opportunity for Applicants.

*Frequency:* Annually.

*Affected Public:* Not-for-profit institutions.

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 17,000.

*Burden Hours:* 1,360.

*Abstract:* To ensure equal opportunity for all applicants including small community-based and faith-based and religious groups. It is essential to collect information that allows Federal agencies to determine the level of participation of such organizations in Federal grant programs while ensuring that such information is not used in grant-making decisions.

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 2881. 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 *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. E5–6862 Filed 12–5–05; 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 February 6, 2006.

**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: November 29, 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:* Revision.

*Title:* Annual Program Cost Report.

*Frequency:* Annually.

*Affected Public:* State, Local, or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 80.

*Burden Hours:* 385.

*Abstract:* Vocational Rehabilitation Services data submitted on the RSA–2 by State VR agencies for each FY used by RSA to administer and manage the Title I Program; to analyze expenditures, evaluate program performance and identify problem areas.

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 2918. 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 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. E5–6863 Filed 12–5–05; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Office of Innovation and Improvement Overview Information; Teaching American History Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006

*Catalog of Federal Domestic Assistance (CFDA) Number:* 84.215X.

*Dates:* Applications Available: December 6, 2005.

Deadline for Notice of Intent to Apply: January 6, 2006.

Deadline for Transmittal of Applications: February 3, 2006.

Deadline for Intergovernmental Review: April 4, 2006.

*Eligible Applicants:* Local educational agencies (LEAs)—including charter schools that are considered LEAs under State law and regulations—working in partnership with one or more of the following entities:

- An institution of higher education.
- A non-profit history or humanities organization.
- A library or museum.

*Estimated Available Funds:* The Administration has requested $119,040,000 for new awards for this program for FY 2006. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process in a timely manner, if Congress appropriates funds for this program.

*Maximum Awards:* The following maximum award amounts are from the notice of final selection criteria and other application requirements for this program, published in the **Federal Register** on April 15, 2005 (70 FR 19939). Total funding for a three-year project period is a maximum of: $500,000 for LEAs with enrollments of less than 20,000 students; $1,000,000 for LEAs with enrollments of 20,000–300,000 students; and $2,000,000 for LEAs with enrollments above 300,000 students. LEAs may form consortia and combine their enrollments in order to receive a grant reflective of their combined enrollment. For districts applying jointly as a consortium, the maximum award is based on the combined enrollment of the individual districts in the consortium. If more than one LEA wishes to form a consortium, they must follow the procedures for group applications described in 34 CFR 75.127 through 34 CFR 75.129 of the Education Department General Administrative Regulations.

*Estimated Number of Awards:* 100–135.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 36 months.

### Full Text of Announcement

### I. Funding Opportunity Description

*Purpose of Program:* Teaching American History grants support projects to raise student achievement by improving teachers' knowledge, understanding, and appreciation of traditional American history. Grant awards assist local educational agencies (LEAs), in partnership with entities that have extensive content expertise, to

develop, document, evaluate, and disseminate innovative, cohesive models of professional development. By helping teachers to develop a deeper understanding and appreciation of traditional American history as a separate subject within the core curriculum, these programs improve instruction and raise student achievement.

*Priorities:* This competition includes one absolute priority and four invitational priorities. To be considered for funding, each applicant must address the absolute priority.

*Absolute Priority:* In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 2351(b) of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (Pub. L. 107–110). For FY 2006, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

*Partnerships With Other Agencies or Institutions.* Each applicant LEA must propose to work in collaboration with one or more of the following:

- An institution of higher education.
- A non-profit history or humanities organization.
- A library or museum.

*Invitational Priorities:* For FY 2006 these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets one or more of these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

*Invitational Priority One*

*Kindergarten to Eighth Grade Teachers in Schools That Have Not Made Adequate Yearly Progress.* Projects that support professional development for kindergarten to eighth grade teachers in schools that have not made adequate yearly progress.

*Invitational Priority Two*

*High School Teachers Who Have Not Met their State Requirements for Highly Qualified Teachers.* Projects that support professional development for high school teachers who have not met their state requirements for highly qualified teachers.

*Invitational Priority Three*

*Annual High School Assessments.* Projects that support teacher professional development in high schools that conduct State-provided annual assessments, tied to State standards, that exceed the requirements of section 1111(b)(3) of the Elementary and Secondary Education Act of 1965, as reauthorized by the No Child Left Behind Act of 2001.

*Invitational Priority Four*

*Experimental and Quasi-Experimental Evaluation Designs.* Projects proposing an evaluation plan that is based on rigorous scientifically based research methods to assess the effectiveness of a particular intervention. The Secretary intends that this priority will allow program participants and the Department to determine whether the project produces meaningful effects on student achievement or teacher performance.

Evaluation methods using an experimental design are best for determining project effectiveness. Thus, when feasible, the project must use an experimental design under which participants—*e.g.*, students, teachers, classrooms, or schools—are randomly assigned to participate in the project activities being evaluated or to a control group that does not participate in the project activities being evaluated.

If random assignment is not feasible, the project may use a quasi-experimental design with carefully matched comparison conditions. This alternative design attempts to approximate a randomly assigned control group by matching participants—*e.g.*, students, teachers, classrooms, or schools—with non-participants having similar pre-program characteristics.

In cases where random assignment is not possible and participation in the intervention is determined by a specified cutting point on a quantified continuum of scores, regression discontinuity designs may be employed.

For projects that are focused on special populations in which sufficient numbers of participants are not available to support random assignment or matched comparison group designs, single-subject designs such as multiple baseline or treatment-reversal or interrupted time series that are capable of demonstrating causal relationships can be employed.

Proposed evaluation strategies that use neither experimental designs with random assignment nor quasi-experimental designs using a matched comparison group nor regression discontinuity designs will not be considered responsive to the priority when sufficient numbers of participants are available to support these designs. Evaluation strategies that involve too small a number of participants to support group designs must be capable of demonstrating the causal effects of an intervention or program on those participants.

The proposed evaluation plan must describe how the project evaluator will collect—before the project intervention commences and after it ends—valid and reliable data that measure the impact of participation in the program or in the comparison group.

**Definitions**

As used in this invitational priority—

*Scientifically based research* (section 9101(37) of the ESEA as amended by NCLB 20 U.S.C. 7801(37)):

(A) Means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

(B) Includes research that—

(i) Employs systematic, empirical methods that draw on observation or experiment;

(ii) Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

(iv) Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

(v) Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

(vi) Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

*Random assignment or experimental design* means random assignment of students, teachers, classrooms, or schools to participate in a project being evaluated (treatment group) or not participate in the project (control group). The effect of the project is the difference in outcomes between the treatment and control groups.

*Quasi-experimental designs* include several designs that attempt to approximate a random assignment design.

*Carefully matched comparison groups design* means a quasi-experimental design in which project participants are matched with non-participants based on key characteristics that are thought to be related to the outcome.

*Regression discontinuity design* means a quasi-experimental design that closely approximates an experimental design. In a regression discontinuity design, participants are assigned to a treatment or control group based on a numerical rating or score of a variable unrelated to the treatment such as the rating of an application for funding. Eligible students, teachers, classrooms, or schools above a certain score (''cut score'') are assigned to the treatment group and those below the score are assigned to the control group. In the case of the scores of applicants' proposals for funding, the ''cut score'' is established at the point where the program funds available are exhausted.

*Single subject design* means a design that relies on the comparison of treatment effects on a single subject or group of single subjects. There is little confidence that findings based on this design would be the same for other members of the population.

*Treatment reversal design* means a single subject design in which a pre-treatment or baseline outcome measurement is compared with a post-treatment measure. Treatment would then be stopped for a period of time, a second baseline measure of the outcome would be taken, followed by a second application of the treatment or a different treatment. For example, this design might be used to evaluate a behavior modification program for disabled students with behavior disorders.

*Multiple baseline design* means a single subject design to address concerns about the effects of normal development, timing of the treatment, and amount of the treatment with treatment-reversal designs by using a varying time schedule for introduction of the treatment and/or treatments of different lengths or intensity.

*Interrupted time series design* means a quasi-experimental design in which the outcome of interest is measured multiple times before and after the treatment for program participants only.

*Program Authority:* 20 U.S.C. 6721.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98 and 99. (b) The notice of final selection criteria and other application requirements published in the **Federal Register** on April 15, 2005 (70 FR 19939).

**Note:** The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

**Note:** The regulation in 34 CFR part 86 apply to institutions of higher education only.

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* The Administration has requested $119,040,000 for new awards for this program for FY 2006. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process in a timely manner, if Congress appropriates funds for this program.

*Maximum Awards:* The following maximum award amounts are from the notice of final selection criteria and other application requirements for this program, published in the **Federal Register** on April 15, 2005 (70 FR 19939). Total funding for a three-year project period is a maximum of: $500,000 for LEAs with enrollments of less than 20,000 students; $1,000,000 for LEAs with enrollments of 20,000–300,000 students; and $2,000,000 for LEAs with enrollments above 300,000 students. LEAs may form consortia and combine their enrollments in order to receive a grant reflective of their combined enrollment. For districts applying jointly as a consortium, the maximum award is based on the combined enrollment of the individual districts in the consortium. If more than one LEA wishes to form a consortium, they must follow the procedures for group applications described in 34 CFR 75.127 through 34 CFR 75.129 of the Education Department General Administrative Regulations.

*Estimated Number of Awards:* 100–135.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 36 months.

## III. Eligibility Information

1. *Eligible Applicants:* LEAs—including charter schools that are considered LEAs under State law and regulations—working in partnership with one or more of the following entities:

- An institution of higher education.
- A non-profit history or humanities organization.
- A library or museum.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

## IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.215X.

You may also obtain the application package for the program via the Internet at the following address: *http://www.ed.gov/programs/teachinghistory/applicant.html.*

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting one of the program contact persons listed in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Notice of Intent to Apply: The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of LEAs that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify the Department with a short e-mail indicating the applicant's intent to submit an application for funding. The e-mail need not include information regarding the content of the proposed application, only the applicant's intent to submit it. The Secretary requests that this e-mail notification be sent no later than January 6, 2006, to Alex Stein at: *TeachingAmericanHistory@ed.gov.*

Applicants that fail to provide this e-mail notification may still apply for funding.

Page Limit for Application Narrative: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. Applicants are strongly encouraged to limit the application narrative to the equivalent of no more than 25 single-sided, double spaced

pages printed in 12-point font or larger. If the applicant is addressing the invitational priority for evaluation, the narrative should be limited to 30 single-sided, double-spaced pages printed in 12-point font or larger.

The suggested page limit does not apply to the title page, the Application for Federal Assistance (ED 424), the one-page abstract, the budget summary form (ED 524) and the narrative budget justification, any curriculum vitae, the bibliography of literature cited, or the assurances and certifications.

3. *Submission Dates and Times:*

Applications Available: December 6, 2005.

Deadline for Notice of Intent to Apply: January 6, 2006.

Deadline for Transmittal of Applications: February 3, 2006.

Applications for grants under this competition must be submitted electronically using the Electronic Grant Application System (e-Application) available through the Department's e-Grants system. For information (including dates and times) about how to submit your application electronically or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements. Deadline for Intergovernmental Review: April 4, 2006.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Teaching American History Program-CFDA Number 84.215X must be submitted electronically using e-Application available through the Department's e-Grants system, accessible through the e-Grants portal page at: *http://e-grants.ed.gov.*

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

- You must complete the electronic submission of your grant application by 4:30 p.m., Washington, DC time, on the application deadline date. The e-Application system will not accept an application for this competition after 4:30 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.
- The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and between 7 p.m. on Wednesdays and 6 a.m. on Thursdays, Washington, DC time, for maintenance. Any modifications to these hours are posted on the e-Grants Web site.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified above or submit a password protected file, we will not review that material.
- Your electronic application must comply with any page limit requirements described in this notice.
- Prior to submitting your electronic application, you may wish to print a copy of it for your records.
- After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).
- Within three working days after submitting your electronic application, fax a signed copy of the ED 424 to the Application Control Center after following these steps:

(1) Print ED 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the ED 424.

(4) Fax the signed ED 424 to the Application Control Center at (202) 245–6272.

- We may request that you provide us original signatures on other forms at a later date.

*Application Deadline Date Extension in Case of e-Application System Unavailability:* If you are prevented from electronically submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2) (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If the system is down and therefore the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-

Application. Extensions referred to in this section apply only to the unavailability of the Department's e-Application system.

*Exception to Electronic Submission Requirement:* You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the e-Application system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Department's e-Application system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Alex Stein, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W206, Washington, DC 20202–5960. FAX: (202) 401–8466 or (202) 205–5631.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

*By mail through the U.S. Postal Service:* U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215X), 400 Maryland Avenue, SW., Washington, DC 20202–4260 or

*By mail through a commercial carrier:* U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.215X), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.215X), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

**Note for Mail or Hand Delivery of Paper Applications:** If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the ED 424 the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

## V. Application Review Information

*Selection Criteria:* The following selection criteria for this program are from the notice of final selection criteria and other application requirements published in the **Federal Register** on April 15, 2005 (70 FR 19939).

(1) *Project Quality* (60 points). The Secretary considers the quality of the proposed project by considering—

(a) The likelihood that the proposed project will develop, implement, and strengthen programs to teach traditional American history as a separate academic subject (not as a component of social studies) within elementary school and secondary school curricula.

(b) How specific traditional American history content will be covered by the grant (including the significant issues, episodes, and turning points in the history of the United States; how the words and deeds of individuals have determined the course of our Nation; and how the principles of freedom and democracy articulated in the founding documents of this Nation have shaped America's struggles and achievements and its social, political, and legal institutions and relations); the format in which the project will deliver the history content; and the quality of the staff and consultants responsible for delivering these content-based professional development activities, emphasizing, where relevant, their postsecondary teaching experience and scholarship in subject areas relevant to the teaching of traditional American history. The applicant may also attach curriculum vitae for individuals who will provide the content training to the teachers.

(c) How well the applicant describes a plan that meets the statutory requirement to carry out activities under the grant in partnership with one or more of the following:

(i) An institution of higher education.

(ii) A nonprofit history or humanities organization.

(iii) A library or museum.

(d) The applicant's rationale for selecting the partner(s) and its description of specific activities that the partner(s) will contribute to the grant during each year of the project. The applicant should include a memorandum of understanding or detailed letters of commitment from the partner(s) in an appendix to the application narrative.

(2) *Significance* (15 points). The Secretary considers the significance of the proposed project. In determining the significance of the project, the Secretary considers—

(a) The extent to which the proposed project is likely to build local capacity to improve or expand the LEA's ability to provide American history teachers professional development in traditional

American history subject content and content-related teaching strategies.

(b) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(c) How teachers will use the knowledge acquired from project activities to improve the quality of instruction. This description may include plans for reviewing how teachers' lesson planning and classroom teaching are affected by their participation in project activities.

**Note:** In meeting this criterion, the Secretary encourages the applicant to include a description of its commitment to build local capacity by primarily serving teachers in its LEA or consortium of LEAs. The Secretary also encourages the applicant to include background and statistical information to explain the project's significance. For example, the applicant could include information on: the extent to which teachers in the LEA are not certified in history or social studies; student achievement data in American history; and rates of student participation in courses such as Advanced Placement U.S. History.

(3) *Quality of the management plan* (10 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(a) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(b) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(4) *Quality of the project evaluation* (15 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers:

(a) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(b) How well the evaluation plans are aligned with the project design explained under the *Project Quality* criterion.

(c) Whether the evaluation includes benchmarks to monitor progress toward specific project objectives, and outcome measures to assess the impact on teaching and learning or other important outcomes for project participants.

(d) Whether the applicant identifies the individual and/or organization that has agreed to serve as evaluator for the project and includes a description of the qualifications of that evaluator.

(e) The extent to which the applicant indicates the following:

(i) What types of data will be collected;

(ii) When various types of data will be collected;

(iii) What methods will be used to collect data;

(iv) What data collection instruments will be developed;

(v) How the data will be analyzed;

(vi) When reports of results and outcomes will be available;

(vii) How the applicant will use the information collected through the evaluation to monitor the progress of the funded project and to provide accountability information about both success at the initial site and effective strategies for replication in other settings; and

(viii) How the applicant will devote an appropriate level of resources to project evaluation.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

Budgets should include funds for at least two project staff members to attend a two-day annual meeting of the Teaching American History Grant program in Washington, DC, each year of the project. Applicants also should include in their budgets funds to cover the travel and lodging expenses for these training activities during each year of the project.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. For specific requirements on grantee reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* We have established one performance measure for Teaching American History. The indicator is: Students in experimental and quasi-experimental studies of educational effectiveness of Teaching American History projects will demonstrate higher achievement on course content measures and/or statewide U.S. history assessments than students in control and comparison groups.

## VII. Agency Contacts

*For Further Information Contact:* Emily Fitzpatrick, Alex Stein, Harry Kessler, Kelly O'Donnell, Claire Geddes, or Margarita Melendez, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W218, Washington, DC 20202–6200. Telephone: (202) 260–1498 (Emily Fitzpatrick); or (202) 205–9085 (Alex Stein); or (202) 708–9943 (Harry Kessler); or (202) 205–5231 (Kelly O'Donnell); or (202) 260–2487 (Claire Geddes); or (202) 260–3548 (Margarita Melendez) or by e-mail: *teachingamericanhistory@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to one of the program contact persons listed in this section.

## VIII. Other Information

*Electronic Access to This Document:* You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal**

**Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Dated: December 1, 2005.

**Nina Shokraii Rees,**

*Assistant Deputy Secretary for Innovation and Improvement.*

[FR Doc. E5–6912 Filed 12–5–05; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

## Office of Special Education and Rehabilitative Services Overview Information; National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Project and Centers Program—Field Initiated (FI) Projects; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006

*Catalog of Federal Domestic Assistance (CFDA) Number:* 84.133G–1 (Research) and 84.133G–2 (Development)

*Dates:*

*Applications Available:* December 6, 2005.

*Deadline for Transmittal of Applications:* February 6, 2006.

*Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; institutions of higher education; and Indian tribes and tribal organizations.

*Estimated Available Funds:* The Administration has requested $3,750,000 for the FI program for FY 2006. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

*Estimated Range of Awards:* $145,000–$150,000.

*Estimated Average Size of Awards:* $147,500.

*Maximum Award:* We will reject any application that proposes a budget exceeding $150,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

**Note:** The maximum amount includes direct and indirect costs.

*Estimated Number of Awards:* 25.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 36 months.

### Full Text of Announcement

### I. Funding Opportunity Description

*Purpose of Program:* The purpose of the Field Initiated (FI) program is to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities; and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended.

FI projects carry out either research activities or development activities. NIDRR makes two types of grants under the FI program: Research grants (CFDA 84.133G–1) and development grants (CFDA 84.133G–2). Applicants must indicate in their applications whether they are applying for a research grant (84.133G–1) or a development grant (84.133G–2).

- In carrying out a research activity under an FI research grant, a grantee must identify one or more hypotheses and, based on the hypotheses identified, perform an intensive, systematic study directed toward (1) new scientific knowledge, or (2) better understanding of the subject, problem studied, or body of knowledge.
- In carrying out a development activity under an FI development grant, a grantee must use knowledge and understanding gained from research to create materials, devices, systems, or methods beneficial to the target population, including design and development of prototypes and processes. Target population means the group of individuals, organizations, or other entities expected to be affected by the project. More than one group may be involved since a project may affect those who receive services, provide services, or administer services.

**Note:** Different selection criteria are used for research projects (84.133G–1) and development projects (84.133G–2). In their applications, applicants must clearly indicate whether they are applying for a research grant (84.133G–1) or a development grant (84.133G–2) and must address the selection criteria relevant for their project type. Without exception, NIDRR will review each application based on the designation (i.e., research (84.133G–1) or development (84.133G–2)) made by the applicant. Applications will be determined ineligible and will not be reviewed if they do not include a clear designation of research or development.

**Note:** NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom/*.

The FI projects are in concert with NIDRR's proposed Long-Range Plan for Fiscal Years 2005–2009 (Plan) published in the **Federal Register** on July 27, 2005 (70 FR 43521). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research topics. While applicants will find many sections throughout the Plan that support potential research and related activities to be conducted under the FI program, the specific reference to the FI program is on page 43533 of the Plan. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister/other/2005–3/072705d.html.*

Through the implementation of the NFI and the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) Foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) Determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) Identify research gaps; (5) Identify mechanisms of integrating research and practice; and (6) Disseminate findings.

*Program Authority:* 29 U.S.C. 764.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 85, 86, and 97. (b) The regulations in 34 CFR part 350.

**Note:** The regulations in 34 CFR part 86 apply to institutions of higher education only.

### II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* The Administration has requested $3,750,000 for the FI program for FY 2006. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

*Estimated Range of Awards:* $145,000–$150,000.

*Estimated Average Size of Awards:* $147,500.

*Maximum Award:* We will reject any application that proposes a budget exceeding $150,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the

maximum amount through a notice published in the **Federal Register**.

**Note:** The maximum amount includes direct and indirect costs.

*Estimated Number of Awards:* 25.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 36 months.

## III. Eligibility Information

1. *Eligible Applicants:* States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; institutions of higher education; and Indian tribes and tribal organizations.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

## IV. Application and Submission Information

1. *Address to Request Application Package:* You may obtain an application package via Internet or from the Education Publications Center (ED Pubs). To obtain a copy via Internet use the following address: *http://www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write or call the following: Education Publications Center, P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA Number: 84.133G.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

*Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative. Single space may be used for titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

The application package will provide instructions for completing all components to be included in the application. Each application must include a cover sheet (ED Standard Form 424); budget requirements (ED Form 524) and narrative justification; other required forms; an abstract, Human Subjects narrative, Part III narrative; resumes of staff; and other related materials, if applicable.

3. *Submission Dates and Times:* Applications Available: December 6, 2005.

Deadline for Transmittal of Applications: February 6, 2006.

Applications for grants under this competition may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

We have been accepting applications electronically through the Department's e-Application system since FY 2000. In order to expand on those efforts and comply with the President's Management Agenda, we are continuing to participate as a partner in the new government wide Grants.gov Apply site in FY 2006. Field Initiated Projects-CFDA Numbers 84.133G–1 (Research) and 84.133G–2 (Development) are included in this project. We request your participation in Grants.gov.

If you choose to submit your application electronically, you must use the Grants.gov Apply site at *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

You may access the electronic grant application for Field Initiated Projects, 84.133G–1 (Research) and 84.133G–2 (Development) at: *http://www.grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted, and must be date/time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date/time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date/time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application

deadline date to begin the application process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*

• To submit your application via Grants.gov, you must complete the steps in the Grants.gov registration process (see *http://www.Grants.gov/GetStarted*) and provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.

• You may submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. If you choose to submit your application electronically, you must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified above or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

*Application Deadline Date Extension in Case of System Unavailability*

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically, or by hand delivery. You also may mail your application by following the mailing instructions as described elsewhere in this notice. If you submit an application after 4:30 p.m., Washington, DC time, on the deadline date, please contact the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT**, and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number (if available). We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

**Note:** Extensions referred to in this section apply only to the unavailability of or technical problems with the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

*By mail through the U.S. Postal Service:* U.S. Department of Education, Application Control Center, Attention: (Applicants must identify either CFDA Number 84.133G–1 (Research) or 84.133G–2 (Development) depending on the designation of their proposed project), 400 Maryland Avenue, SW., Washington, DC 20202–4260 or

*By mail through a commercial carrier:* U.S. Department of Education, Application Control Center—Stop 4260, Attention: (Applicants must identify either CFDA Number 84.133G–1 (Research) or 84.133G–2 (Development) depending on the designation of their proposed project.), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (Applicants must identify either CFDA Number 84.133G–1 (Research) or 84.133G–2 (Development) depending on the designation of their proposed project.), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260. The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

**Note for Mail or Hand Delivery of Paper Applications:** If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and 34 CFR 350.54 and are in the application package.

**Note:** There are two different sets of selection criteria for FI projects: one set to evaluate applications proposing to carry out research activities (84.133G–1), and a second set to evaluate applications proposing to carry out development activities (84.133G–2). Each applicant will be evaluated using the selection criteria for the type of project (i.e., research (84.133G–1) or development (84.133G–2)) the applicant designates in its application.

2. *Review and Selection Process:* Additional factors we consider in selecting an application for an award are as follows—

The Secretary is interested in outcomes-oriented research or development projects that use rigorous scientific methodologies. To address this interest applicants are encouraged to articulate goals, objectives, and expected outcomes for the proposed research or development activities. Proposals should describe how results and planned outputs are expected to contribute to advances in knowledge, improvements in policy and practice, and eventually to public benefits for individuals with disabilities. Applicants should propose projects that are optimally designed to be consistent with these goals. We encourage applicants to include in their application a description of how results will measure progress towards achievement of anticipated outcomes, the mechanisms that will be used to evaluate outcomes associated with specific problems or issues, and how the proposed activities will support new intervention approaches and strategies, including a discussion of measures of effectiveness. Submission of the information identified in this section V.

2. *Review and Selection Process* is voluntary, except where required by the selection criteria listed in the application package.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

**Note:** NIDRR will provide information by letter to grantees on how and when to submit the report.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through review of grantee performance and products. Each year, NIDRR examines a portion of its grantees to determine the extent to which grantees are conducting high-quality research and related activities that lead to high quality products. Performance measures for the FI studies program include—

- The percentage of grantee research and development that has appropriate study design, meets rigorous standards of scientific or engineering methods, and builds on and contributes to knowledge in the field;
- The number of publications per award based on NIDRR-funded research and development activities in refereed journals;
- The number of discoveries, analyses, and standards developed or tested with NIDRR funding that have been judged by expert panels to advance understanding of key concepts, issues, and emerging trends and strengthen the evidence-base for disability and rehabilitation policy, practice, and research;
- The number of new or improved tools and methods developed or tested with NIDRR funding that have been judged by expert panels to improve measurement and data collection procedures and enhance the design and evaluation of disability and rehabilitation interventions, products and devices; and
- The number of new and improved interventions, programs, and devices developed or tested with NIDRR funding that have been judged by expert panels to be successful in improving individual outcomes and increasing access.

NIDRR uses information submitted by grantees as part of their Annual Performance Reports (APRs) for these reviews.

The Department's program performance reports, which include information on NIDRR programs, are available on the Department's Web site: *http://www.ed.gov/about/offices/list/opepd/sas/index.html.*

Updates on the Government Performance and Results Act (GPRA) indicators, revisions, and methods appear in the NIDRR Program Review Web site: *http://www.cessi.net/contracts/pm/doe_nidrr_tsam.html.*

Grantees should consult these sites, on a regular basis, to obtain details and explanations on how NIDRR programs contribute to the advancement of the Department's long-term and annual performance goals.

## VII. Agency Contact

*For Further Information Contact:* Lynn Medley, U.S. Department of Education, 400 Maryland Avenue, SW., room 6027, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–7338 or by e-mail: *lynn.medley@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 245–7317 or the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

## VIII. Other Information

*Electronic Access to This Document:* You may view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: December 1, 2005.

**John H. Hager,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. E5–6910 Filed 12–5–05; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

### Proposed Draft Cost and Performance Goals for the Department of Energy's Coal and Related Technologies Program

**AGENCY:** Office of Fossil Energy, Department of Energy (DOE).

**ACTION:** Notice of proposed draft cost and performance for the Department of Energy's coal and related technologies program, and request for comments.

**SUMMARY:** Section 962 of the Energy Policy Act of 2005 (EPAct), (42 U.S.C. 16292), directed the Secretary of Energy to conduct coal research and development programs and, in carrying out such programs, to identify proposed draft cost and performance goals for coal-based technologies that would permit the continued cost-competitive use of coal for the production of electricity, chemical feedstocks, and transportation fuels. In compliance with section 962(b) of EPAct, this notice requests public comment on the proposed goals.

**DATES:** Comments on the draft cost and performance goals are due December 27, 2005.

**ADDRESSES:** Comments should be sent to: U.S. Department of Energy, Office of the Assistant Secretary of Fossil Energy, ATTN: Darren Mollot, 1000 Independence Avenue, SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Dr. Darren Mollot, Office of Clean Coal, Office of Fossil Energy, (202) 586–0429, *darren.mollot@hq.doe.gov* or Mr. John Grasser, Director of Communications, Office of Fossil Energy, (202) 586–6803, *john.grasser@hq.doe.gov*, 1000 Independence Avenue, SW., Washington, DC 20585.

**SUPPLEMENTARY INFORMATION:** Section 962 of EPAct directed DOE to conduct a program of technology research, development, demonstration, and commercial application for coal and power systems (42 U.S.C. 16292(a)). In carrying out these programs, DOE was also directed to identify proposed draft cost and performance goals for coal-based technologies that would permit the continued cost-competitive use of coal for the production of electricity, chemical feedstocks, and transportation fuels (42 U.S.C. 16292(b)). Proposed draft cost and performance goals for program activities currently funded and undertaken by DOE to facilitate production and generation of coal-based power are summarized in the table below.

These aggressive goals are for technology that does not yet exist. The goals provide a basis for guiding technology development, and program funding. They are not being proposed as the basis for present or future regulations or legally binding standards, nor do they attempt to project dates by which technologies will be developed or commercially available. The dates for achieving the targeted goals relate to the projected need for maintaining existing coal-based electric plant capability and for significantly increasing coal-based electric power capacity beginning in the 2010 to 2020 time frame (Energy Information Administration, Annual Energy Outlook, February 2005). Achieving the performance goals within these dates will depend on continued availability of funding. The overall program objective is to develop coal-based technologies that will enable the continued use of coal as a valued energy resource for the Nation.

These proposed goals were established based on a variety of information and data, including the status of current coal-based technology and results from on-going research and development programs carried out by industry, university, and national laboratories. They were developed through feedback from workshops held by DOE that resulted in developing a coal program roadmap to meet national needs and from workshops on advanced technology to improve environmental performance, energy system efficiency, and lower cost of coal-based energy systems. In establishing these goals, DOE consulted with coal-based technology equipment vendors, users (*e.g.* electric utilities), and technology developers. Consultations also included exchanges with the Coal Utilization Research Council, the Electric Power Research Institute, and with other organizations, including environmental and consumer groups.

An integrated plan to achieve the performance and cost goals is presented in the DOE Office of Clean Coal Strategic Plan. The latest version of this Strategic Plan is undergoing internal review and will be issued shortly and then made available to the public on the National Energy Technology Laboratory Web site at *http://www.netl.doe.gov/coal/index.html*. Detailed program plans, roadmaps, and other documents related to the goals of individual programs are currently available on the Web site.

Some of the program activities to facilitate production and generation of coal-based power listed in section 962(a) of EPAct have not been funded to date. Therefore, no cost and performance goals have been established for those activities, which include advanced combustion systems, the liquid fuels portion of coal-derived liquids and transportation fuels (except for hydrogen), liquid fuels derived from low rank coal water slurry, and solid fuels and feedstocks.

The following table identifies cost and performance goals for currently funded program activities under DOE's coal and related technologies program. Some of the activities include more than one of those listed in section 962(a). *Advanced Power Systems* includes cost and performance goals for gasification systems, turbines for synthesis gas derived from coal, and advanced separation technologies (oxygen). *Carbon Sequestration* also includes advanced separation technologies (carbon dioxide) and work on advanced combustion technology. *Hydrogen and Fuels* activities are part of coal-derived chemicals and transportation fuels and also include advanced separation technologies (hydrogen). All of the below listed program activities encompass some aspect of advanced coal-related research activities.

| Program activity | Performance goals * | | Cost Goals * |
|---|---|---|---|
| | Efficiency | Environmental | |
| Innovations for Existing Plants ..... | Maintain current plant efficiency while achieving the environmental performance and cost goals | Mercury (Hg): 50–70% reduction by 2007; 90% reduction by 2010 | 70% of today's cost (per lb of mercury removed). |
| | | Nitrogen Oxides ($NO_X$): <0.15 lb/million Btu by 2007; <0.10 lb/million Btu by 2010 | 50–75% of current selective catalytic reduction (SCR) capital cost. |

| Program activity | Performance goals * | | Cost Goals * |
|---|---|---|---|
| | Efficiency | Environmental | |
| Advanced Power Systems | 45–50% higher heating value (HHV) efficiency to electricity by 2010<br>Multi-product capability (*e.g.* power and hydrogen) with over 60% efficiency by 2015 | Sulfur Dioxide ($SO_2$): >99% removal<br>$NO_X$: < 0.01 lb/million Btu<br>Hg: >90% removal Carbon Dioxide ($CO_2$) capture: >90% | 2012 goal: <10% increase in cost of electricity services in zero emission advanced gasification plants integrated with carbon sequestration. |
| Carbon Sequestration | Efficiency of current and new plants consistent with cost of electricity target | 90% $CO_2$ capture and sequestration | 2012 goal: <10% increase in cost of electricity services to separate, capture, transport, and sequester carbon using either direct or indirect systems. |
| Hydrogen and Fuels | Efficiency consistent with advanced power systems | Emissions consistent with advanced power systems | Hydrogen at $0.90/gal. gasoline equivalent (gge) by 2010 and $0.79 gge by 2015 with no incentives or tax credits when integrated with advanced coal power systems. |
| Fuel Cell Systems (Coal-based fuel cell/turbine hybrids). | 40–60% (40% for kilowatt sizes; 60% for megawatt class hybrid systems integrated with coal gasification) | Emissions consistent with advanced power systems | $400/kW capital cost for fuel cell power modules (in kilowatt sizes by 2010 and megawatt class hybrids by 2015). |

* All dates shown are meant to indicate the completion dates for ongoing research. The referenced technologies will still have to be commercially demonstrated before they are ready or are available for commercial deployment.

Issued in Washington, DC, on November 30, 2005.

**Mark R. Maddox,**

*Principal Deputy Assistant Secretary, Office of Fossil Energy.*

[FR Doc. E5–6902 Filed 12–5–05; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Bonneville Power Administration

### Klondike III/Biglow Canyon Wind Integration Project

**AGENCY:** Bonneville Power Administration (BPA), Department of Energy (DOE).

**ACTION:** Notice of Extension of Comment Period for an Environmental Impact Statement (EIS).

**SUMMARY:** This notice extends the close of comment for scoping from the previously published May 13, 2005 to January 5, 2006. BPA is preparing its Klondike III/Biglow Canyon Wind Integration EIS under the National Environmental Policy Act (NEPA). BPA is currently considering a proposed interconnection requested by PPM Energy, Inc. (PPM), to integrate electrical power from their proposed Klondike III Wind Project into the Federal Columbia River Transmission System (FCRTS). The EIS will now also include a proposed interconnection requested by an additional wind developer, Orion Energy, LLC (Orion) to integrate electrical power from their proposed Biglow Canyon Wind Farm Project. BPA published a NOI to prepare an EIS for the Klondike III Wind Project in the **Federal Register** on February 11, 2005. After receiving comments during the scoping period that suggested combining the interconnections of these two projects, and receiving an interconnection request from Orion, BPA has decided to include both projects in the same EIS and change the name of the EIS to Klondike III/Biglow Canyon Wind Integration Project EIS. Both proposed wind projects are located in Sherman County, Oregon. BPA proposes to execute agreements with both developers to provide them with an interconnection for up to 700 megawatts (MW) of generation (300 MW from Klondike III, 400 MW from Biglow Canyon). Interconnection would require BPA to build and operate a new double-circuit 230-kilovolt (kV) transmission line, a new 230-kV substation, and to expand an existing 500-kV substation.

BPA also intends to consider the impacts of building another substation in the area. Because more local wind generation projects are expected to be constructed in the coming years, a substation is likely to be needed in this area to integrate them into BPA's transmission system; however, another substation is not needed at this time.

**DATES:** Written comments on the NEPA scoping process are due at the address below no later than January 5, 2006.

**ADDRESSES:** Send letters with comments and suggestions on the proposed scope of the Draft EIS and requests to be placed on the project mailing list to Bonneville Power Administration, Communications—DKP–7, P.O. Box 14428, Portland, OR 97293–4428. Comments may also be sent to the following Web site: *http://www.transmission.bpa.gov/NewsEv/commentperiods.cfm.*

Please refer to the Klondike III/Biglow Canyon Wind Integration Project EIS in all communications. Comments submitted at the previous scoping meetings or in writing do not have to be resubmitted.

**FOR FURTHER INFORMATION CONTACT:** Gene Lynard, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621, toll-free telephone 1–800–622–4519; direct phone number 503–230–3790, fax number 503–230–5699, email gplynard@bpa.gov. Additional information can be found at BPA's Web site: *http://www.efw.bpa.gov/environmental_services/Document_Library/Klondike/.*

**SUPPLEMENTARY INFORMATION:**

*Proposed Action.* BPA proposes to execute an agreement with PPM to provide interconnection services for up to 300 MW from the Klondike III Wind Project. BPA also proposes to execute an agreement with Orion to provide interconnection services for up to 400 MW from the Biglow Canyon Wind Farm Project. As part of these agreements, BPA would agree to construct and operate an approximately 12-mile, double-circuit 230-kV transmission line that would interconnect the electricity from the wind projects to the FCRTS. BPA would also build and operate a new 230-kV substation, expand and place new

equipment in BPA's existing John Day 500-kV Substation, and connect to two transmission lines built by PPM and Orion. Steel tubes and lattice steel towers are being considered for BPA's transmission line. The line and new 230-kV substation would be on privately-owned land that is primarily used for dryland wheat farming.

The EIS will also analyze a potential site for a future substation, not yet proposed, in the project area. A substation would likely be needed in the future for other wind development integration, but is not needed at this time.

In addition to these federal actions, the EIS will consider the reasonably foreseeable consequences from the construction and operation of the PPM's proposed Klondike III Wind Project and Orion's proposed Biglow Canyon Wind Farm Project.

The Klondike III Wind Project would be next to the currently operating Klondike Wind Project Phases I and II, on privately-owned land, mostly used for agriculture. Up to 165 additional wind turbines are proposed to be commercially operating by the end of 2007. The Klondike III Wind Project includes wind turbines, substations, access roads, and other project facilities. Siting of the proposed wind project is under the jurisdiction of Oregon Energy Facility Siting Council (EFSC), and PPM has applied for an EFSC Site Certificate.

The Biglow Canyon Wind Farm Project would be on privately-owned land mostly used for agriculture. Up to 225 wind turbines are proposed to be commercially operating by the end of 2007. The Biglow Canyon Wind Farm Project includes wind turbines, substation, access roads, and other project facilities. Siting of the proposed wind project is under the jurisdiction of EFSC, and Orion has applied for an EFSC Site Certificate.

Construction of the BPA transmission line, new 230-kV substation and the wind projects would commence in early 2007. The wind projects would be interconnected to BPA transmission lines in fall 2007, with a commercial operation date for the wind projects in 2007. Agricultural activities could continue to take place next to the transmission line structures and wind turbines. The wind projects would operate for much of each year for at least 20 years.

*Possible Alternatives for BPA's Proposed Action.* An alternative to the proposed action of offering interconnection contract terms is to not offer the terms requested. Thus, the EIS will evaluate this ''no-action'' alternative. In addition, the EIS will evaluate alternatives for routing the proposed BPA transmission line. At this time, at least two potentially feasible alternatives have been identified:

- The North Alternative; and
- The Middle Alternative (see attached Project Area Map).

*Public Participation and Identification of Environmental Issues.* BPA is the lead federal agency under NEPA for the EIS. BPA originally established a minimum of a 30-day scoping period during which affected landowners, Tribes, concerned citizens, special interest groups, local governments, state and federal agencies and any other interested parties were invited to comment on the scope of the proposed EIS. BPA extended this scoping period after reviewing the comments received by mail and at a public scoping meeting on March 1, 2005. After revising alternatives proposed for the transmission line route, BPA held a second public scoping meeting on April 27, 2005. Now that the second proposed wind project will be included in the EIS, BPA has reopened scoping to receive comments.

Scoping will help BPA identify potentially significant impacts that may result from BPA's proposed action and will help ensure that all relevant environmental issues related to BPA's proposed action are addressed in the EIS. Based on BPA's experience, potential environmental issues for the wind projects and BPA's interconnection facilities may include noise created by wind turbines, visual effects from the wind turbines and transmission line, socioeconomic impacts created by an influx of construction workers into a sparsely populated area, effects on recreation (primarily hunting), impacts on cultural resources, and impacts to wildlife habitat and populations, including migratory birds.

When completed, the Draft EIS will be circulated for review and comment, and BPA will hold a public comment meeting on the Draft EIS. In the Final EIS, BPA will consider and respond to comments received on the Draft EIS. BPA expects to publish the Final EIS in summer or early fall 2006. BPA's subsequent decision will be documented in a Record of Decision.

In addition to BPA's EIS process, Oregon EFSC provides opportunity for public participation as part of its site evaluation process. It is expected that public meetings for the projects will be held by representatives from the Oregon Office of Energy sometime in 2006. BPA will coordinate with Oregon EFSC to ensure full consideration of all public and agency comments received.

**Stephen J. Wright,**

*Administrator and Chief Executive Officer.*

[FR Doc. E5–6904 Filed 12–5–05; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Energy Information Administration

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Energy Information Administration (EIA), Department of Energy (DOE).

**ACTION:** Agency information collection activities: submission for OMB review; comment request.

**SUMMARY:** The EIA has submitted the Energy Information Administration's Natural Gas Data Collection Program Package collections to the Office of Management and Budget (OMB) for review and a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq.*).

**DATES:** Comments must be filed by January 5, 2006. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

**ADDRESSES:** Send comments to the OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–3084. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Kara Norman, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670. Kara Norman may be contacted by telephone at (202) 287–1902, FAX at (202) 287–1705, or e-mail at *kara.norman@eia.doe.gov.*

**SUPPLEMENTARY INFORMATION:** This section contains the following information about the energy information collections submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (i.e., the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (i.e,

new, revision, extension, or reinstatement); (5) response obligation (i.e., mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (i.e., the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. EIA–176, EIA–191, EIA–857, EIA–895, EIA–910, and EIA–912.
2. Energy Information Administration.
3. OMB Number 1905–0175.
4. Three-year extension.
5. All forms are mandatory except EIA–895, which is voluntary.
6. The purpose of the Natural Gas Data Collection Program Package is to collect basic and detailed data to meet EIA's mandates and energy data users' needs. Adequate evaluation of the industry requires production, processing, transmission, distribution, storage, marketing, consumption, and price data. The data collected by EIA on these forms are unique. While somewhat similar or related data may be available from private and/or industry sources, as well as from other Federal agencies, such data are not reasonable alternatives for the data provided by the Natural Gas Data Collection Program Package survey forms. Data from the forms in the Natural Gas Data Collection Program Package are published in the Annual Energy Outlook, Annual Energy Review, Natural Gas Annual, Natural Gas Monthly, Natural Gas Weekly Market Update Report, Weekly Natural Gas Storage Report, Monthly Energy Review, Short-Term Energy Outlook, State Energy Data Report, and numerous other EIA publications.
7. Business or other for-profit.
8. 53,284.

**Statutory Authority:** Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Issued in Washington, DC, November 30, 2005.

**Jay H. Casselberry,**

*Agency Clearance Officer, Energy Information Administration.*

[FR Doc. E5–6903 Filed 12–5–05; 8:45 am]

BILLING CODE 6450–01–P

## FARM CREDIT ADMINISTRATION

### Sunshine Act Meeting; Farm Credit Administration Board

**AGENCY:** Farm Credit Administration.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

**DATE AND TIME:** The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on December 8, 2005, from 9 a.m. until such time as the Board concludes its business.

**FOR FURTHER INFORMATION CONTACT:** Jeanette C. Brinkley, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

**ADDRESSES:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

**SUPPLEMENTARY INFORMATION:** Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

**Open Session**

*A. Approval of Minutes*

- November 8, 2005 (Open).

*B. New Business*

1. Regulations

- Termination—Proposed Rule.

2. Reports

- FCS Building Association Quarterly Report.
- Office of Examination Quarterly Report on Farm Credit System.

**Closed Session ***

* Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(2), (6), (8) and (9).

*C. Reports*

- Quarterly Supervisory Report on FCS and Status of OE Organizational Changes and Communications with FCS Institutions.
- OSMO Quarterly Report.

Dated: December 1, 2005.

**Jeanette C. Brinkley,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 05–23700 Filed 12–2–05; 9:29 am]

BILLING CODE 6705–01–P

## FARM CREDIT SYSTEM INSURANCE CORPORATION

### Notice of Regular Meeting

**AGENCY:** Farm Credit System Insurance Corporation Board.

**SUMMARY:** Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

**DATE AND TIME:** The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on December 8, 2005, from 10 a.m. until such time as the Board concludes its business.

**FOR FURTHER INFORMATION CONTACT:** Jeanette C. Brinkley, Secretary to the Farm Credit System Insurance Corporation Board, (703) 883–4009, TTY (703) 883–4056.

**ADDRESSES:** Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102.

**SUPPLEMENTARY INFORMATION:** Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

**Closed Session**

- Report on System Performance

**Open Session**

A. *Approval of Minutes*

- September 22, 2005 (Regular Meeting)

B. *Reports*

- Financials
- Report on Insured Obligations
- Quarterly Report on Annual Performance Plan

C. *New Business*

- Golden Parachute Regulation (Final)

**Closed Session**

- Proposed Audit Plan

Dated: November 30, 2005.

**Jeanette C. Brinkley,**

*Secretary, Farm Credit System Insurance Corporation Board.*

[FR Doc. E5–6890 Filed 12–5–05; 8:45 am]

BILLING CODE 6710–01–P

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 12:00 p.m., Monday, December 12, 2005.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions)

involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**FOR FURTHER INFORMATION CONTACT:** Michelle A. Smith, Director, Office of Board Members; 202–452–2955.

**SUPPLEMENTARY INFORMATION:** You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, December 2, 2005.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 05–23733 Filed 12–2–05; 2:09 pm]

**BILLING CODE 6210–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Notice of Meeting of the Advisory Committee on Minority Health

**AGENCY:** Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

**ACTION:** Notice.

**SUMMARY:** As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Advisory Committee on Minority Health (ACMH) will hold a meeting. This meeting is open to the public. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should e-mail *acmh@osophs.dhhs.gov.*

**DATES:** The meeting will be held on January 8, 2006, from 8:30 a.m. to 5 p.m.

**ADDRESSES:** The meeting will be held at the Grand Hyatt Washington, 1000 H Street, NW., Washington, DC 20001. The meeting is accessible from the Metro Center Station (Take the 11th Street exit for entrance into the Grand Hyatt).

**FOR FURTHER INFORMATION CONTACT:** Ms. Monica A. Farrar, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852. Phone: 240–453–2882, Fax: 240–453–2883.

**SUPPLEMENTARY INFORMATION:** In accordance with Public Law 105–392, the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health in improving the health of each racial and ethnic minority group and on the development of goals and specific program activities of the Office of Minority Health.

Topics to be discussed during this meeting will include strategies to improve Native American Health (including ''indigenous'' peoples of the U.S. and the Pacific Islands), Information Technology's Role in Health Care, and Educational Outreach and Health Promotion in improving the health of racial and ethnic minority populations, as well as other related issues.

Public attendance at the meeting is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person at least five business days prior to the meeting. Members of the public will have an opportunity to provide comments at the meeting. Public comments will be limited to five minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments ot the Office of Minority Health at least two business days prior to the meeting. Any members of the public who wish to have printed material distributed to ACMH committee members should submit their materials to the Executive Secretary, ACMH, prior to close of business January 3, 2006.

Dated: November 22, 2005.

**Garth N. Graham,**

*Deputy Assistant Secretary for Minority Health, Executive Secretary, ACMH.*

[FR Doc. 05–23650 Filed 12–5–05; 8:45 am]

**BILLING CODE 4150–29–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### The National Institute for Occupational Safety and Health (NIOSH) Public Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following public meetings and request for information:

*Name:* NIOSH Availability of Opportunity to Provide Input for the National Occupational Research Agenda (NORA) with a special emphasis on the Construction Sector, and the Transportation, Warehousing, and Utilities Sector and regional and multi-sector input.

*Time and Date for Meeting One:* Transportation, Warehousing and Utilities (TWU) Sector.

9 a.m.–5 p.m. EST, December 5, 2005:

9 a.m.–12 p.m., Multi-Sector Public Comments.

1 p.m.–5 p.m., TWU Specific Public Comments.

*Place for Meeting One:* Holiday Inn, 10000 Baltimore Avenue, College Park, MD 20740.

*Time and Date for Meeting Two:* Construction Sector.

9 a.m.–5 p.m. CST, Monday December 19, 2005:

9 a.m.–12 p.m. Multi-sector Public Comments.

1 p.m.–5 p.m. Construction Specific Public Comments.

*Place for Meeting Two:* University of Illinois at Chicago, School of Public Health and Psychiatric Institute, 1603 W. Taylor Street, Chicago, Illinois 60612.

*Status:* Meetings are open to the public, limited only by the space available.

*Background:* A large part of our lives is shaped by the work we do. NORA is a framework to guide occupational safety and health research for the nation. It is an ongoing endeavor to focus research to reduce work-related injury and illness. As the program approaches a ten year milestone, NIOSH is hosting public meetings to seek input from individuals and organizations on important research issues and agendas. Information about the public meetings and registration can be found on the NORA Web page at: *http://www.cdc.gov/niosh/nora/townhall.*

Given that NORA represents a broad-based partnership involving government, business, the worker community, academia, and others, public input is essential for planning future directions for the initiative, which will be based on eight different industry sector groups. Each meeting will be structured to provide an opportunity for regional and multi-sector input during the morning, followed where appropriate by an afternoon session to focus on individual sector issues.

All participants are requested to register for the free meeting at the NORA Web page or onsite the day of the meeting. Participants wishing to speak are encouraged to register early. The public meetings are open to everyone, including all workers, professional societies, organized labor, employers, researchers, health professionals,

government officials and elected officials. Broad participation is desired.

*Purpose:* The public meetings will address both regional and sector-specific priorities for research. During the morning session, stakeholders will be invited to speak for 3–5 minutes on an important occupational safety and health issue, including those that occur in multiple sectors. Where noted in the agenda, the afternoon session will focus on sector-specific problems facing the nation. Again, participants will be asked to make 3–5 minute presentations describing what they perceive to be the top concerns within their sector or sub-sector. Participants are encouraged to attend both the regional and sector-specific sessions, or they may elect to participate in only one session.

Types of occupational safety and health issues might include diseases, injuries, exposures, populations at risk, and needs of occupational safety and health systems. For example, falls from heights might be a top injury issue for the residential construction industry. Low back pain and related back disorders might be a top disease concern for the urban transit industry. If possible, please include as much information as might be useful for understanding the safety or health research priority you identify. Such information could include characterization of the frequency and severity with which the injury, illness, or hazardous exposure is occurring and of the factors you believe might be causing the health or safety issue. Input is also requested on the types of research that you believe might make a difference and the partners (*e.g.*, specific industry associations, labor organizations, research organizations, governmental agencies) who should be involved in forming research efforts and in solving the problem.

All presentations will be entered into the NORA Docket, which is maintained by NIOSH. All comments in the NORA Docket will be used to help shape sector-specific and related cross-sector research agendas for the nation.

These events are the first of several public meetings. Additional meetings will include April 18–20, 2006, in Washington, DC, for Agriculture, Forestry, and Fishing; Healthcare and Social Assistance; Wholesale and Retail Trade; Manufacturing; Mining; Services; Regional Issues; and a summary session. Future **Federal Register** Notices will provide more information on these meetings.

Due to administrative issues that had to be resolved, the **Federal Register** notice is being published on short notice.

**FOR MORE INFORMATION CONTACT:** Sid Soderholm, Ph.D., NORA Coordinator, (202) 401–0721.

**ADDRESSES:** Comments may also be e-mailed to *niocindocket@cdc.gov*, or sent via postal mail to: Docket NIOSH–047, Robert A. Taft Laboratories (C–34), 4676 Columbia Parkway, Cincinnati, OH 45226.

Stakeholders are also invited to submit comments electronically at the NORA Web page: *http://www.cdc.gov/niosh/nora.* Comments submitted to the Web page by others can also be viewed there.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: November 30, 2005.

**Diane Allen,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 05–23664 Filed 12–5–05; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request

*Proposed Projects:*

*Title:* Head Start Family and Child Experiences Survey (FACES)

*OMB No.:* 0970–0151.

*Description:* The Administration for Children and Families (ACF) of the Department of Health and Human Services (HHS) is requesting comments on plans to collect data on a new cohort for the Head Start Family and Child Experiences Survey (FACES). This study is being conducted to collect information on Head Start performance measures under contract with Mathematica Policy Research, Inc. (with Juarez and Associates and Educational Testing Service as their subcontractors) (contract #HHSP23320052905YC).

FACES will involve four waves of data collection. The first wave will occur in fall 2006. Data will be collected on a sample of approximately 2,800 children and families from about 350 classrooms across 60 Head Start programs. Data collection will include assessments of Head Start children, interviews with their parents, and ratings by their Head Start teachers. Furthermore, site visitors will interview Head Start teachers and make observations of the types and quality of classroom activities.

The second wave in spring 2007 will be very similar to the fall 2006 data collection, except that we will not repeat interviews with the Head Start staff interviewed in the fall and will add an interview of the family services coordinator. The children in the second wave will be at the end of their first year of Head Start.

The third wave will occur in spring 2008 and will involve follow-ups with children who at this time are either completing a second year in Head Start or completing Kindergarten. For those children who are still attending Head Start, data collection will follow the same procedures as in spring 2007. For those children attending Kindergarten, data collection will include assessments of the children, an ''update'' survey of the information collection from the parent interview, and ratings of the children's academic progress and school adjustment by Kindergarten teachers.

The fourth wave of data collection will occur in spring 2009. Children who attended Kindergarten the previous year will not be included in this wave. The procedures for this effort will be the same as for Kindergartens in spring 2008.

This schedule of data collection is necessitated by the mandates of the Government Performance and Results Act (GPRA) of 1993 (Pub. L. 103–62), which requires that the Head Start Bureau move expeditiously toward development and testing of Head Start Performance Measures, and by the 1994 reauthorization of Head Start (Head Start Act, as amended, May 18, 1994, Section 649 (d)), which requires periodic assessments of Head Start's quality and effectiveness.

*Respondents:* Federal Government, individuals or households, and not-for-profit institutions.

**Annual Burden Estimates**

Estimated Response Burden for Respondents to the Head Start Family and Child Experiences Survey (FACES 2006)—Fall 2006, Spring 2007, Spring 2008, Spring 2009.

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| **Year 1 (2006)** | | | | |
| Head Start Parent Interview | 2,800 | 1 | 1.00 | 2,800 |
| Head Start Child Assessment | 2,800 | 1 | 0.66 | 1,848 |
| Teacher Child Rating | 350 | 8 | 0.25 | 700 |
| Program Director Interview | 60 | 1 | 1.00 | 60 |
| Center Director Interview | 120 | 1 | 1.00 | 120 |
| Education Coordinator Interview | 120 | 1 | 0.75 | 90 |
| Teacher Interview | 350 | 1 | 1.00 | 350 |
| Year 1 Total | 6,600 | | | 5,968 |
| **Year 2 (2007)** | | | | |
| Head Start Parent Interview | 2,400 | 1 | 0.75 | 1,800 |
| Head Start Child Assessment | 2,400 | 1 | 0.66 | 1,584 |
| Teacher Child Rating | 350 | 6.75 | 0.25 | 591 |
| Family Service Coordinator Interview | 120 | 1 | 0.75 | 90 |
| Year 2 Total | 5,270 | | | 4,065 |
| **Year 3 (2008)** | | | | |
| Head Start Parent Interview | 850 | 1 | 0.75 | 638 |
| Head Start Child Assessment | 850 | 1 | 0.66 | 561 |
| Teacher Child Rating | 175 | 4.5 | 0.25 | 197 |
| Kindergarten Parent Interview | 1,110 | 1 | 0.75 | 833 |
| Kindergarten Child Assessment | 1,110 | 1 | 0.75 | 833 |
| Kindergarten Teacher Questionnaire | 1,110 | 1 | 0.50 | 555 |
| Year 3 Total | 5,205 | | | 3,615 |
| **Year 4 (2009)** | | | | |
| Kindergarten Parent Interview | 725 | 1 | 0.75 | 544 |
| Kindergarten Child Assessment | 725 | 1 | 0.75 | 544 |
| Kindergarten Teacher Questionnaire | 725 | 1 | 0.50 | 363 |
| Year 4 Total | 2,175 | | | 1,450 |

*Estimated Total Burden Hours:* 15,101.

*Estimated Total Annual Burden Hours (average of 4 years):* 3,775.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 30, 2005.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 05–23643 Filed 12–5–05; 8:45 am]

BILLING CODE 4184–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Field Test of Social-Emotional Measures and Modified Assessment Measures for the Head Start National Reporting System.

*OMB No.:* New Collection.

*Description:* The Administration for Children and Families (ACF) of the Department of Health and Human Services (HHS) is requesting comments on plans to conduct the Field Test of Social-Emotional Measures and Modified Assessment Measures for the Head Start National Reporting System (HSNRS). This field test is being conducted under contract with Westat (with subcontractors Xtria and Pearson Educational Measurement) (HHS23320052902YC) to examine new and modified measures for HSNRS.

**Purposes**

The purposes of the field test are to expand NSNRS's coverage of the domain elements of the Head Start Outcomes Framework and to improve the performance of the current HSNRS assessment battery. ACF has been urged to expand the coverage of NSNRS to include non-cognitive domains, in recognition of the ''whole child'' orientation of Head Start, in particular, social and emotional development. To that end, the Technical Work Group of HSNRS has discussed and reviewed potential measures of social-emotional

development and has identified several existing, ratings-based measures as candidates for field testing. Further, the Technical Work Group has also endorsed expanding the coverage of HSNRS to the *Physical Health and Development* domains of the Head Start Outcomes Framework. Finally, the Quality Assurance Study's findings, Technical Work Group recommendations and findings from psychometric analysis of first-year implementation data have suggested some areas for improvement to the current HSNRS assessment battery.

In addition, the field test will also examine the effectiveness of training procedures and relative feasibility of the selected measures with a diverse set of Head Start programs, staff, and children.

**Teacher-Reported Measures of Social-Emotional Development**

Five teacher-reported measures of social-emotional development will be field tested. These measures have been used in the Family and Child Experiences Survey (FACES) or National Head Start Impact Study (NHSIS), as listed below.

- Cooperative Classroom Behavior;
- Problem Behaviors;
- Preschool Learning Behavior Scale (PLBS);
- Student-Teacher Relationship Scale (STRS): Short form; and
- Adjustment Scales for Preschool Intervention (ASPI).

**Modifications to Current HSNRS Assessment Battery**

Modifications to the current HSNRS assessment battery include:

- A new language screener;
- New Letter Naming task; and
- New items in Early Math Skills task using manipulatives.

**Health Records Extract**

The field test will also examine the feasibility of collecting child health information from Head Start programs. It is intended to expand HSNRS coverage to include health status, child safety, and linkages to health care. Based on the collected information, indicators of health services provided by local Head Start programs can be developed. The child health information includes:

- Height;
- Weight;
- Immunization status;
- Dental care records; and
- Occurrences of child injuries requiring medical attention at each center.

**Sample**

The national probability sample of Head Start programs will consist of 30 programs, including four Native American programs, selected with probability proportional to size. From each program, up to 6 classrooms will be selected (each classroom will be taught by a different teacher). This will result in a sample of approximately 1,440 children and 180 Head Start teachers.

**Training**

A ''training-the-trainers'' approach will be used to train the field test participants. The participants will be certified in the field-tested measures and procedures and return to their programs to train local Head Start staff on the social-emotional measures.

The effectiveness of the ''train-the-trainers'' training procedures and materials for the field-tested assessment measures will be examined. Information from feedback surveys completed by training participants will be analyzed to find areas that need improvement.

**Data Collection**

Social-emotional development measures will be completed by the lead teacher of each classroom. In order to examine inter-rater reliability, teacher ratings will be collected independently by the lead teacher and by another staff member in the same classroom (e.g., an assistant teacher), if available and qualified.

For modified HSNRS child assessment measures, contractor field staff will conduct the field-test measures.

*Respondents:* Head Start Children and Head Start Staff

**Annual Burden Estimates**

FALL 2005

| Instruments | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| **Training on Field Test Measures** | | | | |
| Head Start Staff: Participate in Training-the-Trainers Training | 30 | 1 | 8 | 240 |
| Head Start Staff: Review Self-Study Materials on Teacher-Reported Ratings of Social-Emotional Development | 360 | 1 | 1 | 360 |
| Head Start Trainers: Complete Feedback Survey on Training Procedures | 30 | 1 | 1/12 | 2.5 |
| Head Start Staff: Complete Feedback Survey on Training Procedures | 360 | 1 | 1/12 | 30 |
| **Field Test of Teacher-Reported Ratings of Social-Emotional Development** | | | | |
| Head Start Lead Teacher: Complete Teacher-Reported Ratings | 180 | 8 | 1/4 | 360 |
| Head Start Classroom Staff: Complete Parallel Teacher-Reported Ratings | 180 | 8 | 1/4 | 360 |
| Head Start Children: Participate in Social-Emotional Skills Direct Assessment | 270 | 1 | 1/4 | 67.5 |
| **Field Test of Modifications to Current HSNRS Direct Child Assessment Battery** | | | | |
| Head Start Children: Participate in Modified Measures | 1,440 | 1 | 1/4 | 360 |
| **Field Test of Collection of Child Health Information** | | | | |
| Head Start Staff: Collect & Submit Child Health Info | 30 | 48 | 1/12 | 120 |
| Head Start Staff: Demonstrate Procedures for Collecting Height and Weight Information | 30 | 3 | 1/12 | 7.5 |
| Head Start Children: Participate in Demonstration of Procedures for Collecting Height and Weight Information | 30 | 3 | 1/12 | 7.5 |

FALL 2005—Continued

| Instruments | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| Head Start Staff: Complete Feedback Survey on Child Health Data collection Procedures | 30 | 1 | 1/12 | 2.5 |
| Fall 2005 Totals | 2,970 | | | 1,917.5 |

SPRING 2006

| Instruments | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| **Training on Field Test Measures** | | | | |
| Head Start Staff: Participate in Training-the-Trainers Training | 30 | 1 | 8 | 240 |
| Head Start Staff: Review Self-Study Materials on Teacher-Reported Ratings of Social-Emotional Development | 360 | 1 | 1 | 360 |
| Head Start Trainers: Complete Feedback Survey on Training Procedures | 30 | 1 | 1/12 | 2.5 |
| **Field Test of Teacher-Reported Ratings of Social-Emotional Development** | | | | |
| Head Start Lead Teacher: Complete Teacher-Reported Ratings | 180 | 8 | 1/4 | 360 |
| Head Start Classroom Staff: Complete Parallel Teacher-Reported Ratings | 180 | 8 | 1/4 | 360 |
| Head Start Children: Participate in Social-Emotional Skills Direct Assessment | 270 | 1 | 1/4 | 67.5 |
| **Field Test of Modifications to Current HSNRS Direct Child Assessment Battery** | | | | |
| Head Start Children: Participate in Modified Measures | 1,440 | 1 | 1/4 | 360 |
| **Field Test of Collection of Child Health Information** | | | | |
| Head Start Staff: Collect & Submit Child Health Info | 30 | 48 | 1/12 | 120 |
| Spring 2006 Totals | 2,520 | | | 1,870 |
| Grand Totals for Fall 2005 & Spring 2006 | 5,490 | | | 3,787.5 |

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov*.

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF, E-mail address: *Katherine_T._Astrich@omb.eop.gov*.

Dated: November 30, 2005.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 05–23644 Filed 12–5–05; 8:45 am]

BILLING CODE 4184–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Indian Health Service

### Albuquerque Area Office (GFC), Organization, Functions, and Delegations of Authority

#### Office of the Area Director (GFC1)

By specific delegation from the Director, Indian Health Service (IHS), the Office of the Area Director, plans, develops, directs and evaluates the area's activities within the framework of IHS policy in pursuit of the IHS mission by: (1) Assuring professional fiscal accountability at all levels within the Albuquerque Area and maximization of revenue generation; (2) assuring all product and service quality is routinely evaluated, with supporting documentation of continuous monitoring and performance improvement; (3) assuring the public health by continuous improvement in preventive activities; and (4) fostering and expecting, accepting no less than maximum effort, in communication and collaboration efforts with IHS and non-IHS sources and sources all within the legal framework of the Agency.

*Tribal Support Staff Office*

The Tribal Support Staff Office is responsible for four major program activities: (1) Tribal consultation; (2) program planning, analysis, and evaluation methodologies and activities; (3) Public Law 93–638 Indian Self-Determination; and (4) Tribal liaison activities.

#### Office of Operational Support (GFC2)

The Office of Operational Support is responsible for the overall fiscal accountability of the Albuquerque Area. This includes the supervision and management of: (1) All fiscal and

human resources; (2) revenue generation monitoring and accountability; (3) appropriate and timely expenditure of funds; (4) accurate and timely reports; (5) oversees communication with managers responsible for the fiscal health of facilities to which assigned; (6) evaluates fiscal health and resource accountability; (7) provides official financial information relative to any and all Tribal contracting and/or compacting activity; and (8) establishes and directs boards of inquiry to protect all area resources.

*Division of Financial Management (GFC21)*

The Division of Financial Management role in operational support activities is recognized by: (1) Formulates fiscal budget activities; (2) determines funding amounts available for Tribal share distribution; (3) prepares operating budget authority documents to distribute funds to service units, programs, areas division and Tribal contractors; (4) oversees and consuls on proper cost accounting and cost reporting; (5) oversee the overall accounting, financial reporting, reconciliation and payment functions for the Albuquerque Area and Headquarters West; (6) certifies all travel payments; (7) reconciles with service unites, area office divisions, and the U.S. Treasury; (8) performs internal control reviews for the area; (9) oversees Tribal shares distribution and payments; (10) educates, directs and monitors Tribes working within the IHS accounting processes; (11) communicates and collaborates with Tribes and Tribal groups wishing to use IHS accounting practices within their organization or when necessitated by 638 activity; (12) investigates and collects Federal Medical Care Recovery Act (FMCRA) reimbursements; and (13) oversees Contract Health Services activities in the areas of Catastrophic Health Emergency Fund (CHEF), Fiscal Intermediary contact, field support, training and productivity; and denials and appeals.

*Division of Human Resources (GSC22)*

The Division of Human Resources: (1) Plans, implements, coordinates, and evaluates civil service and commissioned officer human resources program; (2) develops operating personnel policies, and assures a supportive human resources program which meets the human capital framework of the area; (3) administers operating personnel policies, position classification and pay management, recruitment and staffing, employee relations, labor management, employee development; personnel records and reports; (4) conducts training courses for supervisory and non-supervisory staff; (5) maintains pertinent federal personnel regulation guidelines; (6) serves as principal advisor to the Area Director, Executive Officer, area staff, and service unit staff in matters relating to human resources; (7) keeps current on development of Tribal health activities as they relate to the area human resources program; and (8) establishes, maintains, and promotes liaison with community, Tribal, civic groups, professional organizations, colleges, universities, and other agencies as appropriate.

*Division of Contracts (GFC23)*

The division of Contracts: (1) Plans, implements, coordinates, and evaluates the area contract program within established requirements and authorities; (2) interprets federal contract, grant and procurement regulations, policies, procedures, and practices; (3) provides technical assistance to Indian Tribes, Indian and urban Indian organizations in the development of activities related to procurement capabilities; (4) maintains the federal procurement regulation manuals and the HHS Grant Administration manuals; (5) provides delegations of authority for service unit procurement; (6) evaluates service unit procurement operations; and (7) keeps abreast of current development of Tribal health activities as they relate to the contract, grant and procurement activity.

*Division of Information Management Services (GFC24)*

The Division of Information Management Services: (1) Provides advice on area policies and procedures related to data processing, computer software, computer equipment, and telecommunications; (2) provides technical support on data processing services and software applications to the area and service units; (3) assesses area needs for information technology and advises on alternatives; (4) provides training to improve utilization and understanding of information technologies; and (5) works with Headquarters Division of Information Resources (DIR), to design and develop systems that are responsive to area needs; and provides Tribal support through consultation and collaboration of an integrated reporting system.

**Office of Clinical Care Programs (GFC3)**

The Office of Clinical Care Programs is responsible for the overall effectiveness of direct health care and public health (prevention) programs. This office plans, implements, directs, coordinates and evaluates the patient and community care programs throughout the Albuquerque Area health care system. This office oversees: (1) Planning facilities and patient care; statistical data preparation and interpretation; (2) integrated health systems; (3) medical informatics; (4) epidemiology; (5) contract health program management; (6) clinical nursing; (7) diabetes prevention and treatment; (8) public health nursing; (9) Community Health Representative/ Emergency Medical Services Tribal program support and monitoring; (10) behavioral health efficacy; (11) optometry; (12) health care professional recruitment and retention; (13) sets productivity thresholds for professional staff; (14) ascertains costs of services by health care professional; (15) oversees the scholarship program; (16) provides training, recruitment and retention reports and orientation programs; (17) serves as the expert in clinical programs for the Albuquerque Area; and (18) serves as liaison for clinical tort claims, sentinel events and risk management issues.

*Albuquerque Area Dental Program (GFC31)*

The Albuquerque Area Dental Program is responsible for providing a full range of comprehensive general dental services including the specialty services of a prosthodontist, a periodontist, a pedodontist, and an orthodontist to eligible American Indian and Alaska Native patients. This is a demand care program with emphasis on meeting family needs in a community setting. Preventive and direct care dental services constitute the main thrust of its activities.

*Division of Clinical Quality (GFC32)*

The Division of Clinical Quality: (1) Coordinates clinical technical assistance that impacts on quality performance and promotes collaboration to improve quality care; (2) oversees the diabetes/ public health nursing and clinical nursing programs; behavioral health program; provider recruitment program; and the CHR/EMS program; and (3) provides area-wide technical support in the clinical programs and quality council.

**Office of Environmental Health & Engineering (GFC4)**

The Office of Environmental Health and Engineering: (1) Administers the area health facilities management, sanitation facilities construction, environmental health services, and the

national environmental health support functions; (2) serves as the principal advisor to the Area Director, area staff, and service unit staff on all environmental health matters; (3) coordinates activities to promote a safe and healthful environment in IHS facilities and Indian communities; (4) constructs, improves, extends or otherwise provides essential sanitation facilities for Indian homes and communities; and (5) maintains liaison and coordinates environmental activities with Tribes, area programs, state and local governments, and other outside groups.

*Division of Health Facilities (GFC41)*

The Division of Health Facilities: (1) Plans, implements, directs, coordinates and evaluates the area health facilities operation and maintenance program; (2) serves as the liaison with Headquarters and Engineering Services in Dallas; (3) provides resource coordination; (4) advises service units on Heating, Ventilation, and Air Conditioning (HVAC) & energy issues; (5) advises the service units on construction & utility issues; (6) plans, designs, constructs, and improves IHS Area health facilities; and (7) plans, coordinates, and evaluates the Biomedical Engineering Program.

**Division of Sanitation Facilities Construction (GFC42)**

The Division of Sanitation Facilities Construction: (1) Funds construction of water supply and waste disposal facilities for Indian homes and communities; (2) provides professional engineering design and construction services for water supply and waste disposal facilities; (3) assists Tribes with planning and coordination of multi-agency funded sanitation projects; and (4) provides technical consultation and training to improve the operation and maintenance of Tribally owned water supply and waste disposal systems.

*Division of Environmental Health Services (GFC43)*

The Division of Environmental Health Services: (1) Strives to enhance the health and quality of life of Indian people by eliminating environmentally related disease and injury through sound public health measures; (2) surveys a wide variety of community facilities, such as schools, community buildings, foods service operations, water supply and waste disposal facilities, and makes recommendations for improvement of environmental health deficiencies; (3) provides Institutional Environmental Health Services to comprehensively address Joint Commission on Accreditation of Healthcare Organizations (JCAHO) requirements, as well as Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA) and other mandated health activities; (4) coordinates community injury prevention activities for the Area; and (5) provides technical consultation, assistants and training to Tribes on environmental health topics.

*Division of Property and Asset Management (GFC44)*

The Division of Property and Asset Management: (1) Manages and controls the area-wide Real Property Program; (2) manages and controls the area Personal Property Program; and (3) the reception and security of the building.

*Environmental Health Support Center (GFC45)*

The Division of Environmental Health Support provides: (1) Nationwide training and technical support in the areas of environmental health and injury prevention, engineering, management, and facilities operation and maintenance for the IHS; (2) schedules, coordinates and documents Area program reviews and consultations; (3) provides national support and representation on behalf of IHS in interagency workgroups and forums; and (4) coordinates national emergency response activities on behalf of the IHS.

This reorganization shall be effective on December 6, 2005.

Dated: November 28, 2005.

**Charles W. Grim,**

*Assistant Surgeon General, Director, Indian Health Service.*

[FR Doc. 05–23659 Filed 12–5–05; 8:45 am]

BILLING CODE 4165–16–M

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### Fee Schedule for Processing Requests for Map Changes, for Flood Insurance Study Backup Data, and for National Flood Insurance Program Map and Insurance Products; Correction

**AGENCY:** Federal Emergency Management Agency (FEMA), Department of Homeland Security.

**ACTION:** Notice; correction.

**SUMMARY:** The Federal Emergency Management Agency published a document in the **Federal Register** of September 19, 2005, concerning the revised fee schedules for processing certain types of requests for changes to NFIP maps, requests for FIS technical and administrative support data, and requests for particular NFIP map and insurance products. The document contained the incorrect fee associated for processing requests for Conditional Map Revisions based on new hydrology, bridge, culvert, channel, or combination thereof.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Mitigation Division, FEMA, 500 C Street SW., Washington, DC 20472; by telephone at (202) 646–2903 or by facsimile at (202) 646–4596 (not toll-free calls); or by e-mail at *doug.bellomo@dhs.gov*.

**Correction**

In the **Federal Register** of September 19, 2005, in FR Doc. 05–18555, on page 54956, in the first column, under ''Fee Schedule for Requests for Conditional Map Revisions'', correct the fee to read: Request based on new hydrology, bridge, culvert, channel, or combination thereof: $4,000.

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

Dated: November 29, 2005.

**David I. Maurstad,**

*Acting Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E5–6866 Filed 12–5–05; 8:45 am]

BILLING CODE 9110–12–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Receipt of Applications for Permit

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications for permit.

**SUMMARY:** The public is invited to comment on the following applications to conduct certain activities with endangered species.

**DATES:** Written data, comments or requests must be received by January 5, 2006.

**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management

Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

**FOR FURTHER INFORMATION CONTACT:** Division of Management Authority, telephone 703/358–2104.

**SUPPLEMENTARY INFORMATION:**

## Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

*Applicant:* Dr. Richard Lawler, Boston University, Boston, MA, PRT–109051.

The applicant requests a permit to import tissue and hair samples from live, wild Verreaux's sifaka (*Propithecus verreauxi*) from the Beza-Mahafaly Reserve in Madagascar for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

*Applicant:* Linda C. Donaho, Houston, TX, PRT–110977.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Paul J. Barstad, Califon, NJ, PRT–111554.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Glen D. Holcomb, Oakley, CA, PRT–111561.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Mark D. Spillane, Boca Raton, FL, PRT–111573.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Richard C. Scott, Macon, GA, PRT–112561.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Ronald K. Bridgers, Athens, GA, PRT–112565.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Robert L. Ranley, Newton, NJ, PRT–112157.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Harry L. Pangle, Jr., Arcola, VA, PRT–113232.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Robert A. Lordahl, Lakewood, WA, PRT–113229.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* William R. Shapiro, Arlington, TX, PRT–113680.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Dated: November 18, 2005.

**Monica Farris,**

*Senior Permit Biologist, Branch of Permits, Division of Management Authority.*

[FR Doc. 05–23652 Filed 12–5–05; 8:45 am]

BILLING CODE 4310–55–P

# DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Receipt of Applications for Permit

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications for permit.

**SUMMARY:** The public is invited to comment on the following applications to conduct certain activities with endangered species and marine mammals.

**DATES:** Written data, comments or requests must be received by January 5, 2006.

**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

**FOR FURTHER INFORMATION CONTACT:** Division of Management Authority, telephone 703/358–2104.

**SUPPLEMENTARY INFORMATION:**

## Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

*Applicant:* John C. Wirth, Jr., Dubois, WY, PRT–111987.

The applicant requests a permit to import the sport-hunted trophy of one male scimitar-horned oryx (*Oryx dammah*) culled from a captive herd in the Republic of South Africa, for the purpose of enhancement of the survival of the species.

*Applicant:* Michael E. Willard, Hailey, ID, PRT–110509 .

The applicant requests a permit to import the sport-hunted trophy of one male scimitar-horned oryx (*Oryx dammah*) culled from a captive herd in the Republic of South Africa, for the purpose of enhancement of the survival of the species.

**Marine Mammals**

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

*Applicant:* Pete A. Haman, Douglas, WY, PRT–113481.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beauford Sea polar bear population in Canada for personal, noncommercial use.

*Applicant:* Tom R. Waits, Tulsa, OK, PRT–112760.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Dated: Novenber 11, 2005.

**Monica Farris,**

*Senior Permit Biologist, Branch of Permits, Division of Management Authority.*

[FR Doc. E5–6860 Filed 12–5–05; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### North American Wetlands Conservation Council Meeting Announcement

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** The North American Wetlands Conservation Council (Council) will meet to select North American Wetlands Conservation Act (NAWCA) grant proposals for recommendation to the Migratory Bird Conservation Commission (Commission). The meeting is open to the public.

**DATES:** December 7, 2005, 1–4 pm.

**ADDRESSES:** The meeting will be held at the National Conservation Training Center, 698 Conservation Way, Sheperdstown, WV 25443. The Council Coordinator is located at the U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop: MBSP 4501–4075, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** David A. Smith, Council Coordinator, (703) 358–1784 or *dbhc@fws.gov.*

**SUPPLEMENTARY INFORMATION:** In accordance with NAWCA (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989, as amended), the State-private-Federal Council meets to consider wetland acquisition, restoration, enhancement, and management projects for recommendation to, and final funding approval by, the Commission. Proposal due dates, application instructions, and eligibility requirements are available through the NAWCA Web site at *http://birdhabitat.fws.gov.* Proposals require a minimum of 50 percent non-Federal matching funds. Mexican and U.S. Standard grant proposals will be considered at the Council meeting. The tentative date for the Commission meeting is March 1, 2006.

Dated: November 10, 2005.

**Paul Schmidt,**

*Assistant Director—Migratory Birds.*

[FR Doc. E5–6859 Filed 12–5–05; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[CA–310–0777–XG]**

### Notice of Public Meeting: Northwest California Resource Advisory Council

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U. S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council will meet as indicated below.

**DATES:** The meeting will be held Wednesday and Thursday, February 15 and February 16, 2006, in Weaverville, California. On February 15, the council members will convene at 10 a.m. at the Weaverville Victorian Inn, 1609 Main St., Weaverville and depart immediate for a field tour of the Weaverville Community Forest and the Weaverville lumber mill. Members of the public are welcome. They must provide their own transportation and lunch. On February 16, the business meeting convenes at 8 a.m. in the Conference Room of the Weaverville Victorian Inn. Time for public comment has been reserved for 1 p.m.

**FOR FURTHER INFORMATION CONTACT:** Rich Burns, BLM Ukiah Field Office manager, (707) 468–4000; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252–5332.

**SUPPLEMENTARY INFORMATION:** The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northwest California. At this meeting, agenda topics will a review and discussion of the council's previous recommendation on recreation fees, an update from the Shasta Cascade Wonderland Association on efforts to form a Sacramento River National Recreation Area, an update on the federal energy bill, a status report on the Draft Ukiah Resource Management Plan, and an update on the proposed Salmon Creek Resources land exchange. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: November 29, 2005.

**Joseph J. Fontana,**

*Public Affairs Officer.*

[FR Doc. E5–6865 Filed 12–5–05; 8:45 am]

BILLING CODE 4310–40–P

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

### Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of extension of an information collection (1010–0057).

**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to

renew approval of the paperwork requirements in the regulations under 30 CFR Part 250, Subpart C, ''Pollution Prevention and Control,'' and related documents. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

**DATES:** Submit written comments by January 5, 2006.

**ADDRESSES:** You may submit comments on this information collection directly to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior via OMB e-mail: (*OIRA_DOCKET@omb.eop.gov*); or by fax (202) 395–6566; identify with (1010–0057).

Submit a copy of your comments to the Department of the Interior, MMS, via:

- MMS's Public Connect on-line commenting system, *https://ocsconnect.mms.gov.* Follow the instructions on the website for submitting comments.
- E-mail MMS at *rules.comments@mms.gov.* Use Information Collection Number 1010–0057 in the subject line.
- Fax: 703–787–1093. Identify with Information Collection Number 1010–0057.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team (RPT); 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ''Information Collection 1010–0057'' in your comments.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Blundon, Rules Processing Team, (703) 787–1600. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulation that requires the subject collection of information.

**SUPPLEMENTARY INFORMATION:** *Title:* 30 CFR 250, Subpart C, Pollution Prevention and Control.

*OMB Control Number:* 1010–0057.

*Abstract:* The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Section 1332(6) states that ''operations in the [O]uter Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.'' Section 1334(a)(8) requires that regulations prescribed by the Secretary include provisions ''for compliance with the National Ambient Air Quality Standards [NAAQS] pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*), to the extent that activities authorized under this Act significantly affect the air quality of any State.'' Section 1843(b) calls for ''regulations requiring all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly color coded, stamped, or labeled, wherever practicable, with the owner's identification prior to actual use.''

This notice concerns the reporting and recordkeeping elements of 30 CFR Part 250, subpart C, Pollution Prevention and Control, and related Notices to Lessees and Operators that clarify and provide additional guidance on some aspects of the regulations. Responses are mandatory. No questions of a ''sensitive'' nature are asked. MMS will protect proprietary information according to 30 CFR 250.196, ''Data and information to be made available to the public,'' 30 CFR Part 252, ''OCS Oil and Gas Information Program,'' and the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2).

MMS OCS Regions collect information required under subpart C to ensure that there is no threat of serious, irreparable, or immediate damage to the marine environment, and to identify potential hazards to commercial fishing caused by OCS activities. We also use the information collected to ensure that operations are conducted according to all applicable regulations and permit conditions/requirements, comply with the approved emission levels to minimize air pollution of the OCS and adjacent onshore areas, and are conducted in a safe and workmanlike manner. In addition, we require daily inspection of facilities to prevent pollution and to ensure that problems observed have been corrected.

In the Gulf of Mexico OCS Region (GOMR), we require lessees/operators to periodically monitor and collect air emissions and meteorological data to satisfy Environmental Protection Agency and Clean Air Act requirements. The States and regional air quality groups use the information to perform regional air quality modeling in support of State Implementation Plans (SIPs). The GOMR plans regional modeling for emissions data in the year 2005. In preparation, affected respondents will be required to collect and report air pollutant emissions data for OCS activities in the GOMR for the year 2005. The year 2005 corresponds to a Clean Air Act requirement for States with non-attainment areas to prepare and/or update air pollutant emission inventories suitable for air quality modeling in support of the development of SIPs. Thus, the year 2005 OCS emissions inventory will be contemporary with the emissions inventory the States are required to prepare. The onshore and OCS 2005 data will be used in regional air quality modeling and emissions control decision-making. Respondents will gather OCS 2005 data during the calendar year 2005 and report in 2006.

*Frequency:* On occasion, monthly, or annually; and daily for pollution inspection records.

*Estimated Number and Description of Respondents:* Approximately 117 Federal OCS oil and gas or sulphur lessees and 17 States.

*Estimated Reporting and Recordkeeping ''Hour'' Burden:* The estimated annual ''hour'' burden for this information collection is a total of 196,073 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

| Citation 30 CFR 250 Subpart C and related NTL(s) | Reporting and recordkeeping requirement | Hour burden | Average No. annual responses | Annual burden hours |
|---|---|---|---|---|
| 300(b)(1), (2) | Obtain approval to add petroleum-based substance to drilling mud system or approval for method of disposal of drill cuttings, sand, & other well solids, including those containing NORM. | 3 | 110 lessees | 330 |
| 300(c) | Mark items that could snag or damage fishing devices | 0.5 | 110 lessees | 55 |
| 300(d) | Report items lost overboard | 1 | 110 lessees | 110 |
| 303(a) thru (d), (i), (j); 304(a), (f). | Submit, modify, or revise Exploration Plans and Development and Production Plans; submit information required under 30 CFR 250, subpart B. | Burden covered under 1010–0151 | | 0 |
| 303(k); 304(a), (g) | Collect and report air quality emissions related data (such as facility, equipment, fuel usage, and other activity information) during the calendar year 2005 for input into State and regional planning organizations modeling. | 3 hrs per month × 12 months = 36. | 2,873 platforms | 103,428 |
| 303(l); 304(h) | Collect and submit meteorological data (not routinely collected) | None planned in the next 3 years | | 0 |
| 304(a), (f) | Affected State may submit request to MMS for basic emission data from existing facilities to update State's emission inventory. | 4 | 5 requests | 20 |
| 304(e)(2) | Submit compliance schedule for application of best available control technology (BACT). | 40 | 10 schedules | 400 |
| 304(e)(2) | Apply for suspension of operations | Burden covered under 1010–0114 | | 0 |
| 304(f) | Submit information to demonstrate that exempt facility is not significantly affecting air quality of onshore area of a State. | 15 | 10 submissions | 150 |
| 300–304 | General departure and alternative compliance requests not specifically covered elsewhere in subpart C regulations. | 2 | 110 requests | 220 |
| | Subtotal—Reporting | | 3,338 | 104,713 |
| 300(d) | Record items lost overboard | 1 | 110 lessees | 110 |
| 301(a) | Inspect drilling/production facilities daily for pollution; maintain inspection/repair records 2 years. | ¼ hr/day × 365 days = 91.25. | 1,000 facilities | 91,250 |
| | Subtotal—Recordkeeping | 1,110 | 91,360 | |
| | Total Hour Burden | 4,448 | 196,073 | |

*Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden:* We have identified no paperwork ''non-hour cost'' burdens associated with the collection of information.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

*Comments:* Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on June 1, 2005, we published a **Federal Register** notice (70 FR 31504) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR Part 250 regulations and forms. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by January 5, 2006.

*Public Comment Procedures:* MMS's practice is to make comments, including names and home addresses of respondents, available for public review. If you wish your name and/or address to be withheld, you must state this prominently at the beginning of your comment. MMS will honor the request to the extent allowable by the law; however, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

*MMS Information Collection Clearance Officer:* Arlene Bajusz (202) 208–7744.

Dated: August 9, 2005.

**E.P. Danenberger,**

*Chief, Office of Offshore Regulatory Programs.*

[FR Doc. E5–6898 Filed 12–5–05; 8:45 am]

BILLING CODE 4310–MR–P

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

### Environmental Document Prepared for Proposed Mineral Exploration on the Alaska Outer Continental Shelf

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the availability of environmental document prepared for Outer Continental Shelf mineral exploration.

**SUMMARY:** Minerals Management Service (MMS), in accordance with Federal regulations that implement the National Environmental Policy Act (NEPA), announces the availability of a NEPA-related Environmental Assessment (EA) prepared by MMS for proposed oil and gas exploration on the Alaska Outer Continental Shelf (OCS). This listing includes the only proposal for which a Finding of No Significant Impact (FONSI) was prepared by the Alaska OCS Office in the 3-month period preceding this Notice.

**FOR FURTHER INFORMATION CONTACT:** Persons interested in reviewing environmental documents for the proposal listed above, or in obtaining information about EAs and FONSIs prepared for activities on the Alaska OCS, are encouraged to contact the Alaska OCS Regional office of MMS.

The FONSI and associated EA are available for public inspection between the hours of 7:45 a.m. and 4:30 p.m., Monday through Friday at: Minerals Management Service, Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, AK 99503–5823, phone: (907) 334–5200 or contact *akwebmaster@mms.gov.*

**SUPPLEMENTARY INFORMATION:** *Proposal.* The proposal is for a geophysical (seismic) survey of the Cosmopolitan Unit on the Outer Continental Shelf (OCS) in Lower Cook Inlet. During November 2003, MMS filed with the Environmental Protection Agency a multiple-sale EIS assessing the general effects of leasing and exploration activities including seismic surveys in Lower Cook Inlet. This EA tiers from the multiple-sale EIS, incorporating it by reference. The EA examines the potential environmental effects of the specific proposed survey of the Cosmopolitan Unit and of alternatives with additional mitigation.

*Location:* Lower Cook Inlet.

*EA Number:* OCS EIS/EA MMS 2005–045.

*FONSI Date:* July 20, 2005.

The MMS prepares EAs and FONSIs on proposed seismic exploration programs. The documents examine the potential environmental effects of the proposed exploration and present MMS conclusions regarding the significance of those effects. The EAs are used for determining whether or not approvals would significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where MMS finds that approval would not cause significant effects. The FONSI briefly presents the basis for that finding and includes a summary of the EA.

This Notice constitutes the public Notice of Availability of environmental documents required under the NEPA regulations.

Dated: November 10, 2005.

**John Goll,**

*Regional Director, Alaska OCS Region, Minerals Management Service.*

[FR Doc. E5–6867 Filed 12–5–05; 8:45 am]

BILLING CODE 4310–MR–P

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

### Outer Continental Shelf (OCS), Alaska OCS Region, Cook Inlet Oil and Gas Sale 199, May 2007

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Request for information (RFI).

**SUMMARY:** The Secretary's approved 5-Year OCS Oil and Gas Leasing Program for 2002–2007 provides for two sales, Sales 191 and 199, to be held in the Cook Inlet planning area. An Environmental Impact Statement (EIS) that covered both sales was prepared. The RFI and a Notice of Intent (NOI) to prepare an EIS for Sales 191 and 199 was published in the **Federal Register** on December 31, 2001, at 66 FR 67543. The Cook Inlet final EIS for Sales 191 and 199 was released in November 2003 (OCS EIS/EA, MMS 2003–055). The first sale, Sale 191, was held on May 19, 2004; however, the sale received no bids.

The RFI/NOI for Sale 199 was published in the **Federal Register** on December 27, 2004, at 69 FR 77265, with a proposed date of sale in May 2006. Since neither comments nor interest were received from the oil and gas industry, the MMS decided to delay the sale until May 2007. The MMS is now asking if industry or others have interest in holding Cook Inlet Sale 199 in May 2007. If bona fide interest from companies is received, we will proceed with the planning for the sale. If no interest is shown, Sale 199 will not be held.

*Comment Period:* Comments on the RFI must be received no later than 30 days following publication of this document in the **Federal Register**. If you wish to comment, you may submit your comments by any one of the following methods:

- You may mail comments to the Alaska OCS Region, Minerals Management Service, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503, in envelopes labeled ''Attn: Comments on Request for Information for Cook Inlet Sale 199.''
- You may also comment via e-mail to *akrfi@mms.gov*. Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Please also include ''Attn: Comments on Request for Information for Cook Inlet Sale 199'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us via e-mail to: *akwebmaster@mms.gov*.
- You may fax your comments to MMS at (907) 334–5242.
- Finally, you may hand-deliver comments weekdays between 8 a.m. and 5 p.m. to the Alaska OCS Region, Minerals Management Service, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503.

**FOR FURTHER INFORMATION CONTACT:** Please contact Steve Flippen at (907) 334–5268 in MMS's Alaska OCS Region regarding questions on the RFI.

#### Purpose of Request

The purpose of this additional RFI is to gather information for Oil and Gas Lease Sale 199 in the Cook Inlet, scheduled for May 2007. Information on oil and gas leasing, exploration, and development and production within the Cook Inlet are sought from all interested parties. This early planning and consultation step is important for ensuring that all interests and concerns are communicated to the Department of the Interior for decisions in the leasing process.

The Call for Information and Nominations published in the **Federal Register** on December 31, 2001, requested information and nominations from industry for Sales 191 and 199 in the Cook Inlet Planning Area. The RFI/NOI for Sale 199 was published in the **Federal Register** on December 27, 2004, at 69 FR 77265, with a proposed date of sale in May 2006. Because no comments or interest were received from the oil and gas industry, the MMS decided to delay the sale until May 2007. Unless

the MMS receives indications of industry interest in response to this RFI, Sale 199 will not be held.

**Areas of Interest to the Oil and Gas Industry**

The MMS requests industry to submit any new information, including nomination of blocks that are of significant interest for exploration and development and production. Information and nominations submitted in response to the multiple-sale Call for Sales 191 and 199, published on December 31, 2001 (66 FR 67543), and the RFI/NOI for Sale 199 published in the **Federal Register** on December 27, 2004, at 69 FR 77265, will also be considered as information and nominations for the Sale 199 area identification process.

Nominations must be depicted on the RFI map by outlining the area(s) of interest along block lines. Nominators are asked to submit a list of whole and partial blocks nominated (by OPD and block number) to facilitate correct interpretation of their nominations on the Request for Information map. Although the identities of those submitting nominations become a matter of public record, the individual nominations are proprietary information.

Nominators also are requested to rank blocks nominated according to priority of interest [*e.g.*, priority 1 (high), or 2 (medium)]. Blocks nominated that do not indicate priorities will be considered priority 3 (low). Nominators must be specific in indicating blocks by priority and be prepared to discuss their range of interest and activity regarding the nominated area(s). The telephone number and name of a person to contact in the nominator's organization for additional information should be included in the response. This person will be contacted to set up a mutually agreeable time and place for a meeting with the Alaska OCS Regional Office to present their views regarding the company's nominations.

**SUPPLEMENTARY INFORMATION:** For questions concerning the sale process and required NEPA documents, please refer to the RFI/NOI for Sale 199 published in the **Federal Register** on December 27, 2004, at 69 FR 77265 or on the MMS Web site: *http://www.mms.gov/alaska*.

**Tentative Schedule**

The following is a list of tentative milestone dates applicable to Cook Inlet Sale 199 covered by this RFI:

Request for Information published: November 2005.

Area Identification: February 2006.

National Environmental Policy Act/Environmental Assessment Review (or Supplemental EIS) published: August 2006.

Proposed Notice and Consistency Determination: December 2006.

Final Notice of Sale: April 2007.

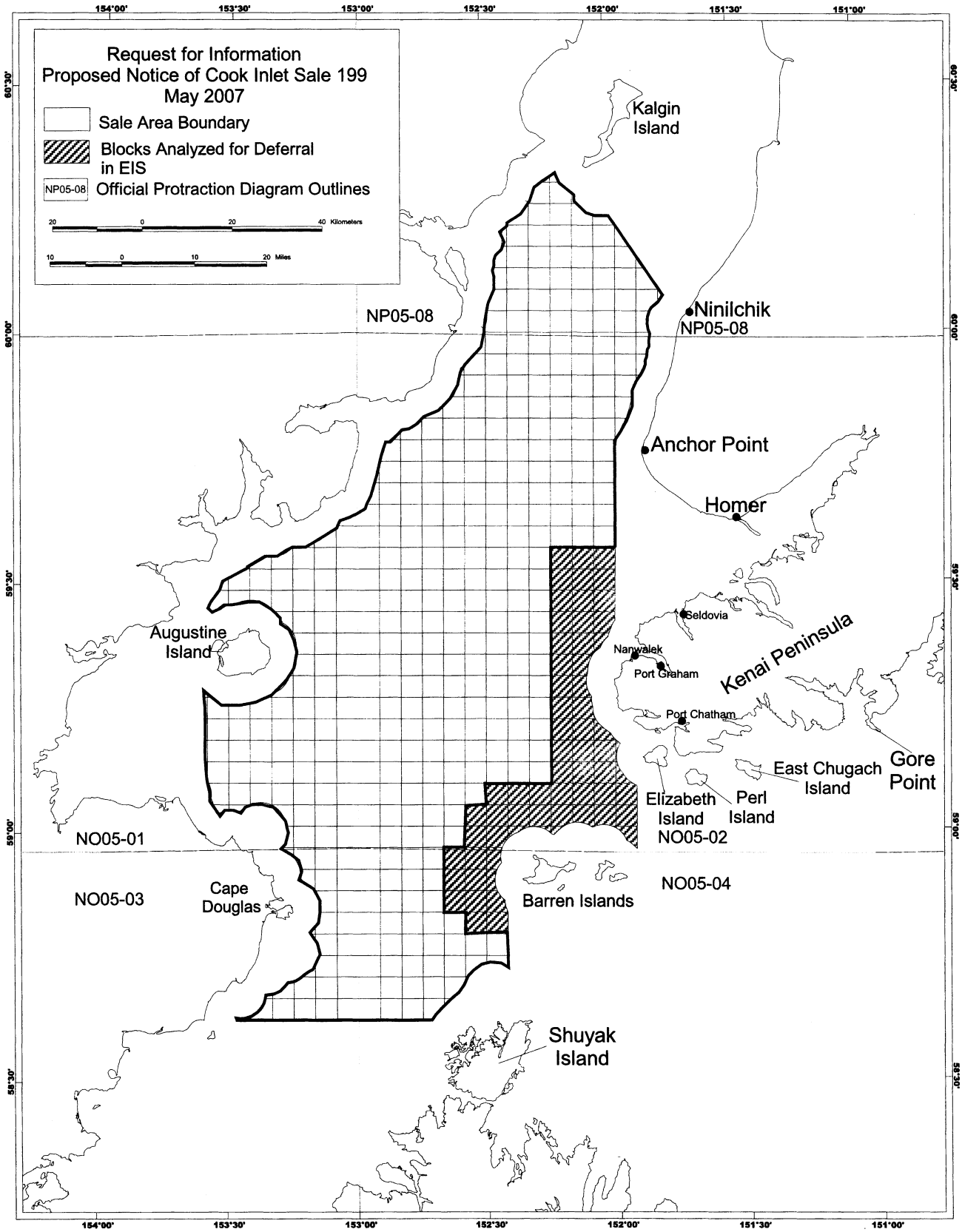
Tentative Sale Date: May 2007.

Dated: November 16, 2005.

**Johnnie Burton,**

*Director, Minerals Management Service.*

**BILLING CODE 4310–MR–P**




September 29, 2005

[FR Doc. 05–23657 Filed 12–5–05; 8:45 am]

BILLING CODE 4310–MR–C

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

### San Luis Unit Long-Term Contract Renewal

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Extension of comment period for review of Draft Environmental Impact Statement (DEIS).

**SUMMARY:** The Bureau of Reclamation is extending the comment period for the DEIS to January 17, 2006. The notice of availability of the DEIS and notice of public workshop and notice of public hearings was published in the **Federal Register** on September 30, 2005 (70 FR 57324). The public comment period was originally to end on November 21, 2005.

**DATES:** Submit comments on the DEIS on or before January 17, 2006.

**ADDRESSES:** Send comments on the DEIS to Mr. Shane Hunt, Bureau of Reclamation, South-Central California Area Office, 1243 N Street, Fresno, CA 93721. Comments may also be e-mailed to *shunt@mp.usbr.gov*. Copies of the DEIS may be requested by calling Mr. Hunt at 559–487–5138, TDD 559–487–5933.

**FOR FURTHER INFORMATION CONTACT:** Mr. Shane Hunt at 559–487–5138, TDD 559–487–5933.

**SUPPLEMENTARY INFORMATION:** Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: November 29, 2005.

**Michael Nepstad,**

*Deputy Regional Environmental Officer, Mid-Pacific Region.*

[FR Doc. E5–6871 Filed 12–5–05; 8:45 am]

BILLING CODE 4310–MN–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–669 (Second Review)]**

### Cased Pencils 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, 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 cased pencils 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 July 1, 2005 (70 FR 38192) and determined on October 4, 2005 that it would conduct an expedited review (70 FR 60557, October 18, 2005).

The Commission transmitted its determination in this review to the Secretary of Commerce on November 30, 2005. The views of the Commission are contained in USITC Publication 3820 (November 2005), entitled Cased Pencils from China: Investigation No. 731–TA–669 (Second Review).

Issued: November 30, 2005.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E5–6895 Filed 12–6–05; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–58,280]**

### TRW Jackson, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 4, 2005, in response to a worker petition filed by the United Steelworkers of America, Local 2–670, on behalf of workers at TRW, Jackson, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 16th day of November 2005.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5–6878 Filed 12–5–05; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–58,119]**

### Cole Hersee Company, South Boston, MA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 12, 2005 in response to a petition filed by a company official on behalf of workers of Cole Hersee Company, South Boston, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 18th day of November 2005.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5–6875 Filed 12–5–05; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, (19 U.S.C. 2273), the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the periods of November 2005.

In order for an affirmative determination to be made and a certification of eligibility to apply for directly-impacted (primary) worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm,

have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance as an adversely affected secondary group to be issued, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

**Negative Determinations for Worker Adjustment Assistance**

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

*TA–W–58,031; ComTal Machine and Engineering, White Bear Township, MN.*

*TA–W–58,047; Plasti-Coil, Inc., Lake Geneva, WI.*

*TA–W–58,061; Atfab Company, Painesville, OH.*

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

*TA–W–58,140; Samuel Son and Company, Detroit, MI.*

The investigation revealed that criterion (a)(2)(A)(I.A) and (a)(2)(B)(II.A) (no employment decline) has not been met.

*TA–W–58,107; Century Furniture Industries, Case Goods Division, Hickory, NC.*

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA–W–58,066; Agere Systems, Inc., Allentown, PA.*

*TA–W–58,117; George Weston Bakeries, Accounts Payable Department, Bay Shore, NY.*

*TA–W–58,270; UTI Integrated Logistics, d/b/a Standard Corp., Greenville, SC.*

*TA–W–58,272; Sun Shade Holding, El Cerrito, CA.*

The investigation revealed that criteria (a)(2)(A)(I.C.) (Increased imports and (a)(2)(B) (II.C) (has shifted production to a foreign country) have not been met.

*None*

The investigation revealed that criteria (2) has not been met. The workers firm (or subdivision) is not a supplier or downstream producer to trade-affected companies.

*TA–W–58,071; EEEA, Inc., Mauldin, SC.*

**Affirmative Determinations for Worker Adjustment Assistance**

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

*TA–W–58,034; Highland Mills, Inc., Charlotte, NC: September 26, 2004.*

*TA–W–58,051; Miker Companies, Cheektowaga, NY: September 22, 2004.*

*TA–W–58,056; Neilsen Manufacturing, Inc., Salem, OR: September 30, 2004.*

*TA–W–58,076; T P Corporation, Duryea, PA: October 5, 2004.*

*TA–W–58,142; Vishay Roederstein Electronics, Inc., Statesville, NC: October 13, 2004.*

*TA–W–58,162; Style Setter Fashions, Inc., Philadelphia, PA: June 7, 2005.*

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

*TA–W–58,020; Southwest Corset Corporation, Trading as Southwest Cupid, Access Employer, Blackwell, OK: September 1, 2004.*

*TA–W–58,075; Paxar Americas, Inc., Paxar Corporation, Sayre, PA: October 4, 2004.*

*TA–W–58,153; Druck, Inc., a/k/a GE Sensing, Adecco, Viking Accountemps, New Fairfield, CT: October 17, 2004.*

*TA–W–58,157; High Cotton Enterprises, Inc., Seaming Department, Fort Payne, AL: October 7, 2004.*

The following certification has been issued. The requirement of supplier to a trade certified firm has been met.

*TA–W–58,260; Gemtron Corp., Manpower, Holland, MI: November 2, 2004.*

The following certification has been issued. The requirement of downstream producer to a trade certified firm has been met.

*None*

**Negative Determinations for Alternative Trade Adjustment Assistance**

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for

Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have not been met for the reasons specified.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

*TA–W–58,075; Paxar Americas, Inc., Paxar Corporation, Sayre, PA.*

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

*None*

Since the workers are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

*TA–W–58,107; Century Furniture Industries, Case Goods Division, Hickory, NC.*
*TA–W–58,140; Samuel Son and Company, Detroit, MI.*
*TA–W–58,031; ComTal Machine and Engineering, White Bear Township, MN.*
*TA–W–58,047; Plasti-Coil, Inc., Lake Geneva, WI.*
*TA–W–58,061; Atfab Company, Painesville, OH.*
*TA–W–58,066; Agere Systems, Inc., Allentown, PA.*
*TA–W–58,117; George Weston Bakeries, Accounts Payable Department, Bay Shore, NY.*
*TA–W–58,270; UTI Integrated Logistics, d/b/a Standard Corp., Greenville, SC.*
*TA–W–58,272; Sun Shade Holding, El Cerrito, CA.*
*TA–W–58,071; EEEA, Inc., Mauldin, SC.*

The Department as determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

*None*

**Affirmative Determinations for Alternative Trade Ajdustment Assistance**

In order for the Division of Trade Adjustment Assistance to issued a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determinations.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have been met.

I. Whether a significant number of workers in the workers' firm are 50 years of age or older.

II. Whether the workers in the workers' firm possess skills that are not easily transferable.

III. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

*TA–W–58,142; Vishay Roederstein Electronics, Inc., Statesville, NC: October 13, 2004.*
*TA–W–58,051; Miker Companies, Cheektowaga, NY: September 22, 2004.*
*TA–W–58,056; Neilsen Manufacturing, Inc., Salem, OR: September 30, 2004.*
*TA–W–58,076; T P Corporation, Duryea, PA: October 5, 2004.*
*TA–W–58,162; Style Setter Fashions, Inc., Philadelphia, PA: June 7, 2005.*
*TA–W–58,153; Druck, Inc., a/k/a GE Sensing, Adecco, Viking Accountemps, New Fairfield, CT: October 17, 2004.*
*TA–W–58,157; High Cotton Enterprises, Inc., Seaming Department, Fort Payne, AL: October 7, 2004.*
*TA–W–58,260; Gemtron Corp., Manpower, Holland, MI: November 2, 2004.*

I hereby certify that the aforementioned determinations were issued during the month of November 2005. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 28, 2005.

**Erica R. Cantor,**

*Director, Division of Trade Adjustment Assistance.*

[FR Doc. E5–6874 Filed 12–5–05; 8:45 am]

**BILLING CODE 4510–30–P**

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## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, (19 U.S.C. 2273), the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of November 2005.

In order for an affirmative determination to be made and a certification of eligibility to apply for directly-impacted (primary) worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance as an adversely affected secondary group to be issued, each of the group eligibility

requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or (B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

**Affirmative Determinations for Worker Adjustment Assistance**

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

*TA–W–57,942; Ethan Allen Operations, Inc., Dublin, VA: September 9, 2004.*

*TA–W–58,049; Stearns, Inc., Sauk Rapids, MN: September 29, 2004.*

*TA–W–58,049A; Stearns, Inc., Grey Eagle, MN: September 29, 2004.*

*TA–W–58,082; True Temper Sports, Including Leased Workers of Eastridge Temp Service, El Cajon, CA: September 28, 2004.*

*TA–W–58,123; Wright Plastic Products, LLC, Div. of Synlastech, Sheridan, MI: October 2004.*

*TA–W–58,134; Kemco, Inc., Travelers Rest, SC: October 13, 2004.*

*TA–W–58,174; Needletrade Services, LTD, Fall River, MA: October 18, 2004.*

*TA–W–58,187; Amerex Group, Inc., Cottage Grove, WI: October 8, 2004.*

*TA–W–58,195; Kinesis USA, Inc., Portland, OR: October 13, 2004.*

*TA–W–58,203; American Recreation Products, Custom Sewing Div., New Haven, MO: October 24, 2004.*

*TA–W–58,211; Fisher Technical Development, Inc., Columbia, MD: October 25, 2004.*

*TA–W–58,227; Average Joe, Inc., Los Angeles, CA: October 18, 2004.*

*TA–W–58,229; Dubuit of America, Niles, IL: October 17, 2004.*

*TA–W–58,264; Regency Sportswear, Inc., Selmer, TN: November 2, 2004.*

*TA–W–58,306; MECO Corporation, On-Site Leased Workers of Work Temporary Agency, Greeneville, TN: November 4, 2004.*

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

*TA–W–58,079; Industrial Wire Products, Inc., Sullivan, MO: October 4, 2004.*

*TA–W–58,090; Texas Instruments, Inc., Sensors and Controls Div., Attleboro, MA: November 11, 2005.*

*TA–W–58,100; U.S. Electrical Motors, A Division of Emerson Electric, Mena, AR: October 7, 2004.*

*TA–W–58,103; Panasonic Home Appliances Company, Danville, KY: October 5, 2004.*

*TA–W–58,105; Eastman Kodak Company, Rochester Film Finishing Division, Rochester, NY: November 22, 2004.*

*TA–W–58,155; Vansco Electronics, Inc., Valley City, ND: June 5, 2004.*

*TA–W–58,164; Dan River, Inc., Apparel Div., Rutherfordton, NC: October 18, 2004.*

*TA–W–58,235; MBTM Ltd, Inc., Munith, MI: October 26, 2004.*

*TA–W–58,305; TRW Automotive, Kelsey-Hayes Kingsway Plant, Fremont, OH: November 9, 2004.*

The following certification has been issued. The requirement of supplier to a trade certified firm has been met.

*TA–W–58,102; H. Warshow and Sons, Inc., Milton Pennsylvania Div., Milton, PA: November 22, 2005.*

**Negative Determinations for Worker Adjustment Assistance**

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criterion (a)(2)(A)(I.A) and (a)(2)(B)(II.A) (no employment decline) has not been met.

*TA–W–58,089; Somika Designs, Shelby, NC.*

*TA–W–58,101; Honeywell International, Strategic Sensors Group, Glendale, AZ.*

*TA–W–58,149; Federal Mogul, Sparta Tennessee Division, Sparta, TN.*

*TA–W–58,318; VI Prewett and Son, Inc., Fort Payne, AL.*

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

*TA–W–58,044; Midwest Air Technologies, Mountain Grove, MO.*

*TA–W–58,168; Cooper Hand Tools, Campbell Division, York, PA.*

*TA–W–58,244; Hexcel Corporation, Reinforcements Division, Washington, GA.*

*TA–W–58,284; Volvo Construction Equipment, NA, Skyland, NC.*

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

*TA–W–58,037; Cabot Supermetals, Supermetals Div., Boyertown, PA.*

*TA–W–58,095; Premier Quilting Corporation, Oxford, NC.*

*TA–W–58,213; Celand Yarn Dyers, Inc., Thomasville, NC.*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA–W–58,085; EMC Corporation, Cincinnati, OH.*

*TA–W–58,094; Metron North America, Knoxville, TN.*

*TA–W–58,109; Telespectrum, Inc., The Resource Group, Salisbury, NC.*

*TA–W–58,113; Unifi, Unimatrix, a wholly owned Sub., Greensboro, NC.*

*TA–W–58,129; United Airlines, Inc., Aircraft Maintenance Division, Elk Grove Village, IL.*

*TA–W–58,129A; United Airlines, Inc., Los Angeles International Airport (LAX), Los Angeles, CA.*

*TA–W–58,129B; United Airlines, Inc., San Diego/Lindberg Field (SAN), San Diego, CA.*

*TA–W–58,129C; United Airlines, Inc., Denver International Airport (DEN), Denver, CO.*

*TA–W–58,129D; United Airlines, Inc., McCarran International Airport (LAS), Las Vegas, NV.*

*TA–W–58,129E; United Airlines, Inc., Honolulu Airport (HNL), Honolulu, HI.*

*TA–W–58,129F; United Airlines, Inc., Keahole Airport (KOA), Kona, HI.*

*TA–W–58,129G; United Airlines, Inc., Lihue Airport (LIH), Kauai, HI.*

*TA–W–58,129H; United Airlines, Inc., Kahului Airport (OGG), Kahului, HI.*

*TA–W–58,129I; United Airlines, Inc., San Francisco International Airport (SFO), San Francisco, CA.*

*TA–W–58,129J; United Airlines, Inc., Seattle/Tacoma International Airport (SEA), Seattle, WA.*

*TA–W–58,129K; United Airlines, Inc., Portland International Airport (PDX), Portland, WA.*
*TA–W–58,129L; United Airlines, Inc., Newark International Airport (EWR), Newark, NJ.*
*TA–W–58,129M; United Airlines, Inc., John F. Kennedy International Airport (JFK), New York, NY.*
*TA–W–58,129N; United Airlines, Inc., La Guardia Airport (LGA), New York, NY.*
*TA–W–58,129O; United Airlines, Inc., Philadelphia International Airport (PHL), Philadelphia, PA.*
*TA–W–58,129P; United Airlines, Inc., Bradley International Airport (BDL), Windsor Locks, CT.*
*TA–W–58,129Q; United Airlines, Inc., Logan International Airport (BOS), Boston, MA.*
*TA–W–58,129R; United Airlines, Inc., Detroit/Wayne County Airport (DTW), Detroit, MI.*
*TA–W–58,129S; United Airlines, Inc., Baltimore/Washington International Airport (BWI), Baltimore, MD.*
*TA–W–58,129T; United Airlines, Inc., AFB Municipal Airport (CHS), Charleston, SC.*
*TA–W–58,129U; United Airlines, Inc., Airport (CHS), Washington, DC.*
*TA–W–58,129V; United Airlines, Inc., Airport (CHS), Dulles, VA.*
*TA–W–58,129W; United Airlines, Inc., Orlando International Airport (MCO), Orlando, FL.*
*TA–W–58,129X; United Airlines, Inc., Airport (CHS), Miami, FL.*
*TA–W–58,129Y; United Airlines, Inc., Indianapolis International Airport (IND), Indianapolis, IN.*
*TA–W–58,129Z; United Airlines, Inc., O'Hare International Airport (ORD), Chicago, IL.*
*TA–W–58,160; Ingram Micro, Santa Ana, CA.*
*TA–W–58,186; Microsoft Corporation, Americas Customer Service, Charlotte, NC.*
*TA–W–58,221; Cambridge Integrated Services Group, Inc., A Subsidiary of Cambridge Services Holdings, LLC, Mt. Clemens, MI.*
*TA–W–58,249; FMC Idaho, LLC, A Subsidiary of FMC Corporation, Formerly Astaris, LLC, Pocatello, ID.*
*TA–W–58,298; Messier Services, Inc., A Subsidiary of the Safran Group, Sterling, VA.*

The investigation revealed that criteria (2) has not been met. The workers' firm (or subdivision) is not a supplier or downstream producer to trade-affected companies.

*TA–W–58,055; New Venture Industries, Grand Blanc, MI.*

**Affirmative Determinations for Alternative Trade Adjustment Assistance**

In order for the Division of Trade Adjustment Assistance to issued a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determinations.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have been met.

I. Whether a significant number of workers in the workers' firm are 50 years of age or older.

II. Whether the workers in the workers' firm possess skills that are not easily transferable.

III. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

*TA–W–57,942; Ethan Allen Operations, Inc., Dublin, VA: September 9, 2004.*
*TA–W–58,049; Stearns, Inc., Sauk Rapids, MN: September 29, 2004.*
*TA–W–58,049A; Stearns, Inc., Grey Eagle, MN: September 29, 2004.*
*TA–W–58,082; True Temper Sports, Including Leased Workers of Eastridge Temp Service, El Cajon, CA: September 28, 2004.*
*TA–W–58,123; Wright Plastic Products, LLC, Div. of Synlastech, Sheridan, MI: October 10, 2004.*
*TA–W–58,174; Needletrade Services, LTD, Fall River, MA: October 18, 2004.*
*TA–W–58,203; American Recreation Products, Custom Sewing Div., New Haven, MO: October 24, 2004.*
*TA–W–58,227; Average Joe, Inc., Los Angeles, CA: October 18, 2004.*
*TA–W–58,229; Dubuit of America, Niles, IL: October 17, 2004.*
*TA–W–58,264; Regency Sportswear, Inc., Selmer, TN: November 2, 2004.*
*TA–W–58,306; MECO Corporation, On-Site Leased Workers of Work Temporary Agency, Greeneville, TN: November 4, 2004.*
*TA–W–58,079; Industrial Wire Products, Inc., Sullivan, MO: October 4, 2004:*
*TA–W–58,090; Texas Instruments, Inc., Sensors and Controls Div., Attleboro, MA: November 11, 2004.*
*TA–W–58,100; U.S. Electrical Motors, A Division of Emerson Electric, Mena, AR: October 7, 2004.*
*TA–W–58,105; Eastman Kodak Company, Rochester Film Finishing Division, Rochester, NY: November 22, 2005.*
*TA–W–58,155; Vansco Electronics, Inc., Valley City, ND: October 5, 2004.*
*TA–W–58,164; Dan River, Inc., Apparel Div., Rutherfordton, NC: October 18, 2004.*
*TA–W–58,235; MBTM Ltd, Inc., Munith, MI: October 26, 2004.*
*TA–W–58,305; TRW Automotive, Kelsey-Hayes Kingsway Plant, Fremont, OH: November 9, 2004:*
*TA–W–58,102; H. Warshow and Sons, Inc., Milton Pennsylvania Div., Milton, PA: November 22, 2005.*

**Negative Determinations for Alternative Trade Adjustment Assistance**

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have not been met for the reasons specified.

Since the workers are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

*TA–W–58,089; Somika Designs, Shelby, NC.*
*TA–W–58,101; Honeywell International, Strategic Sensors Group, Glendale, AZ.*
*TA–W–58,149; Federal Mogul, Sparta Tennessee Division, Sparta, TN.*
*TA–W–58,318; VI Prewett and Son, Inc., Fort Payne, AL.*
*TA–W–58,168; Cooper Hand Tools, Campbell Division, York, PA.*
*TA–W–58,244; Hexcel Corporation, Reinforcements Division, Washington, GA.*
*TA–W–58,284; Volvo Construction Equipment, NA, Skyland, NC.*
*TA–W–58,037; Cabot Supermetals, Supermetals Div., Boyertown, PA.*
*TA–W–58,095; Premier Quilting Corporation, Oxford, NC.*
*TA–W–58,213; Celand Yarn Dyers, Inc., Thomasville, NC.*
*TA–W–58,085; EMC Corporation, Cincinnati, OH.*
*TA–W–58,113; Unifi, Unimatrix, a wholly owned Sub., Greensboro, NC.*
*TA–W–58,129; United Airlines, Inc., Aircraft Maintenance Division, Elk Grove Village, IL.*
*TA–W–58,129A; United Airlines, Inc., Los Angeles International Airport (LAX), Los Angeles, CA.*
*TA–W–58,129B; United Airlines, Inc., San Diego/Lindberg Field (SAN), San Diego, CA.*

*TA–W–58,129C; United Airlines, Inc., Denver International Airport (DEN), Denver, CO.*
*TA–W–58,129D; United Airlines, Inc., McCarran International Airport (LAS), Las Vegas, NV.*
*TA–W–58,129E; United Airlines, Inc., Honolulu Airport (HNL), Honolulu, HI.*
*TA–W–58,129F; United Airlines, Inc., Keahole Airport (KOA), Kona, HI.*
*TA–W–58,129G; United Airlines, Inc., Lihue Airport (LIH), Kauai, HI.*
*TA–W–58,129H; United Airlines, Inc., Kahului Airport (OGG), Kahului, HI.*
*TA–W–58,129I; United Airlines, Inc., San Francisco International Airport (SFO), San Francisco, CA.*
*TA–W–58,129J; United Airlines, Inc., Seattle/Tacoma International Airport (SEA), Seattle, WA.*
*TA–W–58,129K; United Airlines, Inc., Portland International Airport (PDX), Portland, WA.*
*TA–W–58,129L; United Airlines, Inc., Newark International Airport (EWR), Newark, NJ.*
*TA–W–58,129M; United Airlines, Inc., John F. Kennedy International Airport (JFK), New York, NY.*
*TA–W–58,129N; United Airlines, Inc., La Guardia Airport (LGA), New York, NY.*
*TA–W–58,129O; United Airlines, Inc., Philadelphia International Airport (PHL), Philadelphia, PA.*
*TA–W–58,129P; United Airlines, Inc., Bradley International Airport (BDL), Windsor Locks, CT.*
*TA–W–58,129Q; United Airlines, Inc., Logan International Airport (BOS), Boston, MA.*
*TA–W–58,129R; United Airlines, Inc., Detroit/Wayne County Airport (DTW), Detroit, MI.*
*TA–W–58,129S; United Airlines, Inc., Baltimore/Washington International Airport (BWI), Baltimore, MD.*
*TA–W–58,129T; United Airlines, Inc., AFB Municipal Airport (CHS), Charleston, SC.*
*TA–W–58,129U; United Airlines, Inc., Airport (CHS), Washington, DC.*
*TA–W–58,129V; United Airlines, Inc., Airport (CHS), Dulles, VA.*
*TA–W–58,129W; United Airlines, Inc., Orlando International Airport (MCO), Orlando, FL.*
*TA–W–58,129X; United Airlines, Inc., Airport (CHS), Miami, FL.*
*TA–W–58,129Y; United Airlines, Inc., Indianapolis International Airport (IND), Indianapolis, IN.*
*TA–W–58,129Z; United Airlines, Inc., O'Hare International Airport (ORD), Chicago, IL.*
*TA–W–58,221; Cambridge Integrated Services Group, Inc., A Subsidiary of Cambridge Services Holdings, LLC, Mt. Clemens, MI.*
*TA–W–58,249; FMC Idaho, LLC, A Subsidiary of FMC Corporation, Formerly Astaris, LLC, Pocatello, ID.*
*TA–W–58,298; Messier Services, Inc., A Subsidiary of the Safran Group, Sterling, VA.*
*TA–W–58,094; Metron North America, Knoxville, TN.*

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

*TA–W–58,211; Fisher Technical Development, Inc., Columbia, MD.*

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

*TA–W–58,103; Panasonic Home Appliances Company, Danville, KY.*

I hereby certify that the aforementioned determinations were issued during the month of November 2005. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 29, 2005.

**Erica R. Cantor,**

*Director, Division of Trade Adjustment Assistance.*

[FR Doc. E5–6873 Filed 12–5–05; 8:45 am]

BILLING CODE 4510–30–P

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## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–58,349]**

### Joy Technologies, Inc., Dba Joy Mining Machinery, Mt. Vernon Plant, Mt. Vernon, IL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 15, 2005, in response to a petition filed by the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (IBB), Local 483, on behalf of workers of Joy Technologies, Inc., dba Joy Mining Machinery, Mt. Vernon Plant, Mt. Vernon, Illinois.

The petitioning worker group was denied eligibility to apply for adjustment assistance (TA–W–57,700) on September 15, 2005. The IBB requested administrative reconsideration of that denial and on November 16, 2004, the Department accepted the application for reconsideration. The notice will soon be published in the **Federal Register**.

Since the petitioning worker group is subject to an ongoing investigation further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 18th day of November, 2005.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5–6881 Filed 12–5–05; 8:45 am]

BILLING CODE 4510–30–P

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## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–58,302]**

### Lenox China, Oxford, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 9, 2005, in response to a petition filed on behalf of workers of Lenox China, Oxford, North Carolina.

The petitioning group of workers is covered by a current certification (TA–W–55,767) issued on January 18, 2005. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 14th day of November, 2005.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5–6879 Filed 12–5–05; 8:45 am]

BILLING CODE 4510–30–P

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## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–58,321]**

### Mckeehan Hosiery Mill, Inc., a Subsidiary Of Prewett Mills Distribution Center (Pmdc), Fort Payne, AL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 14, 2005, in response to a worker petition filed by a company official on behalf of workers of McKeehan Hosiery Mill, Inc., a subsidiary of Prewett Mills Distribution Center (PMDC), Fort Payne, Alabama.

The petitioning worker group was certified eligible to apply for trade adjustment assistance and alternative trade adjustment assistance under petition number TA–W–52,564, which expired on October 14, 2005. The subject firm closed in September 2005 and workers separated are covered by TA–W–52,564. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 21st day of November 2005.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5–6880 Filed 12–5–05; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–57,938]**

### OAG Worldwide, Inc., Custom Products Department, Downers Grove, IL; Notice of Negative Determination Regarding Application for Reconsideration

By application dated October 19, 2005 a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice applicable to workers of OAG Worldwide, Inc., Custom Products Department, Downers Grove, Illinois was signed on October 4, 2005, and published in the **Federal Register** on November 4, 2005 (70 FR 67196).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition filed on behalf of workers at OAG Worldwide, Inc., Custom Products Department, Downers Grove, Illinois were engaged in running database queries of airline schedules to provide customized information for customers worldwide was denied because the petitioning workers did not produce an article within the meaning of section 222 of the Act.

The petitioner contends that the Department erred in its interpretation of work performed at the subject facility as a service and further conveys that workers of the subject firm ''assemble custom software products and work closely with the IT teams in the United States to assemble the products''.

A company official was contacted for clarification in regard to the nature of the work performed at the subject facility. The official stated that the role of the petitioning group of workers at the subject firm is providing airline schedules and other data to customers worldwide. In particular, workers of the subject firm query the OAG database, compile and audit information and create data files. These data files are further delivered to customers in electronic format. The official further clarified that this query is a programming process written by the information technology staff of the subject firm was for the internal use. The official supported the information previously provided by the subject firm that databases and software created at the subject facility are not mass-produced on any media device by the subject firm for further duplication and distribution to customers and that there are no products manufactured within the subject firm.

The sophistication of the work involved is not an issue in ascertaining whether the petitioning workers are eligible for trade adjustment assistance, but whether they produce an article within the meaning of section 222 of the Trade Act of 1974.

Querying the databases and compiling electronic information is not considered production of an article within the meaning of section 222 of the Trade Act. Petitioning workers do not produce an ''article'' within the meaning of the Trade Act of 1974. Information electronic databases are not tangible commodities, and they are not listed on the Harmonized Tariff Schedule of the United States (HTS), as classified by the United States International Trade Commission (USITC), Office of Tariff Affairs and Trade Agreements, which describes articles imported to the United States.

To be listed in the HTS, an article would be subject to a duty on the tariff schedule and have a value that makes it marketable, fungible and interchangeable for commercial purposes. Although a wide variety of tangible products are described as articles and characterized as dutiable in the HTS, informational products that could historically be sent in letter form and that can currently be electronically transmitted are not listed in the HTS. Such products are not the type of products that customs officials inspect and that the TAA program was generally designed to address.

The investigation on reconsideration supported the findings of the primary investigation that the petitioning group of workers does not produce an article. Furthermore, workers of the subject firm did not support production of an article at any affiliated facility.

The petitioner further alleges that because workers lost their jobs due to a transfer of job functions to the United Kingdom, petitioning workers should be considered import impacted.

The company official stated that creation of the customer data files was transferred from the subject facility to the United Kingdom.

Compiling and creating databases which contain informational documentation and are electronically transmitted is not considered production within the context of TAA eligibility requirements.

Service workers can be certified only if worker separations are caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article domestically who meet the eligibility requirements, or if the group of workers are leased workers who perform their duties on-site at a facility that meet the eligibility requirements.

#### Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 25th day of November, 2005.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5–6882 Filed 12–5–05; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–58,148]**

### Ranco North America, a Division of Invensys, Brownsville, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an

investigation was initiated on October 17, 2005 in response to a petition filed by a company official on behalf of workers of Ranco North America, a division of Invensys, Brownsville, Texas.

The worker group is covered by a certification, (TA–W–53,125) which expired on October 23, 2005. The plant closed and all workers were separated in June 2005. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 23rd day of November 2005.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5–6876 Filed 12–5–05; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–58,216]**

### Yankee Plastics, Incorporated Easthampton, MA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 26, 2005 in response to a worker petition filed by a company official on behalf of workers at Yankee Plastics, Incorporated, Easthampton, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently the investigation has been terminated.

Signed at Washington, DC, this 14th day of November 2005.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E5–6877 Filed 12–5–05; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[V–04–2]**

### International Chimney Corporation, Karrena International, LLC, and Matrix Service Industrial Contractors, Inc.; Grant of a Permanent Variance

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Notice of a grant of a permanent variance.

**SUMMARY:** This notice announces the grant of a permanent variance to International Chimney Corporation, Karrena International, LLC, and Matrix Service Industrial Contractors, Inc. (''the employers''). The permanent variance addresses the provision that regulates the tackle used for boatswains' chairs (§ 1926.452 (o)(3)), as well as the provisions specified for personnel hoists by paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552. Instead of complying with these provisions, the employers must comply with a number of alternative conditions listed in this grant; these alternative conditions regulate rope-guided personnel-hoisting systems used during inside or outside chimney construction to raise or lower employees in personnel cages, personnel platforms, and boatswains' chairs between the bottom landing of a chimney and an elevated work location. Accordingly, OSHA finds that these alternative conditions protect employees at least as well as the requirements specified by § 1926.452(o)(3) and § 1926.552(c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16).

**DATES:** The effective date of the permanent variance is December 6, 2005.

**FOR FURTHER INFORMATION:** For information about this notice contact Ms. MaryAnn S. Garrahan, Director, Office of Technical Programs and Coordination Activities, Room N–3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2110; fax (202) 693–1644. You may obtain additional copies of this notice from the Office of Publications, Room N–3101, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1888. For electronic copies of this notice, contact the Agency on its Webpage at *http://www.osha.gov*, and select ''Federal Register,'' ''Date of Publication,'' and then ''2005.''

Additional information also is available from the following OSHA Regional Offices:

U.S. Department of Labor, OSHA, JFK Federal Building, Room E340, Boston, MA 02203, telephone: (617) 565–9860; fax: (617) 565–9827

U.S. Department of Labor, OSHA, 201 Varick St., Room 670, New York, NY 10014, telephone: (212) 337–2378; fax: (212) 337–2371

U.S. Department of Labor, OSHA, Curtis Building, Suite 740 West, 170 South Independence Mall West, Philadelphia, PA 19106–3309, telephone: (215) 861–4900; fax: (215) 861–4904

U.S. Department of Labor, OSHA, Sam Nunn Atlanta Federal Center, 61 Forsyth St., SW., Room 6T50, Atlanta, GA 30303, telephone: (404) 562–2300; fax: (404) 562–2295

U.S. Department of Labor, OSHA, 230 South Dearborn St., Room 3244, Chicago, IL 60604, telephone: (312) 353–2220; fax: (312) 353–7774

U.S. Department of Labor, OSHA, 525 South Griffith St., Suite 602, Dallas, TX 75202, telephone: (214) 767–4736; fax: (214) 767–4760

U.S. Department of Labor, OSHA, City Center Square, 1100 Main St., Suite 800, Kansas City, MO 64105, telephone: (816) 426–5861; fax: (816) 426–2750

U.S. Department of Labor, OSHA; *Overnight:* 1999 Broadway, Suite 1690, Denver, CO 80201–6550; *Mail:* P.O. Box 46550, Denver, CO 80201–6550, telephone: (720) 264–6550; fax: (720) 264–6585

U.S. Department of Labor, OSHA, 71 Stevenson St., Room 420, San Francisco, CA 94105, telephone: (415) 975–4310; fax: (415) 744–4319

U.S. Department of Labor, OSHA, 1111 Third Ave., Suite 715, Seattle, WA 98101–3212, telephone: (206) 553–5930; fax: (206) 553–6499

**SUPPLEMENTARY INFORMATION:**

## I. Background

In the past 30 years, a number of chimney-construction companies have demonstrated to OSHA that several personnel-hoist requirements (*i.e.*, paragraphs (c)(1), (c)(2), (c)(3), (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552), as well as the tackle requirements for boatswains' chairs (*i.e.*, paragraph (o)(3) of § 1926.452), result in access problems that pose a serious danger to their employees. These companies requested permanent variances from these requirements, and proposed alternative equipment and procedures to protect employees while being transported to and from their elevated worksites during construction and repair work inside and outside chimneys. The Agency subsequently granted these companies permanent variances based on the proposed alternatives (see 38 FR 8545 (April 3, 1973), 44 FR 51352 (August 31, 1979), 50 FR 40627 (October 4, 1985), 52 FR 22552 (June 12, 1987), and 68 FR 52961 (September 8, 2003)).[1]

[1] Zurn Industries, Inc. received two permanent variances from OSHA. The first variance, granted

Continued

On September 15, 2004, International Chimney Corporation, and Karrena International, LLC, and on January 10, 2005, Matrix Service Industrial Contractors, Inc., respectively, applied for a permanent variance from the same personnel-hoist and boatswains'-chair requirements as the previous companies, and proposed as an alternative to these requirements the same equipment and procedures approved by OSHA in the earlier variances. The Agency published their variance application in the **Federal Register** on April 21, 2005 (70 FR 20773). OSHA received no hearing requests or comments in response to this **Federal Register** notice. However, States and Territories having OSHA-approved safety and health programs (''State-Plan States and Territories'') have commented on earlier variance applications involving the same standards submitted by other employers engaged in chimney construction and repair. OSHA is relying on these previous comments to determine the position of these State-Plan States and Territories on the variance application submitted by the present employers (see section V (''Multi-State Variance'') of this notice for a discussion of these comments).

International Chimney Corporation, Karrena International, LLC, and Matrix Service Industrial Contractors, Inc. (''the employers'') construct, remodel, repair, maintain, inspect, and demolish tall chimneys made of reinforced concrete, brick, and steel. This work, which occurs throughout the United States, requires the employers to transport employees and construction material to and from elevated work platforms and scaffolds located, respectively, inside and outside tapered chimneys. While tapering contributes to the stability of a chimney, it necessitates frequent relocation of, and adjustments to, the work platforms and scaffolds so that they will fit the decreasing circumference of the chimney as construction progresses upwards.

To transport employees to various heights inside and outside a chimney, the employers proposed in their variance application to use a hoist system that lifts and lowers personnel-transport devices that include personnel cages, personnel platforms, or boatswains' chairs. In this regard, the employers proposed to use personnel cages, personnel platforms, or boatswains' chairs solely to transport employees with the tools and materials necessary to do their work, and not to transport only materials or tools on these devices in the absence of employees. In addition, the employers proposed to attach a hopper or concrete bucket to the hoist system to raise or lower material inside or outside a chimney.

The employers also proposed to use a hoist engine, located and controlled outside the chimney, to power the hoist system. The proposed system consisted of a wire rope that: Spools off the winding drum (also known as the hoist drum or rope drum) into the interior of the chimney; passes to a footblock that redirects the rope from the horizontal to the vertical planes; goes from the footblock through the overhead sheaves above the elevated platform; and finally drops to the bottom landing of the chimney where it connects to a personnel- or material-transport device. The cathead, which is a superstructure at the top of a derrick, supports the overhead sheaves. The overhead sheaves (and the vertical span of the hoist system) move upward with the derrick as chimney construction progresses. Two guide cables, suspended from the cathead, eliminate swaying and rotation of the load. If the hoist rope breaks, safety clamps activate and grip the guide cables to prevent the load from falling. The employers proposed to use a headache ball, located on the hoist rope directly above the load, to counterbalance the rope's weight between the cathead sheaves and the footblock.

Additional conditions that the employers proposed to follow to improve employee safety included:

- Attaching the wire rope to the personnel cage using a keyed-screwpin shackle or positive-locking link;
- Adding limit switches to the hoist system to prevent overtravel by the personnel- or material-transport devices;
- Providing the safety factors and other precautions required for personnel hoists specified by the pertinent provisions of § 1926.552(c), including canopies and shields to protect employees located in a personnel cage from material that may fall during hoisting and other overhead activities;
- Providing falling-object protection for scaffold platforms as specified by § 1926.451(h)(1);
- Conducting tests and inspections of the hoist system as required by §§ 1926.20(b)(2) and 1926.552(c)(15);
- Establishing an accident-prevention program that conforms to § 1926.20(b)(3);
- Ensuring that each employee who uses a personnel platform or boatswains' chair wears a full body harness and lanyard, and that the lanyard is attached to the lifeline during the entire period of vertical transit; and
- Securing the lifelines (used with a personnel platform or boatswains' chair) to the rigging at the top of the chimney and to a weight at the bottom of the chimney to provide maximum stability to the lifelines.

## II. Proposed Variance From § 1926.452(o)(3)

The employers noted in their variance request that it is necessary, on occasion, to use a boatswains' chair to transport employees to and from a bracket scaffold on the outside of an existing chimney during flue installation or repair work, or to transport them to and from an elevated scaffold located inside a chimney that has a small or tapering diameter. Paragraph (o)(3) of § 1926.452, which regulates the tackle used to rig a boatswains' chair, states that this tackle must ''consist of correct size ball bearings or bushed blocks containing safety hooks and properly 'eye-spliced' minimum five-eighth (5/8) inch diameter first-grade manila rope [or equivalent rope].''

The primary purpose of this paragraph is to allow an employee to safely control the ascent, descent, and stopping locations of the boatswains' chair. However, the employers stated in their variance request that, because of space limitations, the required tackle is difficult or impossible to operate on some chimneys that are over 200 feet tall. Therefore, as an alternative to complying with the tackle requirements specified by § 1926.452(o)(3), the employers proposed to use the hoisting system described above in section I (''Background'') of this notice to raise or lower employees in a personnel cage to work locations both inside and outside a chimney. In addition, the employers proposed to use a personnel cage for this purpose to the extent that adequate space is available, and to use a personnel platform, when using a personnel cage was infeasible because of limited space. When available space makes using a personnel platform infeasible, the employers proposed to use a boatswains' chair to lift employees to work locations. The proposed variance limited use of the boatswains' chair to elevations above the last work location that the personnel platform can reach; under these conditions, the employers proposed to attach the

on May 14, 1985 (50 FR 20145), addressed the boatswains'-chair provision (then in paragraph (l)(5) of § 1926.451), as well as the hoist-platform requirements of paragraphs (c)(1), (c)(2), (c)(3), and (c)(14)(i) of § 1926.552. The second variance, granted on June 12, 1987 (52 FR 22552), includes these same paragraphs, as well as paragraphs (c)(4), (c)(8), (c)(13), and (c)(16) of § 1926.552.

boatswains' chair directly to the hoisting cable only when the structural arrangement precludes the safe use of the block and tackle required by § 1926.452(o)(3).

## III. Proposed Variance From § 1926.552(c)

Paragraph (c) of § 1926.552 specifies the requirements for enclosed hoisting systems used to transport employees from one elevation to another. This paragraph ensures that employers transport employees safely to and from elevated work platforms by mechanical means during the construction, alteration, repair, maintenance, or demolition of structures such as chimneys. However, this standard does not provide specific safety requirements for hoisting employees to and from elevated work platforms and scaffolds in tapered chimneys; the tapered design requires frequent relocation of, and adjustment to, the work platforms and scaffolds. The space in a small-diameter or tapered chimney is not large enough or configured so that it can accommodate an enclosed hoist tower. Moreover, using an enclosed hoist tower for outside operations exposes employees to additional fall hazards because they need to install extra bridging and bracing to support a walkway between the hoist tower and the tapered chimney.

Paragraph (c)(1) of § 1926.552 requires the employers to enclose hoist towers located outside a chimney on the side or sides used for entrance to, and exit from, the chimney; these enclosures must extend the full height of the hoist tower. The employers asserted in their proposed variance that it is impractical and hazardous to locate a hoist tower outside tapered chimneys because it becomes increasingly difficult, as a chimney rises, to erect, guy, and brace a hoist tower; under these conditions, access from the hoist tower to the chimney or to the movable scaffolds used in constructing the chimney exposes employees to a serious fall hazard. Additionally, they noted that the requirement to extend the enclosures 10 feet above the outside scaffolds often exposes the employees involved in building these extensions to dangerous wind conditions.

Paragraph (c)(2) of § 1926.552 requires that employers enclose all four sides of a hoist tower even when the tower is located inside a chimney; the enclosure must extend the full height of the tower. In the proposed variance, the employers contended that it is hazardous for employees to erect and brace a hoist tower inside a chimney, especially small-diameter or tapered chimneys or chimneys with sublevels, because these structures have limited space and cannot accommodate hoist towers; space limitations result from chimney design (*e.g.*, tapering), as well as reinforced steel projecting into the chimney from formwork that is near the work location.

As an alternative to complying with the hoist-tower requirements of paragraphs (c)(1) and (c)(2) of § 1926.552, the employers proposed to use the rope-guided hoist system discussed in section I (''Background'') of this notice to transport employees to and from work locations inside and outside chimneys. They claimed that this hoist system would make it unnecessary for them to comply with other provisions of § 1926.552(c) that specify requirements for hoist towers, including:

- (c)(3)—Anchoring the hoist tower to a structure;
- (c)(4)—Hoistway doors or gates;
- (c)(8)—Electrically interlocking entrance doors or gates that prevent hoist movement when the doors or gates are open;
- (c)(13)—Emergency stop switch located in the car;
- (c)(14)(i)—Using a minimum of two wire ropes for drum-type hoisting; and
- (c)(16)—Construction specifications for personnel hoists, including materials, assembly, structural integrity, and safety devices.

The employers asserted that the proposed hoisting system protected employees at least as effectively as the personnel-hoist requirements of § 1926.552(c).

## IV. Comments on the Proposed Variance

OSHA received no hearing requests or comments in response to the proposed variance that it published in the April 21, 2005, **Federal Register**.

## V. Multi-State Variance

The variance application stated that the employers perform chimney work in a number of geographic locations in the United States, some of which could include locations in one or more of the States and Territories that operate OSHA-approved safety and health programs under section 18 of the Occupational Safety and Health Act of 1970 (''State-Plan States and Territories''; see 29 U.S.C. 651 et seq.). State-Plan States and Territories have primary enforcement responsibility over the work performed in those States and Territories. Under the provisions of 29 CFR 1952.9 (''Variances affecting multi-state employers'') and 29 CFR 1905.14(b)(3) (''Actions on applications''), a permanent variance granted by the Agency becomes effective in State-Plan States and Territories as an authoritative interpretation of the applicants' compliance obligation when: (1) The relevant standards are the same as the Federal OSHA standards from which the applicants are seeking the permanent variance; and (2) the State-Plan State or Territory does not object to the terms of the variance application.

OSHA requested comments on this application from each of the State-Plan States and Territories. The Agency noted in its request that, absent any comment, it would assume that the State or Territory's position regarding this variance application was the same as the position it took on two previous variance applications.[2] As noted above under section I (''Background''), OSHA received no comments from the State-Plan States and Territories to this variance application, indicating that they continue to endorse their previous positions regarding the alternative conditions proposed under this variance application. The following paragraphs provide a summary of the positions previously taken by the State-Plan States and Territories on these alternative conditions.

Alaska, Arizona, Indiana, Maryland, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, Tennessee, Vermont, Virginia, and Wyoming reported that their standards are identical to the Federal standards, and that they agreed to accept the alternative conditions. Although Kentucky is in agreement with the terms of the variance, affected employers will have to apply to the State for a State variance until such time as a pending regulatory revision is completed. South Carolina also agreed to accept the alternative conditions, although the employers must file with the South Carolina Commissioner of Labor the final order granted by the Secretary of Labor. Utah agreed to accept the Federal variance, but requires the employers to contact the Occupational Safety and Health Division, Labor Commission of Utah, regarding a procedural formality that must be completed before implementing the variance in that State. Michigan agreed with the alternative conditions, but noted that its standards are not identical to the OSHA standards covered by the variance application. Therefore, Michigan cautioned that,

[2] The two previous variance applications were from (1) American Boiler and Chimney Co. and Oak Park Chimney Corp. (68 FR 52961, September 8, 2003), and (2) Alberici Mid-Atlantic, LLC, Commonwealth Dynamics, Inc., and R and P Industrial Chimney Co., Inc. (69 FR 48754, August 10, 2004).

should the employers elect to apply the variance in Michigan, they must comply with several provisions in the Michigan standards that are not addressed in the OSHA standard.

California, Iowa, Hawaii, and Washington have standards that either differ from the Federal standards or did not agree to the alternative conditions proposed in the variance application, and would not permit the employers to implement in their States any variance resulting from this application without further application to the State. The OSHA-approved safety and health programs for Connecticut, New Jersey, New York, and the Virgin Islands cover only public-sector (*i.e.*, State and local government) employment; therefore, in these State-Plan States, the authority to cover private-sector employers under the variance continues to reside with Federal OSHA.

**VI. Decision**

International Chimney Corporation, Karrena International, LLC, and Matrix Service Industrial Contractors, Inc., seek a permanent variance from the provision that regulates the tackle used for boatswains' chairs (§ 1926.452 (o)(3)), as well as the provisions specified for personnel hoists by paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552. Paragraph (o)(3) of § 1926.452 states that the tackle used for boatswains' chairs must ''consist of correct size ball bearings or bushed blocks containing safety hooks and properly 'eye-spliced' minimum five-eighth (5/8) inch diameter first-grade manila rope [or equivalent rope].'' The primary purpose of this provision is to allow an employee to safely control the ascent, descent, and stopping locations of the boatswains' chair. The proposed alternative to these requirements allows the employer to use a boatswains' chair to lift employees to work locations inside and outside a chimney when both a personnel cage and a personnel platform are infeasible. The employers proposed to attach the boatswains' chair to the hoisting system described as an alternative for paragraph (c) of § 1926.552.

Paragraph (c) of § 1926.552 specifies the requirements for enclosed hoisting systems used to transport personnel from one elevation to another. This paragraph ensures that employers transport employees safely to and from elevated work platforms by mechanical means during construction work involving structures such as chimneys. In this regard, paragraph (c)(1) of § 1926.552 requires employers to enclose hoist towers located outside a chimney on the side or sides used for entrance to, and exit from, the structure; these enclosures must extend the full height of the hoist tower. Under the requirements of paragraph (c)(2) of § 1926.552, employers must enclose all four sides of a hoist tower located inside a chimney; these enclosures also must extend the full height of the tower.

As an alternative to complying with the hoist-tower requirements of § 1926.552(c)(1) and (c)(2), the employers proposed to use a rope-guided hoist system to transport employees to and from elevated work locations inside and outside chimneys. The proposed hoist system includes a hoist machine, cage, safety cables, and safety measures such as limit switches to prevent overrun of the cage at the top and bottom landings, and safety clamps that grip the safety cables if the main hoist line fails. To transport employees to and from elevated work locations, the employers proposed to attach a personnel cage to the hoist system. However, when they can demonstrate that adequate space is not available for the cage, they may use a personnel platform above the last worksite that the cage can reach. Further, when the employers show that space limitations make it infeasible to use a work platform for transporting employees, they have proposed to use a boatswains' chair above the last worksite serviced by the personnel platform. Using the proposed hoist system as an alternative to the hoist-tower requirements of § 1926.552(c)(1) and (c)(2) eliminates the need to comply with the other provisions of § 1926.552(c) that specify requirements for hoist towers. Accordingly, the employers have requested a permanent variance from these and related provisions (*i.e.*, paragraphs (c)(3), (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16)).

After thoroughly reviewing the variance application, as well as earlier comments made by State-Plan States and Territories in response to two previous variance applications proposing the same alternative conditions, OSHA has made only minor editorial amendments and technical corrections to the proposed variance. Therefore, under Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), and based on the record discussed above, the Agency finds that when the employers comply with the conditions of the following order, their employees will be exposed to working conditions that are at least as safe and healthful as they would be if the employers complied with paragraph (o)(3) of § 1926.452, and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552. This decision also is an authoritative interpretation of the employers' compliance obligations in the following 18 State-Plan States and Territories with OSHA-approved safety and health programs covering the private sector: Alaska, Arizona, Indiana, Maryland, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, Tennessee, Virginia, Vermont, and Wyoming, and in Kentucky, Michigan, South Carolina, and Utah when the employers meet specified conditions.

**VII. Order**

OSHA issues this order authorizing International Chimney Corporation, Karrena International, LLC, and Matrix Service Industrial Contractors, Inc. (''the employers'') to comply with the following conditions instead of complying with paragraph (o)(3) of § 1926.452 and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552:

*1. Scope of the Permanent Variance*

(a) This permanent variance applies only when the employers use a rope-guided hoist system during inside or outside chimney construction to raise or lower their employees between the bottom landing of a chimney and an elevated work location on the inside or outside surface of the chimney.

(b) Except for the requirements specified by § 1926.452 (o)(3) and § 1926.552(c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16), the employers must comply fully with all other applicable provisions of 29 CFR parts 1910 and 1926.

*2. Replacing a Personnel Cage With a Personnel Platform or a Boatswains' Chair*

(a) *Personnel platform.* When the employers demonstrate that available space makes a personnel cage for transporting employees infeasible, they may replace the personnel cage with a personnel platform when they limit use of the personnel platform to elevations above the last work location that the personnel cage can reach.

(b) *Boatswains' chair.* When the employers demonstrate that available space makes a personnel platform for transporting employees infeasible, they may replace the personnel platform with a boatswains' chair when they limit use of the boatswains' chair to elevations above the last work location that the personnel platform can reach.

*3. Qualified Competent Person*

(a) The employers must:

(i) Provide a qualified competent person, as specified in paragraphs (f) and (m) of § 1926.32, who is responsible for ensuring that the design, maintenance, and inspection of the hoist system comply with the conditions of this grant and with the appropriate requirements of 29 CFR part 1926 (''Safety and Health Regulations for Construction''); and

(ii) Ensure that the qualified competent person is present at ground level to assist in an emergency whenever the hoist system is raising or lowering employees.

(b) The employers must use a qualified competent person to design and maintain the cathead described under Condition 8 (''Cathead and Sheave'') below.

*4. Hoist Machine*

(a) *Type of hoist.* The employers must designate the hoist machine as a portable personnel hoist.

(b) *Raising or lowering a transport.* The employers must ensure that:

(i) The hoist machine includes a base-mounted drum hoist designed to control line speed; and

(ii) Whenever they raise or lower a personnel or material hoist (*e.g.*, a personnel cage, personnel platform, boatswains' chair, hopper, concrete bucket) using the hoist system:

(A) The drive components are engaged continuously when an empty or occupied transport is being lowered (*i.e.*, no ''freewheeling'');

(B) The drive system is interconnected, on a continuous basis, through a torque converter, mechanical coupling, or an equivalent coupling (*e.g.*, electronic controller, fluid clutches, hydraulic drives);

(C) The braking mechanism is applied automatically when the transmission is in the neutral position and a forward-reverse coupling or shifting transmission is being used; and

(D) No belts are used between the power source and the winding drum.

(c) *Power source.* The employers must power the hoist machine by an air, electric, hydraulic, or internal-combustion drive mechanism.

(d) *Constant-pressure control switch.* The employers must:

(i) Equip the hoist machine with a hand- or foot-operated constant-pressure control switch (*i.e.*, a ''deadman control switch'') that stops the hoist immediately upon release; and

(ii) Protect the control switch to prevent it from activating if the hoist machine is struck by a falling or moving object.

(e) *Line-speed indicator.* The employers must:

(i) Equip the hoist machine with an operating line-speed indicator maintained in good working order; and

(ii) Ensure that the line-speed indicator is in clear view of the hoist operator during hoisting operations.

(f) *Braking systems.* The employers must equip the hoist machine with two (2) independent braking systems (*i.e.*, one automatic and one manual) located on the winding side of the clutch or couplings, with each braking system being capable of stopping and holding 150 percent of the maximum rated load.

(g) *Slack-rope switch.* The employers must equip the hoist machine with a slack-rope switch to prevent rotation of the winding drum under slack-rope conditions.

(h) *Frame.* The employers must ensure that the frame of the hoist machine is a self-supporting, rigid, welded-steel structure, and that holding brackets for anchor lines and legs for anchor bolts are integral components of the frame.

(i) *Stability.* The employers must secure hoist machines in position to prevent movement, shifting, or dislodgement.

(j) *Location.* The employers must:

(i) Locate the hoist machine far enough from the footblock to obtain the correct fleet angle for proper spooling of the cable on the drum; and

(ii) Ensure that the fleet angle remains between one-half degree (½ °) and one and one-half degrees (1½ °) for smooth drums, and between one-half degree (½ °) and two degrees (2 °)for grooved drums, with the lead sheave centered on the drum.[1]

(k) *Drum and flange diameter.* The employers must:

(i) Provide a winding drum for the hoist that is at least 30 times the diameter of the rope used for hoisting; and

(ii) Ensure that the winding drum has a flange diameter that is at least one and one-half (1½) times the winding-drum diameter.

(l) *Spooling of the rope.* The employers must *never* spool the rope closer than two (2) inches (5.1 cm) from the outer edge of the winding-drum flange.

(m) *Electrical system.* The employers must ensure that all electrical equipment is weatherproof.

(n) *Limit switches.* The employers must equip the hoist system with limit switches and related equipment that automatically prevent overtravel of a personnel cage, personnel platform, boatswains' chair, or material-transport device at the top of the supporting structure and at the bottom of the hoistway or lowest landing level.

*5. Methods of Operation*

(a) *Employee qualifications and training.* The employers must:

(i) Ensure that only trained and experienced employees, who are knowledgeable of hoist-system operations, control the hoist machine; and

(ii) Provide instruction, periodically and as necessary, on how to operate the hoist system, to each employee who uses a personnel cage for transportation.

(b) *Speed limitations.* The employers must operate the hoist at or below the following speeds:

(i) Two hundred and fifty (250) feet (76.9 m) per minute when a personnel cage is being used to transport employees;

(ii) One hundred (100) feet (30.5 m) per minute when a personnel platform or boatswains' chair is being used to transport employees; or

(iii) A line speed that is consistent with the design limitations of the system when only material is being hoisted.

(c) *Communication.* The employers must:

(i) Use a voice-mediated intercommunication system to maintain communication between the hoist operator and the employees located in or on a moving personnel cage, personnel platform, or boatswains' chair;

(ii) Stop hoisting if, for any reason, the communication system fails to operate effectively; and

(iii) Resume hoisting only when the site superintendent determines that it is safe to do so.

*6. Hoist Rope*

(a) *Grade.* The employers must use a wire rope for the hoist system (*i.e.*, ''hoist rope'') that consists of extra-improved plow steel, an equivalent grade of non-rotating rope, or a regular lay rope with a suitable swivel mechanism.

(b) *Safety factor.* The employers must maintain a safety factor of at least eight (8) times the safe workload throughout the entire length of hoist rope.

(c) *Size.* The employers must use a hoist rope that is at least one-half (½) inch (1.3 cm) in diameter.

(d) *Inspection, removal, and replacement.* The employers must:

[1] This variance adopts the definition of, and specifications for, fleet angle from *Cranes and Derricks,* H. I. Shapiro, et al. (eds.); New York: McGraw-Hill. Accordingly, the fleet angle is ''[t]he angle the rope leading onto a [winding] drum makes with the line perpendicular to the drum rotating axis when the lead rope is making a wrap against the flange.''

(i) Thoroughly inspect the hoist rope before the start of each job and on completing a new setup;

(ii) Maintain the proper diameter-to-diameter ratios between the hoist rope and the footblock and the sheave by inspecting the wire rope regularly (see Conditions 7(c) and 8(d) below); and

(iii) Remove and replace the wire rope with new wire rope when any of the conditions specified by § 1926.552(a)(3) occurs.

(e) *Attachments.* The employers must attach the rope to a personnel cage, personnel platform, or boatswains' chair with a keyed-screwpin shackle or positive-locking link.

(f) *Wire-rope fastenings.* When the employers use clip fastenings (*e.g.*, U-bolt wire-rope clips) with wire ropes, they must:

(i) Use Table H–20 of § 1926.251 to determine the number and spacing of clips;

(ii) Use at least three (3) drop-forged clips at each fastening;

(iii) Install the clips with the ''U'' of the clips on the dead end of the rope; and

(iv) Space the clips so that the distance between them is six (6) times the diameter of the rope.

*7. Footblock*

(a) *Type of block.* The employers must use a footblock:

(i) Consisting of construction-type blocks of solid single-piece bail with a safety factor that is at least four (4) times the safe workload, or an equivalent block with roller bearings;

(ii) Designed for the applied loading, size, and type of wire rope used for hoisting;

(iii) Designed with a guard that contains the wire rope within the sheave groove;

(iv) Bolted rigidly to the base; and

(v) Designed and installed so that it turns the moving wire rope to and from the horizontal or vertical as required by the direction of rope travel.

(b) *Directional change.* The employers must ensure that the angle of change in the hoist rope from the horizontal to the vertical direction at the footblock is approximately 90°.

(c) *Diameter.* The employers must ensure that the line diameter of the footblock is at least 24 times the diameter of the hoist rope.

*8. Cathead and Sheave*

(a) *Support.* The employers must use a cathead (*i.e.*, ''overhead support'') that consists of a wide-flange beam or two (2) steel-channel sections securely bolted back-to-back to prevent spreading.

(b) *Installation.* The employers must ensure that:

(i) All sheaves revolve on shafts that rotate on bearings; and

(ii) The bearings are mounted securely to maintain the proper bearing position at all times.

(c) *Rope guides.* The employers must provide each sheave with appropriate rope guides to prevent the hoist rope from leaving the sheave grooves when the rope vibrates or swings abnormally.

(d) *Diameter.* The employers must use a sheave with a diameter that is at least 24 times the diameter of the hoist rope.

*9. Guide Ropes*

(a) *Number and construction.* The employers must affix two (2) guide ropes by swivels to the cathead. The guide ropes must:

(i) Consist of steel safety cables that are at least one-half (½) inch (1.3 cm) in diameter; and

(ii) Be free of damage or defect at all times.

(b) *Guide rope fastening and alignment tension.* The employers must fasten one end of each guide rope securely to the overhead support, with appropriate tension applied at the foundation.

(c) *Height.* The employers must rig the guide ropes along the entire height of the hoist-machine structure.

*10. Personnel Cage*

(a) *Construction.* A personnel cage must be of steel-frame construction and capable of supporting a load that is four (4) times its maximum rated load capacity. The employers also must ensure that the personnel cage has:

(i) A top and sides that are permanently enclosed (except for the entrance and exit);

(ii) A floor securely fastened in place;

(iii) Walls that consist of 14-gauge, one-half (½) inch (1.3 cm) expanded metal mesh, or an equivalent material;

(iv) Walls that cover the full height of the personnel cage between the floor and the overhead covering;

(v) A sloped roof constructed of one-eighth (⅛) inch (0.3 cm) aluminum, or an equivalent material; and

(vi) Safe handholds (e.g., rope grips—but *not* rails or hard protrusions [2]) that accommodate each occupant.

(b) *Overhead weight.* A personnel cage must have an overhead weight (e.g., a headache ball of appropriate weight) to compensate for the weight of the hoist rope between the cathead and footblock. In addition, the employers must:

(i) Ensure that the overhead weight is capable of preventing line run; and

(ii) Use a means to restrain the movement of the overhead weight so that the weight does *not* interfere with safe personnel hoisting.

(c) *Gate.* The personnel cage must have a gate that:

(i) Guards the full height of the entrance opening; and

(ii) Has a functioning mechanical lock that prevents accidental opening.

(d) *Operating procedures.* The employers must post the procedures for operating the personnel cage conspicuously at the hoist operator's station.

(e) *Capacity.* The employers must:

(i) Hoist no more than four (4) occupants in the cage at any one time; and

(ii) Ensure that the rated load capacity of the cage is at least 250 pounds (113.4 kg) for each occupant so hoisted.

(f) *Employee notification.* The employers must post a sign in each personnel cage notifying employees of the following conditions:

(i) The standard rated load, as determined by the initial static drop test specified by Condition 10(g) (''Static drop tests'') below; and

(ii) The reduced rated load for the specific job.

(g) *Static drop tests.* The employers must:

(i) Conduct static drop tests of each personnel cage, and these tests must comply with the definition of ''static drop test'' specified by section 3 (''Definitions'') and the static drop-test procedures provided in section 13 (''Inspections and Tests'') of American National Standards Institute (ANSI) standard A10.22–1990 (R1998) (''American National Standard for Rope-Guided and Nonguided Worker's Hoists—Safety Requirements'');

(ii) Perform the initial static drop test at 125 percent of the maximum rated load of the personnel cage, and subsequent drop tests at no less than 100 percent of its maximum rated load; and

(iii) Use a personnel cage for raising or lowering employees only when no damage occurred to the components of the cage as a result of the static drop tests.

*11. Safety Clamps*

(a) *Fit to the guide ropes.* The employers must:

(i) Fit appropriately designed and constructed safety clamps to the guide ropes; and

(ii) Ensure that the safety clamps do not damage the guide ropes when in use.

[2] To reduce impact hazards should employees lose their balance because of cage movement.

(b) *Attach to the personnel cage.* The employers must attach safety clamps to each personnel cage for gripping the guide ropes.

(c) *Operation.* The safety clamps attached to the personnel cage must:

(i) Operate on the ''broken rope principle'' defined in section 3 (''Definitions'') of ANSI standard A10.22–1990 (R1998);

(ii) Be capable of stopping and holding a personnel cage that is carrying 100 percent of its maximum rated load and traveling at its maximum allowable speed if the hoist rope breaks at the footblock; and

(iii) Use a pre-determined and pre-set clamping force (*i.e.*, the ''spring compression force'') for each hoist system.

(d) *Maintenance.* The employers must keep each safety-clamp assembly clean and functional at all times.

*12. Overhead Protection*

(a) The employers must install a canopy or shield over the top of the personnel cage that is made of steel plate at least three-sixteenths (3/16) of an inch (4.763 mm) thick, or material of equivalent strength and impact resistance, to protect employees (*i.e.*, both inside and outside the chimney) from material and debris that may fall from above.

(b) The employers must ensure that the canopy or shield slopes to the outside of the personnel cage.[3]

*13. Emergency-Escape Device*

(a) *Location.* The employers must provide an emergency-escape device in at least one of the following locations:

(i) In the personnel cage, provided that the device is long enough to reach the bottom landing from the highest possible escape point; or

(ii) At the bottom landing, provided that a means is available in the personnel cage for the occupants to raise the device to the highest possible escape point.

(b) *Operating instructions.* The employers must ensure that written instructions for operating the emergency-escape device are attached to the device.

(c) *Training.* The employers must instruct each employee who uses a personnel cage for transportation on how to operate the emergency-escape device:

(i) Before the employee uses a personnel cage for transportation; and

(ii) Periodically, and as necessary, thereafter.

[3] Paragraphs (a) and (b) were adapted from OSHA's Underground Construction Standard (§ 1926.800(t)(4)(iv)).

*14. Personnel Platforms and Fall-Protection Equipment*

(a) *Personnel platforms.* When the employers elect to replace the personnel cage with a personnel platform in accordance with Condition 2(a) of this variance, they must:

(i) Ensure that an enclosure surrounds the platform, and that this enclosure is at least 42 inches (106.7 cm) above the platform's floor;

(ii) Provide overhead protection when an overhead hazard is, or could be, present; and

(iii) Comply with the applicable scaffolding strength requirements specified by § 1926.451(a)(1).

(b) *Fall-protection equipment.* Before employees use work platforms or boatswains' chairs, the employers must:

(i) Equip the employees with, and ensure that they use, full body harnesses, lanyards, and lifelines as specified by § 1926.104 and the applicable requirements of § 1926.502(d);

(ii) Secure the lifelines to the top of the chimney and to a weight at the bottom of the chimney; and

(iii) Ensure that employees attach their lanyards to the lifeline during the entire period of vertical transit.

*15. Inspections, Tests, and Accident Prevention*

(a) The employers must:

(i) Conduct inspections of the hoist system as required by § 1926.20(b)(2);

(ii) Ensure that a competent person conducts daily visual inspections of the hoist system; and

(iii) Inspect and test the hoist system as specified by § 1926.552(c)(15).

(b) The employers must comply with the accident-prevention requirements of § 1926.20(b)(3).

*16. Welding*

(a) The employers must use only qualified welders to weld components of the hoisting system.

(b) The employers must ensure that the qualified welders:

(i) Are familiar with the weld grades, types, and materials specified in the design of the system; and

(ii) Perform the welding tasks in accordance with 29 CFR part 1926, subpart J (''Welding and Cutting'').

*VII. Authority and Signature*

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC directed the preparation of this notice. This notice is issued under the authority specified by section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 5–2002 (67 FR 65008), and 29 CFR part 1905.

Signed at Washington, DC, on November 28, 2005.

**Jonathan L. Snare,**

*Acting Assistant Secretary of Labor.*

[FR Doc. E5–6883 Filed 12–5–05; 8:45 am]

BILLING CODE 4510–26–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice ( 05–155)]**

## Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of prospective patent license.

**SUMMARY:** NASA hereby gives notice that BCG Wireless of Washington, DC has applied for a partially exclusive license to practice the inventions described and claimed in U.S. Patent No. 5,983,162, entitled ''Computer Implemented Empirical Mode Decomposition Method, Apparatus and Article of Manufacture,'' and U.S. Patent No. 6,631,325, entitled ''Computer Implemented Empirical Mode Decomposition Method Apparatus, and Article of Manufacture Utilizing Curvature Extrema,'' and U.S. Patent No. 6,901,353, entitled ''Computing Instantaneous Frequency by Normalizing Hilbert Transform,'' which are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Goddard Space Flight Center. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

**DATES:** Responses to this notice must be received by December 21, 2005.

**FOR FURTHER INFORMATION CONTACT:** Keith Dixon, NASA Goddard Space Flight Center, Code 140.1, Greenbelt, MD 20771, (301) 286–7351.

Dated: November 21, 2005.

**Keith T. Sefton,**

*Deputy General Counsel, (Admin. and Mgmt.).*

[FR Doc. E5–6900 Filed 12–5–05; 8:45 am]

BILLING CODE 7510–13–P

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–280 AND 50–281]**

### Virginia Electric and Power Company, Surry Power Station, Unit Nos. 1 and 2; Environmental Assessment And Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix E, Section IV.F.2.b and c for Renewed Facility Operating License Nos. DPR–32 and DPR–37, issued to Virginia Electric and Power Company (the licensee), for operation of the Surry Power Station, Unit Nos. 1 and 2 (Surry 1 and 2), located in Surry County, Virginia. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

**Environmental Assessment**

*Identification of the Proposed Action*

The proposed action, as described in the licensee's application for a one-time exemption from the requirements of 10 CFR part 50, Appendix E, dated September 15, 2005, would allow the licensee to postpone the offsite full-participation emergency exercise from December 6, 2005, to February 7, 2006. The proposed action is in accordance with the licensee's application dated September 15, 2005, that requested an exemption from Section IV.F.2.b and c of Appendix E to 10 CFR part 50 regarding the full participation by each offsite authority having a role under the plan. The NRC staff has determined that the requirements of Appendix E to 10 CFR part 50, Sections IV.F.2.b and c are applicable to the circumstances of the licensee's request and that an exemption from those requirements is appropriate. The licensee also stated in its letter dated September 15, 2005, that Surry 1 and 2 will resume its normal biennial exercise cycle in 2007.

*The Need for the Proposed Action*

The proposed exemption from 10 CFR Part 50, Appendix E, Section IV.F.2.b and c is needed because the Virginia Department of Emergency Management (DEM) has requested to delay the full participation exercise from December 6, 2005, to February 7, 2006. The Virginia DEM had requested this delay in order to utilize the new Emergency Operations Center, which is currently under construction and will not become fully operational until January 2, 2006. In its letter to the licensee on May 20, 2005, the Federal Emergency Management Agency approved Virginia DEM's request to delay the full-participation exercise until February 7, 2006.

*Environmental Impacts of the Proposed Action*

The NRC has completed its safety evaluation (SE) of the proposed action and concludes that the proposed exemption will not present an undue risk to the public health and safety. The details of the NRC staff's SE will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation. The action relates to the exercising of the emergency response plan, which has no effect on the operation of the facility.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in the amount of any effluent released off site. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

*Environmental Impacts of the Alternatives to the Proposed Action*

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement related to the operation of Surry 1 and 2, May and June 1972, respectively.

*Agencies and Persons Consulted*

In accordance with its stated policy, on October 26, 2005, the NRC staff consulted with Mr. Les Foldesi, Director of the Bureau of Radiological Health, Department of Health, Commonwealth of Virginia, regarding the environmental impact of the proposed action. The State official had no comments.

**Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated September 15, 2005. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (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 send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 29th day of November 2005.

For the Nuclear Regulatory Commission.

**Stephen R. Monarque,**

*Project Manager, Plant Licensing Branch II–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. E5–6893 Filed 12–5–05; 8:45 am]

BILLING CODE 7590–01–P

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## NUCLEAR REGULATORY COMMISSION

### Sunshine Act; Notice of Meeting

**AGENCY HOLDING THE MEETINGS:** Nuclear Regulatory Commission.

**DATE:** Weeks of December 5, 12, 19, 26, 2005, January 2, 9, 2006.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Matters To Be Considered**

*Week of December 5, 2005*

Thursday, December 8, 2005.

1 p.m.—Meeting with the Advisory Committee on Reactor Safeguards (ACRS), (Contact: John Larkins, 301–415–7360).

This meeting will be webcast live at the Web address: *http://www.nrc.gov.*

*Week of December 12, 2005—Tentative*

Monday, December 12, 2005.

8:50 a.m.—Affirmation Session (Public Meeting) (Tentative), a. Exelon Generation Company, LLC (Early Site Permit for Clinton Site). (Tentative).

9 a.m.—Discussion of Security Issues (Closed—Ex. 1).

Wednesday, December 14, 2005.

1:30 p.m.—Discussion of Security Issues (Closed—Ex. 1).

Thursday, December 15, 2005.

1:30 p.m.—Briefing on Threat Environment Assessment (Closed—Ex. 1).

*Week of December 19, 2005—Tentative*

There are no meetings scheduled for the Week of December 19, 2005.

*Week of December 26, 2005—Tentative*

There are no meetings scheduled for the Week of December 26, 2005.

*Week of January 2, 2006—Tentative*

There are no meetings scheduled for the Week of January 2, 2006.

*Week of January 9, 2006—Tentative*

Tuesday, January 10, 2006.

9:30 a.m.—Briefing on International Research and Bilateral Agreements, (Contact: Roman Schaffer, 301–415–7606).

This meeting will be webcast live at the Web address: *http://www.nrc.gov.*

Wednesday, January 11, 2006.

9:30 a.m.—Meeting with Advisory Committee on Nuclear Waste (ACNW), (Contact: John Larkins, 301–415–7360).

This meeting will be webcast live at the Web address: *http://www.nrc.gov.*

Thursday, January 12, 2006.

9:30 a.m.—Discussion of Security Issues (Closed—Ex. 1 & 2).

*The schedule for commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. contact person for more information: Michelle Schroll, (301) 415–1662.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

**Additional Information**

The Affirmation Session tentatively scheduled on November 30, 2005, at 9:25 a.m. has been rescheduled tentatively on December 12, 2005, at 8:50 a.m.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at 301–415–7080, TDD: 301–415–2100, or by e-mail at *aks@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov*.

Dated: December 1, 2005.

**R. Michelle Schroll,**

*Office of the Secretary.*

[FR Doc. 05–23706 Filed 12–2–05; 11:00 am]

BILLING CODE 7590–01–M

## NUCLEAR REGULATORY COMMISSION

## Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

### I. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from November 9, 2005 to November 21, 2005. The last biweekly notice was published on November 22, 2005 (70 FR 70641).

**Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing**

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that

the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(I)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–

4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

*Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland*

*Date of amendments request:* July 13, 2005.

*Description of amendments request:* The proposed amendment would revise Technical Specification (TS) 1.1, ''Definitions,'' TS 3.4.13, ''RCS [reactor coolant system] Operational Leakage,'' TS 5.5.9, ''Steam Generator Tube Surveillance Program,'' and TS 5.6.9, ''Steam Generator Tube Inspection Report,'' and add a new specification (TS 3.4.18) for Steam Generator (SG) Tube Integrity. The proposed changes are necessary in order to implement the guidance for the industry initiative on Nuclear Energy Institute (NEI) 97–06, ''Steam Generator Program Guidelines.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on March 2, 2005 (70 FR 10298), on possible amendments adopting Technical Specification Task Force Change Traveller 449, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on May 6, 2005 (70 FR 24126). The licensee affirmed the applicability of the following NSHC determination in its application dated July 13, 2005.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change requires a SG Program that includes performance criteria that will provide reasonable assurance that the SG tubing will retain integrity over the full range of operating conditions (including startup, operation in the power range, hot standby, cooldown and all anticipated transients included in the design specification). The SG performance criteria are based on tube structural integrity, accident induced leakage, and operational LEAKAGE.

A SGTR [steam generator tube rupture] event is one of the design basis accidents that are analyzed as part of a plant's licensing basis. In the analysis of a SGTR event, a bounding primary to secondary LEAKAGE rate equal to the operational LEAKAGE rate limits in the licensing basis plus the LEAKAGE rate associated with a double-ended rupture of a single tube is assumed.

For other design basis accidents such as MSLB [main steam line break], rod ejection, and reactor coolant pump locked rotor the tubes are assumed to retain their structural integrity (i.e., they are assumed not to rupture). These analyses typically assume that primary to secondary LEAKAGE for all SGs is 1 gallon per minute or increases to 1 gallon per minute as a result of accident induced stresses. The accident induced leakage criterion introduced by the proposed changes accounts for tubes that may leak during design basis accidents. The accident induced leakage criterion limits this leakage to no more than the value assumed in the accident analysis.

The SG performance criteria proposed change to the TS identify the standards against which tube integrity is to be measured. Meeting the performance criteria provides reasonable assurance that the SG tubing will remain capable of fulfilling its specific safety function of maintaining reactor coolant pressure boundary integrity throughout each operating cycle and in the unlikely event of a design basis accident. The performance criteria are only a part of the SG Program required by the proposed change to the TS. The program, defined by NEI 97–06, Steam Generator Program Guidelines, includes a framework that incorporates a balance of prevention, inspection, evaluation, repair, and leakage monitoring. The proposed changes do not, therefore, significantly increase the probability of an accident previously evaluated.

The consequences of design basis accidents are, in part, functions of the DOSE EQUIVALENT I–131 in the primary coolant and the primary to secondary LEAKAGE rates resulting from an accident. Therefore, limits are included in the plant technical specifications for operational leakage and for DOSE EQUIVALENT I–131 in primary coolant to ensure the plant is operated within its analyzed condition. The typical analysis of the limiting design basis accident assumes that primary to secondary leak rate after the accident is 1 gallon per minute with no more than [500 gallons per day or 720 gallons per day] in any one SG, and that the reactor coolant activity levels of DOSE EQUIVALENT I–131 are at the TS values before the accident.

The proposed change does not affect the design of the SGs, their method of operation, or primary coolant chemistry controls. The proposed approach updates the current TSs and enhances the requirements for SG inspections. The proposed change does not adversely impact any other previously evaluated design basis accident and is an improvement over the current TSs.

Therefore, the proposed change does not affect the consequences of a SGTR accident and the probability of such an accident is reduced. In addition, the proposed changes do not affect the consequences of an MSLB, rod ejection, or a reactor coolant pump locked rotor event, or other previously evaluated accident.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated

The proposed performance based requirements are an improvement over the requirements imposed by the current technical specifications. Implementation of the proposed SG Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The result of the implementation of the SG Program will be an enhancement of SG tube performance. Primary to secondary LEAKAGE that may be experienced during all plant conditions will be monitored to ensure it remains within current accident analysis assumptions.

The proposed change does not affect the design of the SGs, their method of operation, or primary or secondary coolant chemistry controls. In addition, the proposed change does not impact any other plant system or component. The change enhances SG inspection requirements.

Therefore, the proposed change does not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in [a] Margin of Safety

The SG tubes in pressurized water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of an SG is maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change is expected to result in an improvement in the tube integrity by implementing the SG Program to manage SG tube inspection, assessment, repair, and plugging. The requirements established by the SG Program are consistent with those in the applicable design codes and standards and are an improvement over the requirements in the current TSs.

For the above reasons, the margin of safety is not changed and overall plant safety will be enhanced by the proposed change to the TS.

The NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

*Attorney for licensee:* Carey Fleming, Sr. Counsel—Nuclear Generation, Constellation Generation Group, LLC, 750 East Pratt Street, 17th floor, Baltimore, MD 21202.

*NRC Branch Chief:* Richard J. Laufer.

*Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan*

*Date of amendment request:* October 31, 2005.

*Description of amendment request:* The proposed amendment change would add Technical Specification (TS) Limiting Condition for Operation (LCO) 3.0.8, to allow a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed consistent with the program in place for complying with the requirements of 10 CFR 50.65(a)(4). In addition, a proposed change to LCO 3.0.1 is required to reference the addition of LCO 3.0.8.

This change was proposed by the industry's Technical Specification Task Force (TSTF) and is designated as TSTF–372, Revision 4. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on November 24, 2004 (69 FR 68412), on possible amendments concerning TSTF–372, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on May 4, 2005 (70 FR 23252). The licensee affirmed the applicability of the following NSHC determination in its application dated October 31, 2005.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change allows a delay time for entering a supported system technical specification (TS) when the inoperability is due solely to an inoperable snubber if risk is assessed and managed. The postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. Therefore, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident while relying on allowance provided by proposed LCO 3.0.8 are no different than the consequences of an accident while relying on the TS required actions in effect without the allowance provided by proposed LCO 3.0.8. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Allowing delay times for entering supported system TS when inoperability is due solely to inoperable snubbers, if risk is assessed and managed, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change allows a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed. The postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. The risk impact of the proposed TS changes was assessed following the three-tiered approach recommended in RG 1.177. A bounding risk assessment was performed to justify the proposed TS changes. This application of LCO 3.0.8 is predicated upon the licensee's performance of a risk assessment and the management of plant risk. The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* David G. Pettinari, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

*NRC Branch Chief:* L. Raghavan.

*Entergy Nuclear Operations, Inc., Docket No. 50–247, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York*

*Date of amendment request:* October 3, 2005.

*Description of amendment request:* The proposed amendment revises Technical Specification (TS) Surveillance Requirements (SRs) to reflect changes to the Emergency Core Cooling System throttle valves. The proposed amendment will add the modified throttle valves to the surveillance, remove existing throttle valves that are now locked closed from the surveillance, and add existing valves to the surveillance that are used in a throttle position when open.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to Surveillance Requirement (SR) 3.5.2.6 adds nine valves and removes two valves in the High Head Safety Injection (HHSI) system discharge lines. The SR requires verification that identified ECCS [emergency core cooling system] throttle valves position stops are in the correct position. The change reflects a stretch power uprate (SPU) modification that added throttle valves SI–2165, 2166, 2168, 2169, 2170, 2171, and 2172, and locked closed valves Sl-856A and 856F. This amendment is adding to the SR those throttle valves which are now under administrative control and deletes the valves which no longer perform a throttle function. The amendment also adds hot leg valves Sl-856B and 856G which are used as throttle valves but never included in the SR. Valve Sl-856G still performs a throttle function and valve SI–856B can still be considered a throttle valve when used to trim system resistance. Verification of valve position has no effect on the probability of an accident previously evaluated since the HHSI system is not associated with the initiation of any accident. The verification of valve positions that will be required by the revised SR provides additional assurance that the HHSI throttle valves are in the position that is established by flow testing. Providing assurance of required valve positions does not increase the consequences of an accident previously evaluated.Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to Surveillance Requirement 3.5.2.6 adds nine valves and removes two valves in the High Head Safety Injection (HHSI) system discharge lines. The SR requires verification that identified ECCS throttle valves position stops are in the correct position. The change corrects a deficient surveillance and does not affect the function of the valves or otherwise affect the design and operation of plant systems and components and therefore no new accident

scenarios would be created. Therefore, no new failure modes are being introduced that could lead to different accidents.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to Surveillance Requirement 3.5.2.6 adds nine valves and removes two valves in the High Head Safety Injection (HHSI) system discharge lines. The SR requires verification that identified ECCS throttle valves position stops are in the correct position. The change reflects a stretch power uprate (SPU) modification that added throttle valves SI–2165, 2166, 2168, 2169, 2170, 2171, and 2172, and locked closed valves Sl-856A and 856F. The proposed amendment also adds valves SI–856B and 856G which are used as throttle valves but never included in the SR. Valve Sl-856G still performs a throttle function and valve Sl-856B can still be considered a throttle valve when used to trim system resistance. The frequency for verification of throttle valve stop positions is not altered by this amendment so this has no effect on the margin of safety. The valves for which verification of positions stops is required reflect the manner in which the system is currently analyzed and configured so the proposed change serves to maintain the required margin of safety by adding to the Technical Specifications the surveillances presently being administratively controlled. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Mr. John Fulton, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

*NRC Branch Chief:* Richard J. Laufer.

*Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas*

*Date of amendment request:* June 29, 2005.

*Description of amendment request:* Entergy Operations, Incorporated (Entergy) proposes to relocate the License Condition associated with the Shutdown Cooling (SDC) Open Permissive Interlock (OPI) to the Technical Requirements Manual (TRM). The Nuclear Regulatory Commission (NRC) approved Standard Technical Specifications, Combustion Engineering Plants (NUREG–1432) include a surveillance requirement for this function due to the complexity and differences of plant designs, which would not support complete removal of the function from the NUREG. For Arkansas Nuclear One, Unit 2 (ANO–2), however, the OPI is not an assumed function that supports the accident analysis and does not meet the criteria in Section 50.36 of Title 10 of the Code of Federal Regulations (10 CFR) for inclusion in the technical specifications.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The OPI function is not required to ensure continued safe operation of the ANO–2 facility. The OPI function is not considered an accident precursor or relied upon as a means of accident mitigation. The proposed change has no affect on plant design or operation.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The relocation of the OPI function to the TRM does not require any physical alteration to the plant or alter plant design. The OPI function is not considered an accident initiator nor is this function credited in any safety analyses for the prevention or mitigation of any accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The OPI function is not credited in a margin of safety analysis for any accident previously evaluated. Relocation of the OPI function requirements will not result in a credible increase in nuclear safety risk. Appropriate alarm, design features, and administrative controls continue to ensure proper isolation of the SDC system during plant operations with elevated RCS [reactor cooling system] pressures. In addition, the OPI function will be relocated to the TRM, which is part of the Safety Analysis Report (SAR) and controlled by 10 CFR 50.59.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Winston and Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

*NRC Branch Chief:* David Terao.

*Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas*

*Date of amendment request:* September 19, 2005.

*Description of amendment request:* The proposed change will modify the Surveillance Requirements related to Arkansas One, Unit 2, technical specification (TS) 3.1.1.4, Moderator Temperature Coefficient (MTC), and will allow the use of topical report WCAP–16011-P-A, ''Startup Test Activity Reduction Program.'' A change to NUREG–1432, ''Standard Technical Specifications Combustion Engineering Plants,'' has been proposed in Technical Specification Task Force (TSTF) Improved Standard Technical Specification Change Traveler TSTF–486 to incorporate the allowance to use WCAP–16011–P–A. The traveler was submitted for Nuclear Regulatory Commission (NRC) approval in June 2005.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The MTC is not an initiator of any previously evaluated accidents. As an input into accident analyses, the MTC is used to predict plant behavior in the event of an accident. It was demonstrated in WCAP–16011-P-A that the modified MTC verification (*i.e.*, measured RCS [reactor coolant system] boron concentration) is adequate to ensure that the MTC remains within the limits provided the STAR applicability requirements are met. It was also demonstrated in WCAP–16011-P-A that the elimination of the EOC [emergency operations center] MTC measurement is acceptable when the applicability requirements given in WCAP–16011-P-A are met and the result of the MTC determination performed prior to reaching a Rated Thermal Power equilibrium boron concentration of 800 ppm is within a tolerance of $\pm 0.16 \times 10^{-4}$ Dk/k/°F from the corresponding design value.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of

accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration to the plant (*i.e.*, no new or different type of structure, system, or component will be installed).

The methods governing normal plant operations are not altered by the proposed change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not affect the margin of safety. The MTC limits are unaffected and an acceptable method will be used to demonstrate that MTC is within its limits.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Winston and Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

*NRC Branch Chief:* David Terao.

*Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2 (ANO–2), Pope County, Arkansas*

*Date of amendment request:* September 19, 2005.

*Description of amendment request:* The proposed change will modify the ANO–2 technical specification (TS) 3.1.1.5, Minimum Temperature for Criticality. Specifically, the proposed change will raise the minimum temperature for criticality from the current value of ³ 525 °F to ³ 540 °F. Changes are also proposed to the Action statement and Surveillance Requirements to support the increase in temperature. The change is needed to support core design.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

There are no accident analyses that dictate the minimum temperature for criticality. The minimum temperature for criticality is not an accident initiator. It is used in the reload analyses as a limiting temperature at which the core design is verified to satisfy the limit of the positive moderator temperature coefficient (MTC) specified in the ANO–2 TS and Core Operating Limits Report (COLR). The minimum temperature for criticality is one of many input parameters used in the reload design analytical calculation that confirms the core design satisfies the MTC TS and COLR.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to increase the minimum temperature for criticality does not result in any plant design changes. In addition, the minimum temperature at which the reactor is taken critical is not an accident initiator. The nominal average reactor coolant system temperature during an approach to criticality is several degrees higher than the limit proposed for the minimum temperature for criticality.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The increase of the minimum temperature for criticality in conjunction with the use of a sufficient number of burnable absorber rods, which will be incorporated into the core design, will ensure the current TS limits, as reflected in the COLR, for the most positive MTC will continue to be satisfied.

The current transient analysis results are bounding and remain applicable.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Winston and Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

*NRC Branch Chief:* David Terao.

*Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana*

*Date of amendment request:* October 25, 2005.

*Description of amendment request:* The proposed change will modify the Waterford 3 Technical Specification (TS) 3.1.1.4, Minimum Temperature for Criticality. Specifically, the proposed change will raise the minimum temperature for criticality from the current value of ≥520°F to ≥533°F. Changes are also proposed to the Action statement and Surveillance Requirements to support the increase in temperature.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The minimum temperature for criticality is not an accident initiator. It is used in the reload analyses as a limiting temperature at which the core design is verified to satisfy the limit of the positive moderator temperature coefficient (MTC) specified in the Waterford 3 TS and Core Operating Limits Report (COLR). The minimum temperature for criticality is one of many input parameters used in the reload design analytical calculation that confirms the core design satisfies the MTC TS and COLR.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to increase the minimum temperature for criticality does not result in any plant design changes. In addition the minimum temperature at which the reactor is taken critical is not an accident initiator. The nominal average reactor coolant system temperature during an approach to criticality is several degrees higher than the limit proposed for the minimum temperature for criticality.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The increase of the minimum temperature for criticality in conjunction with the appropriate core designs will ensure the current TS limits, as reflected in the COLR, for the most positive MTC will continue to be satisfied.

The current transient analysis results are bounding and remain applicable.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are

satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* N. S. Reynolds, Esquire, Winston & Strawn, 1700 K Street NW., Washington, DC 20006–3817.

*NRC Branch Chief:* David Terao.

*Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana*

*Date of amendment request:* October 25, 2005.

*Description of amendment request:* The proposed change will modify the Surveillance Requirements (SRs) related to Waterford 3 Technical Specification (TS) 3.1.1.3, Moderator Temperature Coefficient (MTC) and will allow the use of the Startup Test Activity Reduction Program (WCAP–16011–P–A).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The MTC is not an initiator of any previously evaluated accidents. As an input into accident analyses, the MTC is used to predict plant behavior in the event of an accident. It was demonstrated in WCAP–16011–P–A that the modified MTC verification (i.e., measured RCS [reactor coolant system] boron concentration) is adequate to ensure that the MTC remains within the limits, provided the STAR applicability requirements are met. It was also demonstrated in WCAP–16011–P–A that the elimination of the EOC [end-of-cycle] MTC measurement is acceptable when the applicability requirements given in WCAP–16011–P–A are met and the result of the MTC determination performed at greater than 15 percent of Rated Thermal Power and prior to reaching 40 EFPD [effective full power days] is within a tolerance of $\pm 0.16 \times 10^{-4}$ $\Delta k/k/°F$ from the corresponding design value.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration to the plant (i.e., no new or different type of structure, system, or component will be installed). The methods governing normal plant operations are not altered by the proposed TS change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not affect the margin of safety. The MTC limits are unaffected and an acceptable method will be used to demonstrate that MTC is within its limits.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* N. S. Reynolds, Esquire, Winston & Strawn, 1700 K Street NW., Washington, DC 20006–3817.

*NRC Branch Chief:* David Terao.

*Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana*

*Date of amendment request:* October 25, 2005.

*Description of amendment request:* The proposed change to Technical Specification 6.9.1.11, Core Operating Limits Report, will result in the addition of a methodology that will allow the use of zirconium diboride ($ZrB_2$) burnable absorber coating on fuel pellets.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change will add topical report WCAP–16072–P–A to the NRC reviewed and approved analytical methods used to determine the core operating limits. The topical report has been previously approved by the NRC for use in Combustion Engineering core designs and as such, the proposed change is administrative in nature and has no impact on any plant configurations or on system performance that is relied upon to mitigate the consequences of an accident. In addition, prior to the use of the $ZrB_2$ burnable absorber coating, fuel design will be analyzed with applicable NRC staff approved codes and methods.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change adds a reference to the topical report that allows the use of $ZrB_2$ as a burnable absorber coating on the fuel pellet. The topical report has been previously approved by the NRC for use in Combustion Engineering core designs and as such, the proposed change is administrative in nature and has no impact on any plant configurations or on system performance that is relied upon to mitigate the consequences of an accident. In addition, prior to the use of the $ZrB_2$ burnable absorber coating, fuel design will be analyzed with applicable NRC staff approved codes and methods. This change is administrative in nature and does not create a new or different type of accident than previously evaluated because the design requirements for the facility remain the same.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will add WCAP–16072–P–A to the list of referenced topical reports. The topical report has been previously approved by the NRC for use in Combustion Engineering core designs and as such, the proposed change is administrative in nature and has no impact on any plant configurations or on system performance that is relied upon to mitigate the consequences of an accident. In addition, prior to the use of the $ZrB_2$ burnable absorber coating, fuel design will be analyzed with applicable NRC staff approved codes and methods.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* N. S. Reynolds, Esquire, Winston & Strawn, 1700 K Street NW., Washington, DC 20006–3817.

*NRC Branch Chief:* David Terao.

*Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan*

*Date of amendment requests:* July 29, 2005.

*Description of amendment requests:* The proposed amendments would delete requirements from the Technical Specifications (TSs) to submit monthly operating reports and annual occupational radiation exposure reports. The changes are consistent with

Revision 1 of Nuclear Regulatory Commission (NRC) approved Industry/Technical Specifications Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–369, ''Removal of Monthly Operating and Occupational Radiation Exposure Report.'' The availability of this TS improvement was announced in the **Federal Register** (69 FR 35067) on June 23, 2004, as part of the Consolidated Line Item Improvement Process (CLIIP).

The NRC staff issued a notice of availability of a model no significant hazards consideration (NSHC) determination for referencing in license amendment applications in the **Federal Register** on April 29, 2004 (69 FR 23542). The licensee affirmed the applicability of the model NSHC determination in its application dated July 29, 2005.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), an analysis of the issue of NSHC (which was previously published in 69 FR 23542) is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change eliminates the Technical Specifications reporting requirements to provide a monthly operating report of shutdown experience and operating statistics if the equivalent data is submitted using an industry electronic database. It also eliminates the Technical Specification reporting requirement for an annual occupational radiation exposure report, which provides information beyond that specified in NRC regulations. The proposed change involves no changes to plant systems or accident analyses. As such, the change is administrative in nature and does not affect initiators of analyzed events or assumed mitigation of accidents or transients. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant, add any new equipment, or require any existing equipment to be operated in a manner different from the present design. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

This is an administrative change to reporting requirements of plant operating information and occupational radiation exposure data, and has no effect on plant equipment, operating practices or safety analyses assumptions. For these reasons, the proposed change does not involve a significant reduction in the margin of safety.

Based on the reasoning presented above and the previous discussion of the amendment request, the NRC staff proposes to determine that the requested change does not involve a significant hazards consideration.

*Attorney for licensee:* James M. Petro, Jr., Esquire, One Cook Place, Bridgman, MI 49106.

*NRC Branch Chief:* L. Raghavan.

*Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan*

*Date of amendment requests:* August 10, 2005.

*Description of amendment requests:* The proposed amendments would delete the power range neutron flux high negative rate trip function from each unit's Technical Specifications. The licensee's proposed changes are based on the methodology presented in Westinghouse Topical Report WCAP–11394–P–A, ''Methodology for the Analysis of the Dropped Rod Event,'' which had been previously accepted by the Nuclear Regulatory Commission staff.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Response: No.

The removal of the power range neutron flux high negative rate trip function from technical specifications does not increase the probability or consequences of reactor core damage accidents resulting from dropped Rod Cluster Control Assembly (RCCA) events previously analyzed. The safety functions of other safety-related systems and components, which are related to mitigation of these events, [will] not [be] altered. All other Reactor Trip System and Engineered Safety Features Actuation Systems protection functions are not impacted by the elimination of the trip function. The dropped RCCA accident analysis does not rely on the negative flux rate trip to safely shut down the plant. The safety analysis of the plant is unaffected by the proposed change. Since the safety analysis is unaffected, the calculated radiological releases associated with the analysis are not affected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not adversely alter the design assumptions, conditions, or configuration of the facility or the manner in which the plant is operated. No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed change. The proposed change does not challenge the performance or integrity of any safety-related systems or components. Nuclear Regulatory Commission (NRC)-approved Westinghouse Topical Report WCAP–11394–P–A, ''Methodology for the Analysis of the Dropped Rod Event,'' dated January 1990 has demonstrated that the negative flux rate trip function can be eliminated.

Therefore, the proposed changes does not created the possibility of a new or different kind of accident from any previously evaluated.

(3) Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety associated with the acceptance criteria of any accident is unchanged. It has been demonstrated that the negative flux rate trip function can be eliminated by the NRC-approved methodology described in WCAP–11394–P–A. Donald C. Cook Nuclear Plant cycle-specific analyses have confirmed that for a dropped RCCA(s) event, limits on departure from nucleate boiling are not exceeded by eliminating the negative flux rate trip. The proposed change will have no [e]ffect on the availability, operability, or performance of safety-related systems and components.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Attorney for licensee:* James M. Petro, Jr., Esquire, One Cook Place, Bridgman, MI 49106.

*NRC Branch Chief:* L. Raghavan.

*Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska*

*Date of amendment request:* August 11, 2005.

*Description of amendment request:* The proposed change allows a delay time for entering a supported system Technical Specification (TS) when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed consistent with the program in place for complying with the requirements of Paragraph 50.65(a)(4) of Title 10 of the *Code of Federal*

*Regulations*. Limiting Condition for Operation (LCO) 2.0.1(3) is added to the TS to provide this allowance and define the requirements and limitations for its use.

This change was proposed by the industry's Technical Specification Task Force (TSTF) and is designated TSTF–372, Revision 4. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on November 24, 2004 (69 FR 68412), on possible amendments concerning TSTF–372, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on May 4, 2005 (70 FR 23252). The licensee affirmed the applicability of the following NSHC determination in its application dated August 11, 2005.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change allows a delay time for entering a supported system technical specification (TS) when the inoperability is due solely to an inoperable snubber if risk is assessed and managed. The postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. Therefore, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident while relying on allowance provided by proposed LCO 3.0.8 [LCO 2.0.1(3) for Fort Calhoun Station] are no different than the consequences of an accident while relying on the TS required actions in effect without the allowance provided by proposed LCO 3.0.8 [LCO 2.0.1(3)]. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Allowing delay times for entering supported system TS when inoperability is due solely to inoperable snubbers, if risk is assessed and managed, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change allows a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed. The postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. The risk impact of the proposed TS changes was assessed following the three-tiered approach recommended in RG [Regulatory Guide] 1.177. A bounding risk assessment was performed to justify the proposed TS changes. This application of LCO 3.0.8 is predicated upon the licensee's performance of a risk assessment and the management of plant risk. [The proposed LCO 2.0.1(3) defines limitations on the use of the provision and includes a requirement for the licensee to assess and manage the risk associated with operation with an inoperable snubber.] The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* James R. Curtiss, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

*NRC Branch Chief:* David Terao.

*Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska*

*Date of amendment request:* November 8, 2005.

*Description of amendment request:* The proposed amendment will modify Fort Calhoun Technical Specification (TS) 4.2.1, ''Fuel Assemblies,'' to permit the use of AREVA (Framatome ANP) M5™ advanced alloy for fuel rod cladding and structural components such as guide tubes, intermediate spacer grids, end plugs, and guide thimble tubes, beginning with Cycle 24. In addition, Omaha Public Power District proposes to modify TS 5.9 to include the Framatome ANP Topical Report evaluating the impact of M5™ material properties on NRC-approved methodology. M5™ is a proprietary, zirconium-based alloy that is a variant of Zr1Nb to replace zircaloy-4 in the construction of fuel assembly components.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The NRC[-]approved topical report BAW–10[2]27P–A (Reference 8.1 [of amendment request]) that provides the licensing basis for M5™ cladding and structural material, has shown that the M5™ alloy exhibits superior properties to the currently used zircaloy-4 material. The cladding by itself does not initiate an accident and therefore does not affect accident probability. It has been determined that M5™ cladding will not significantly affect the consequences of an accident.

Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not result in changes in the operation or overall configuration of the facility. Topical report BAW–10227P–A (Reference 8.1) demonstrated that the M5™ alloy will perform similar to or better than zircaloy-4, thus precluding the possibility of the fuel becoming an accident initiator and causing a new or different type of accident.

Since the material properties of M5™ alloy are similar to or better than zircaloy-4, there will not be any significant change in the types of effluents that may be released off-site. There will not be any significant increase in occupational or public radiation exposure.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

AREVA has performed generic LOCA [loss-of-coolant accident] and non-LOCA evaluations and demonstrated the use of the M5™ material will have only a small, or beneficial, impact on the event consequences.

Plant-specific analyses using NRC-approved methodology for the mixed core will demonstrate that the reactor core safety limits will continue to be met.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* James R. Curtiss, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

*NRC Branch Chief:* David Terao.

*Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California*

*Date of amendment requests:* November 3, 2005.

*Description of amendment requests:* The proposed amendment revises Technical Specification (TS) Section 5.5.2.11 to modify the definitions of steam generator tube ''Repair Limit'' and ''Tube Inspection.'' The purpose of these changes is to define the extent of the required tube inspections and repair criteria within the tubesheet regions.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed change revises the San Onofre [Nuclear Generating Station,] Units 2 and 3 Technical Specifications (TS) by revising the definitions of steam generator ''Repair Limit'' and ''Tube Inspection[,]'' as contained in TS items 5.5.2.11.f.1.f and 5.5.2.11.f.1.h, respectively. This proposed change also adds words in the ''Operability determination'' requirement (item 5.5.2.11.f.2) to provide consistency with the proposed change in the definition of ''Repair Limit.'' These revisions maintain existing design limits and would not increase the probability or consequences of an accident involving tube burst or primary to secondary accident-induced leakage, as previously analyzed in the San Onofre [Nuclear Generating Station,] Units 2 and 3 Updated Final Safety Analysis Report (UFSAR). Also, the NEI 97–06 steam generator tube performance criterion for structural integrity and accident-induced leakage will continue to be satisfied.

Tube burst is precluded for a tube with defects within the tubesheet region because of the constraint provided by the tubesheet. As such, tube pullout resulting from the axial forces induced by primary to secondary differential pressures would be a prerequisite for tube burst to occur. An industry test program (WCAP–16208–P Revision 1), and follow-on San Onofre site-specific analysis (WCAP–16208–P Revision 1, Supplement 1) defined the non-degraded hot leg tube to tubesheet joint length and cold leg tube to tubesheet joint length required to preclude tube pullout and maintain acceptable primary to secondary accident-induced leakage, assuming that 100% [percent] of the steam generator tubes experienced complete circumferential separation (360 degree through wall crack) immediately below both the hot leg recommended inspection length (C*) and the cold leg C*. Any degradation below C* is shown by empirical test results and analyses to be acceptable, thereby precluding an event with consequences similar to a postulated tube rupture event.

WCAP–16208–P Revision 1, with Supplement 1 includes a total 0.2 gpm [gallons per minute]/steam generator assumed value for primary to secondary accident-induced leakage. Inspection to the C* lengths will ensure that the postulated accident-induced leakage will remain below the current primary to secondary leakage assumption utilized in the UFSAR accident analyses (Chapter 15).

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Steam generator tube leakage and structural integrity will be maintained during all plant conditions upon implementation of the proposed inspection scope and repair limit changes to the San Onofre [Nuclear Generating Station,] Unit 2 and 3 Technical Specifications. These changes do not introduce any new mechanisms that might result in a different kind of accident from those previously evaluated. Even with the limiting circumstances of complete circumferential separation (360 degree through wall crack) of all of the tubes below the C* length, [a] tube pullout is precluded and leakage is predicted to be maintained within accident analysis assumptions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Operation with potential tube degradation below the C* inspection length within the tubesheet region of the steam generator tubing meets the intent of the inspection guidance of Regulatory Guide Number 1.83, Revision 1, titled Inservice Inspection of Pressurized Water Reactor Steam Generator Tubes, the requirements of General Design Criteria 14, 15, 31 and 32 of 10 CFR 50, and the recommendations of the Nuclear Energy Institute in NEI 97–06, titled Steam Generator Program Guidelines.

The total leakage from an undetected flaw population below the C* inspection length under postulated accident conditions is accounted for to assure that it is within the bounds of the accident analysis assumptions. Adequate margin remains for other possible steam generator tube leak sources.

The proposed changes also maintain the structural and accident-induced leakage integrity of the steam generator tubes as required by NEI 97–06.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

*Attorney for licensee:* Douglas K. Porter, Esquire, Southern California Edison Company,2244 Walnut Grove Avenue, Rosemead, California 91770.

*NRC Branch Chief:* David Terao.

*Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas*

*Date of amendment request:* November 3, 2005.

*Description of amendment request:* The amendment would revise the Technical Specifications (TS) to adopt NRC-approved Revision 4 to Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–449, ''Steam Generator Tube Integrity.'' The proposed amendment includes changes to the TS definition of Leakage, TS 3.4.13, ''RCS [Reactor Coolant System] Operational Leakage,'' TS 5.5.9, ''Steam Generator (SG) Program,'' TS 5.6.9, ''Steam Generator Tube Inspection Report,'' and adds TS 3.4.17, ''Steam Generator (SG) Tube Integrity.'' The proposed changes are necessary in order to implement the guidance for the industry initiative on NEI 97–06, ''Steam Generator Program Guidelines.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on March 2, 2005 (70 FR 10298), on possible amendments adopting TSTF–449, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on May 6, 2005 (70 FR 24126). The licensee affirmed the applicability of the following NSHC determination in its application dated November 3, 2005.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change requires an SG Program that includes performance criteria that will provide reasonable assurance that the SG tubing will retain integrity over the full range of operating conditions (including startup, operation in the power range, hot standby, cooldown and all anticipated transients included in the design specification). The SG performance criteria are based on tube structural integrity, accident induced leakage, and operational LEAKAGE.

A steam generator tube rupture (SGTR) event is one of the design-basis accidents that are analyzed as part of a plant's licensing basis. In the analysis of an SGTR event, a bounding primary to secondary LEAKAGE rate equal to the operational LEAKAGE rate limits in the licensing basis plus the LEAKAGE rate associated with a double-ended rupture of a single tube is assumed.

For other design-basis accidents such as a main steamline break (MSLB), rod ejection, and reactor coolant pump locked rotor, the tubes are assumed to retain their structural integrity (i.e., they are assumed not to rupture). These analyses typically assume that primary to secondary LEAKAGE for all SGs are 1 gallon per minute or increases to 1 gallon per minute as a result of accident-induced stresses. The accident-induced leakage criterion introduced by the proposed changes accounts for tubes that may leak during design-basis accidents. The accident-induced leakage criterion limits this leakage to no more than the value assumed in the accident analysis.

The SG performance criteria proposed change to the TS identify the standards against which tube integrity is to be measured. Meeting the performance criteria provides reasonable assurance that the SG tubing will remain capable of fulfilling its specific safety function of maintaining reactor coolant pressure boundary integrity throughout each operating cycle and in the unlikely event of a design-basis accident. The performance criteria are only a part of the SG Program required by the proposed change to the TS. The program, defined by NEI 97–06, Steam Generator Program Guidelines, includes a framework that incorporates a balance of prevention, inspection, evaluation, repair, and leakage monitoring. The proposed changes do not, therefore, significantly increase the probability of an accident previously evaluated.

The consequences of design-basis accidents are, in part, functions of the DOSE EQUIVALENT I–131 in the primary coolant and the primary to secondary LEAKAGE rates resulting from an accident. Therefore, limits are included in the plant technical specifications for operational leakage and for DOSE EQUIVALENT I–131 in primary coolant to ensure the plant is operated within its analyzed condition. The typical analysis of the limiting design-basis accident assumes that primary to secondary leak rate after the accident is 1 gallon per minute with no more than [500 gallons per day or 720 gallons per day] in any one SG, and that the reactor coolant activity levels of DOSE EQUIVALENT I–131 are at the TS values before the accident.

The proposed change does not affect the design of the SGs, their method of operation, or primary coolant chemistry controls. The proposed approach updates the current TSs and enhances the requirements for SG inspections. The proposed change does not adversely impact any other previously evaluated design-basis accident and is an improvement over the current TSs.

Therefore, the proposed change does not affect the consequences of an SGTR accident, and the probability of such an accident is reduced. In addition, the proposed changes do not affect the consequences of an MSLB, rod ejection, or a reactor coolant pump locked rotor event, or other previously evaluated accident.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed performance-based requirements are an improvement over the requirements imposed by the current technical specifications. Implementation of the proposed SG Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The result of the implementation of the SG Program will be an enhancement of SG tube performance. Primary to secondary LEAKAGE that may be experienced during all plant conditions will be monitored to ensure it remains within current accident analysis assumptions.

The proposed change does not affect the design of the SGs, their method of operation, or primary or secondary coolant chemistry controls. In addition, the proposed change does not impact any other plant system or component. The change enhances SG inspection requirements.

Therefore, the proposed change does not create the possibility of a new or different type of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The SG tubes in pressurized-water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of an SG is maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change is expected to result in an improvement in the tube integrity by implementing the SG Program to manage SG tube inspection, assessment, repair, and plugging. The requirements established by the SG Program are consistent with those in the applicable design codes and standards and are an improvement over the requirements in the current TSs.

For the above reasons, the margin of safety is not changed and overall plant safety will be enhanced by the proposed change to the TS.

The NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

*Attorney for licensee:* Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

*NRC Branch Chief:* David Terao.

**Notice of Issuance of Amendments to Facility Operating Licenses**

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety

Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

*Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona*

*Date of application for amendments:* July 9, 2004.

*Brief description of amendments:* The amendments revise the Operating Licenses and Technical Specifications (TSs) to allow operation of Palo Verde Nuclear Generating Station (PVNGS), Units 1 and 3 up to a maximum reactor core power level of 3990 Megawatts thermal (MWt), an increase of 2.94 percent above the current licensed power level of 3876 MWt. The proposed amendments would also make administrative changes to the PVNGS Unit 2 TSs so that the changed pages would apply to the three PVNGS units. Operation at the uprated power level with replacement steam generators has been approved for PVNGS Unit 2.

*Date of issuance:* November 16, 2005.

*Effective date:* November 16, 2005, and shall be implemented within 90 days of the date of issuance.

*Amendment Nos.:* Unit 1–157, Unit 2–157, Unit 3–157.

*Facility Operating License Nos. NPF–41, NPF–51, and NPF–74:* The amendments revise the Operating Licenses for Units 1 and 3 and the Technical Specifications for all three units.

*Date of initial notice in* **Federal Register:** September 28, 2004 (69 FR 57980). The June 2, June 3 (two letters), June 17, July 9 (two letters), July 19 (two letters), August 3, September 29, October 21, and November 1, 2005, supplemental letters provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 16, 2005.

*No significant hazards consideration comments received:* No.

*Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana*

*Date of amendment request:* August 31, 2005, as supplemented by letter dated September 13, 2005.

*Brief description of amendment:* The amendment permitted a one-time change to Technical Specification Table 3.3.8.1–1 to provide a one-time relaxation of the Loss of Power instrumentation requirements.

*Date of issuance:* September 15, 2005.

*Effective date:* As of the date of issuance to be implemented immediately.

*Amendment No.:* 147.

*Facility Operating License No. NPF–47:* Amendment revised the Technical Specifications.

*Public comments requested as to proposed no significant hazards consideration:* Yes. The NRC published a public notice of the proposed amendment, issued a proposed finding of no significant hazards consideration, and requested that any comments on the proposed no significant hazards consideration be provided to the NRC staff by the close of business on September 9, 2005. The notice was published in The St. Francisville Democrat (in St. Francisville) on September 8, 2005, and The Advocate (in Baton Rouge) on September 7, 2005. No public comments were received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Louisiana, and final no significant hazards consideration determination are contained in a Safety Evaluation dated September 15, 2005.

*Entergy Nuclear Operations, Inc., Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York*

*Date of application for amendment:* November 1, 2004, as supplemented by letters dated April 12, July 22, and September 26, 2005.

*Brief description of amendment:* The amendment authorizes the use of a single-failure-proof gantry crane for spent fuel cask handling operations up to 110 tons in weight.

*Date of issuance:* November 21, 2005.

*Effective date:* As of the date of issuance, and shall be implemented within 30 days.

*Amendment No.:* 244.

*Facility Operating License No. DPR–26:* The amendment allows use of the gantry crane for spent fuel cask handling operations up to 110 tons in weight.

*Date of initial notice in* ***Federal Register:*** December 7, 2004 (69 FR 70716). The April 12, July 22, and September 26, 2005, supplements provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 21, 2005.

*No significant hazards consideration comments received:* No.

*Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California*

*Date of application for amendments:* November 3, 2004, and its supplements dated February 24, June 23, and September 30, 2005.

*Brief description of amendments:* The amendments allow installation and use of a temporary cask pit spent fuel storage rack for Units 1 and 2. The cask pit rack would allow the storage of an additional 154 spent fuel assemblies for each unit. The total spent fuel pool storage capacity for each unit would be increased from the current 1324 spent fuel assemblies to 1478 assemblies for Cycles 14–16.

*Date of issuance:* November 21, 2005.

*Effective date:* As of the date of issuance, and shall be implemented upon installation of the temporary cask pit spent fuel rack.

*Amendment Nos.:* Unit 1—183; Unit 2–185.

*Facility Operating License Nos. DPR–80 and DPR–82:* The amendments revised the Technical Specifications.

*Date of initial notice in* ***Federal Register:*** December 21, 2004 (69 FR 76481). The February 24, June 23, and September 30, 2005, supplemental letters provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a

Safety Evaluation dated November 21, 2005.

No significant hazards consideration comments received: Yes. The comments are addressed in the enclosure of the above Safety Evaluation.

**Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)**

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and electronically on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If there are problems in accessing the document, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical—primarily concerns/issues relating to technical and/or health and safety matters discussed or referenced in the applications.

2. Environmental—primarily concerns/issues relating to matters discussed or referenced in the environmental analysis for the applications.

3. Miscellaneous—does not fall into one of the categories outlined above.

As specified in 10 CFR 2.309, if two or more petitioners/requestors seek to co-sponsor a contention, the petitioners/requestors shall jointly designate a representative who shall have the authority to act for the petitioners/requestors with respect to that contention. If a petitioner/requestor seeks to adopt the contention of another sponsoring petitioner/requestor, the petitioner/requestor who seeks to adopt the contention must either agree that the sponsoring petitioner/requestor shall act as the representative with respect to that contention, or jointly designate with the sponsoring petitioner/requestor a representative who shall have the authority to act for the petitioners/requestors with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by email to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer or the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(I)–(viii).

*PPL Susquehanna, LLC, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1 (SSES–1), Luzerne County, Pennsylvania*

*Date of amendment request:* October 14, 2005, as supplemented on October 21 and November 2, 2005.

*Description of amendment request:* The amendment changed the SSES–1 Technical Specifications (TSs) by revising the SSES–1 Cycle 14 Minimum Critical Power Ratio Safety Limit in TS Section 2.1.1.2 from 1.08 to 1.09.

*Date of issuance:* November 10, 2005.

*Effective date:* November 10, 2005.

*Amendment No.:* 227.

*Facility Operating License No. NPF–14:* Amendment revised the Technical Specifications.

*Public comments requested as to proposed no significant hazards consideration (NSHC):* Yes. October 24, 2005 (70 FR 61475). The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided an opportunity to request a hearing by December 22, 2005, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment, finding of exigent circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated November 10th 2005. The supplemental letters dated October 21 and November 2, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the Nuclear Regulatory Commission staff's original proposed no significant hazards consideration determination.

*Attorney for licensee:* Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

*NRC Branch Chief:* Richard J. Laufer.

*Virginia Electric and Power Company, Docket No. 50–338, North Anna Power Station, Unit No. 1 (North Anna 1), Louisa County, Virginia*

*Date of amendment request:* November 3, 2005, as supplemented by letter dated November 4, 2005.

*Description of amendment request:* This amendment allows a temporary 7-day Completion Time to repair a weld leak that was discovered on the low-head safety injection (LHSI) suction pump piping. This change is needed to prevent an unnecessary plant transient and unscheduled shutdown of North Anna 1.

*Date of issuance:* November 4, 2005.

*Effective date:* As of the date of issuance and is applicable until the ''A'' train of the Unit 1 LHSI system is returned to operable status or until November 9, 2005, at 0330 hours, whichever occurs first.

[1] To the extent that the applications contain attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel and discuss the need for a protective order.

*Amendment No.:* 246.

*Renewed Facility Operating License No. NPF–4:* Amendment revises the Technical Specifications.

*Public comments requested as to proposed no significant hazards consideration (NSHC):* No. The Commission's related evaluation of the amendment, finding of emergency circumstances, state consultation, and final NSHC determination are contained in a Safety Evaluation dated November 4, 2005.

*Attorney for licensee:* Ms. Lillian M. Cuoco, Esq., Senior Counsel, Dominion Resources Services, Inc., Millstone Power Station, Building 475, 5th Floor, Rope Ferry Road, Rt. 156, Waterford, Connecticut 06385.

*NRC Section Chief:* Evangelos Marinos.

Dated at Rockville, Maryland, this 28th day of November, 2005.

For the Nuclear Regulatory Commission.

**Catherine Haney, Director,**

*Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 05–23553 Filed 12–5–05; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Notice of Availability of Documents Regarding Spent Fuel Transportation Package Response to the Baltimore Tunnel Fire Scenario

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

**FOR FURTHER INFORMATION CONTACT:** Allen Hansen, Thermal Engineer, Criticality, Shielding and Heat Transfer Section, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001. Telephone: (301) 415–1390; fax number: (301) 415–8555; e-mail: *agh@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

Under contract with the Nuclear Regulatory Commission (NRC), the Pacific Northwest National Laboratory prepared the draft NUREG/CR–6886 report, ''Spent Fuel Transportation Package Response to the Baltimore Tunnel Fire (BTF) Scenario.'' The BTF was chosen for the study because it represents a severe historical accident, even though it is a very low frequency event. This NUREG/CR documents the thermal analyses of three different spent fuel transportation packages exposed to the BTF scenario: Transnuclear's TN–68, Holtec's HI-STAR 100 and the NAC's LWT.

To date comments have been received from the State of Nevada, Office of the Governor, Agency For Nuclear Projects and the Western Interstate Energy Board. These comments do not need to be re-submitted.

The format of this NUREG/CR has been modified since original posting on the NRC Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html* in September 2005. The modified draft NUREG/CR is now posted on the NRC Web site at the following URLs:

*http://www.nrc.gov/reading-rm/doc-collections/nuregs/docs4comment.html.*

*http://www.nrc.gov/reading-rm/doc-collections/nuregs/contract/cr6886/.*

These links include access to the formal comment template.

The results of this study strongly indicate that neither spent nuclear fuel (SNF) particles nor fission products would be released from a spent fuel shipping cask involved in a severe tunnel fire such as the Baltimore Tunnel Fire. None of the three cask designs analyzed for the Baltimore Tunnel fire scenario experienced internal temperatures that would result in rupture of the fuel cladding. Therefore, the radioactive material (*i.e.*, SNF particles or fission products) would be retained within the fuel rods.

For two of the casks, the TN–68 and the NAC–LWT, the maximum temperatures experienced in the regions of the lid, vent and drain ports exceeded the seals' rated service temperatures, making it possible to get a small release from the CRUD [1] that might spall off of the surfaces of the fuel rods. However, any release is expected to be very small due to a number of factors. These include: (1) The tight clearances maintained between the lid and cask body; (2) the low pressure differential between the cask interior and the outside; (3) the tendency of the small clearances to plug; and (4) the tendency of CRUD particles to settle or plate out. The potential releases calculated in Chapter 8 for the TN–68 rail cask and the NAC–LWT truck cask indicate that the release of CRUD from either cask, if any, would be very small. There would be no release from the HI–STAR 100 because the inner welded canister remains leak tight.

### II. Summary

The purpose of this notice is to provide the public an opportunity to review and comment on the Draft NUREG/CR–6886 thermal analyses, the consequence analyses and the conclusions.

### III. Further Information

The draft NUREG/CR can also be viewed at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the edited (format only) NUREG is ML053200024. This file is in ''black and white.'' The original draft is in color and can be accessed at the following accession numbers:

| NUREG/CR Files | ADAMS accession No. |
|---|---|
| Spent Fuel Transportation Package Response to the Baltimore Tunnel Fire Scenario | ML052500391 |
| Appendix A—Material Properties for COBRA–SFS Model of TN–68 Package | ML052490246 |
| Appendix B—Material Properties for ANSYS Model of HI–STAR 100 Package | ML052490258 |
| Appendix C—Material Properties for ANSYS Model of Legal Weight Truck Package | ML052490264 |
| Appendix D—Blackbody View Factors for COBRA–SFS Model of TN–68 Package | ML052490268 |
| Appendix E—HOLTEC HI–STAR 100 Component Temperature Distributions | ML052490270 |

[1] CRUD is an abbreviation of Chalk River Unknown Deposit, a generic term for various residues deposited on fuel rod surfaces, originally coined by Atomic Energy of Canada, Ltd. to describe deposits observed on fuel removed from the test reactor at Chalk River.

If you do not have access to ADAMS or if there are problems in accessing the document, you may contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

This document may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee. Comments and questions on draft NUREG/CR–6886 should be entered in the comment box (see URLs above) or directed to the NRC contact listed below by December 30, 2005. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Contact: Allen Hansen, Thermal Engineer, Criticality, Shielding and Heat Transfer Section, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001. Telephone: (301) 415–1390; fax number: (301) 415–8555; e-mail: *agh@nrc.gov.*

Dated at Rockville, Maryland this 30th day of November, 2005.

For the Nuclear Regulatory Commission.

**M. Wayne Hodges,**

*Deputy Director, Technical Review Directorate, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. E5–6892 Filed 12–5–05; 8:45 am]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 52857/November 30, 2005]**

## Securities Exchange Act of 1934; Order Regarding Alternative Net Capital Computation for Bear, Stearns & Co. Inc., Which Has Elected To Be Supervised on a Consolidated Basis

Bear Stearns & Co., Inc. (''BS&Co.''), a broker-dealer registered with the Securities and Exchange Commission (''Commission''), and its ultimate holding company, The Bear Stearns Companies Inc. (''TBSCI''), have indicated their desire to be supervised by the Commission as a consolidated supervised entity (''CSE''). BS&Co., therefore, has submitted an application to the Commission for authorization to use the alternative method of computing net capital contained in Appendix E to Rule 15c3–1 (17 CFR 240.15c3–1e) to the Securities Exchange Act of 1934 (''Exchange Act'').

Based on a review of the application that BS&Co. submitted, the Commission has determined that the application meets the requirements of Appendix E. The Commission also has determined that TBSCI is in compliance with the terms of its undertakings, as provided to the Commission under Appendix E. The Commission, therefore, finds that approval of the application is necessary or appropriate in the public interest or for the protection of investors.

Accordingly,

*It Is Ordered*, under paragraph (a)(7) of Rule 15c3–1 (17 CFR 240.15c3–1) to the Exchange Act, that BS&Co. may calculate net capital using the market risk standards of Appendix E to compute a deduction for market risk on some or all of its positions, instead of the provisions of paragraphs (c)(2)(vi) and (c)(2)(vii) of Rule 15c3–1, and using the credit risk standards of Appendix E to compute a deduction for credit risk on certain credit exposures arising from transactions in derivatives instruments, instead of the provision of paragraph (c)(2)(iv) of Rule 15c3–1.

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5–6858 Filed 12–5–05; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–52853; File No. SR–FICC–2005–14]**

## Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the Federal Reserve's National Settlement System

November 29, 2005.

### I. Introduction

On September 9, 2005, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2005–14 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on October 26, 2005.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 52631, (October 18, 2005), 70 FR 61859.

### II. Description

The proposed rule change amends the rules of FICC's Government Securities Division (''GSD'') so that funds-only settlement obligation payment processing occurs through the Federal Reserve's National Settlement System (''NSS'').[3] GSD's funds-only settlement process is set forth in GSD Rule 13. On a daily basis, FICC reports a funds-only settlement amount, which is either a debit amount or a credit amount, to each netting member. Each netting member that has a debit is required to satisfy its obligation by the applicable deadline. Netting members with credits are subsequently paid by FICC by the applicable deadline. All payments of funds-only settlement amounts by netting members to FICC and all collections of funds-only settlement amounts by netting members from FICC are done through depository institutions that are designated by netting members and FICC to act for them with regard to such payments and collections. All payments are made by fund wires from one depository institution to the other.

In 1997, the Commission approved an enhancement to GSCC's[4] funds-only settlement payment processing (''1997 Filing'').[5] That enhancement gave members the option to participate in an auto-debit arrangement. Under the auto-deposit arrangement, GSCC, the netting member, and the netting member's depository institution would enter into a ''funds-only settlement procedures agreement'' whereby the depository institution would pay or collect funds-only settlement amounts on behalf of the netting member and GSCC through accounts of the member at the depository institution. As a result, the need to send fund wires for the satisfaction of funds-only settlement payments would be eliminated.[6]

The rule change replaces the auto-debit process of the 1997 Filing and

[3] This is consistent with the manner in which FICC's affiliates, The Depository Trust Company (''DTC'') and the National Securities Clearing Corporation (''NSCC''), handle their funds settlement process. DTC and NSCC currently use NSS for the processing of funds debits and not for funds credits whereas FICC will use NSS both for the funds debits and funds credits of GSD's funds-only settlement process.

[4] The Government Securities Clearing Corporation (''GSCC'') was the predecessor to GSD. GSCC became the GSD division of FICC when GSCC and the Mortgage Backed Securities Clearing Corporation were merged to create FICC in 2002.

[5] Securities Exchange Act Release No. 39309 (November 7, 1997), 62 FR 61158 (November 14, 1997) [File No. SR–GSCC–97–06].

[6] This voluntary arrangement auto-debit was never implemented because until recently GSCC and then GSD continued to make manual adjustments to the final funds-only settlement amounts of netting members. Recently, these manual adjustments have largely been eliminated.

provides more enhancements to the current approach to payment processing than was envisioned by the 1997 Filing. Under this proposed rule change, the required payment mechanism for the satisfaction of funds-only settlement amounts will be the NSS. FICC will appoint The Depository Trust Company (''DTC'') as its settlement agent for purposes of interfacing with the NSS.[7]

In order to satisfy their funds-only settlement obligations through the NSS process, each netting members must appoint a bank or trust company to act as their ''funds-only settling bank.'' A netting member that qualifies may act as its own funds-only settling bank.

The GSD is establishing a limited membership category for the funds-only settling banks. Banks or trust companies that are DTC settling banks, as defined in DTC's rules and procedures, or that are GSD netting members with direct access to the Federal Reserve and the NSS will be eligible to become GSD funds-only settling bank members by executing the requisite membership agreement for this purpose. Other banks or trust companies that desire to become funds-only settling bank members will have to apply to FICC. In order to qualify as a funds-only settling bank, they will have to have direct access to a Federal Reserve Bank and the NSS as well as satisfy the financial responsibility standards imposed by FICC from time to time. Initially, these applicants must meet and maintain a Tier 1 capital ratio of 6 percent.[8]

In addition to the membership agreement, the funds-only settling bank and the netting member must execute an agreement whereby the member will appoint the bank to act on its behalf for funds-only settlement purposes. The bank must also execute any agreements required by the Federal Reserve Bank for participation in the NSS for FICC's funds-only settlement process.

The funds-only settling banks will be required to follow the procedures for funds-only settlement payment processing set forth in FICC's new rules governing the NSS settlement process. These will include, for example, providing FICC or its settlement agent with the requisite acknowledgement of the bank's intention to settle the funds-only settlement amounts of the netting members it represents on a timely basis and participating in the NSS process. Funds-only settling banks will have the right to refuse to settle for a particular netting member and will also be able to opt out of NSS for one business day if they are experiencing extenuating circumstances.[9] Under FICC's program, the netting member shall be responsible for ensuring that its funds-only debit is wired to the depository institution designated by FICC for this purpose by the payment deadline. The rule change makes clear that the obligation of a netting member to fulfill its funds-only settlement amount remains at all times with the netting member.

As FICC's settlement agent, DTC will submit instructions to have the Federal Reserve Bank accounts of the funds-only settlement members charged for the debit amounts and credited for the credit amounts. Because utilization of NSS will eliminate the need for the initiation of wire transfers to satisfy funds-only settlement amounts, FICC believes that it will reduce the risk that netting members will incur late payment fines due to delays in wiring funds. The proposal will also reduce operational burden for the operations staff of FICC.

The NSS is governed by the Federal Reserve's Operating Circular No. 12 (''Circular''). Under the Circular, DTC, as FICC's settlement agent, has certain responsibilities with respect to an indemnity claim made by a relevant Federal Reserve Bank as a result of the NSS process. FICC will apportion the entirety of any such liability to the netting members for whom the funds-only settling bank to which the indemnity claim relates was acting. This allocation will be done in proportion to the amount of such members' funds-only settlement amounts on the business day in question. If for any reason such allocation is not sufficient to fully satisfy the Federal Reserve Bank's indemnity claim, the remaining loss shall be treated as an ''Other Loss'' as defined by the GSD's Rule 4 and allocated accordingly.

The proposed rule change will not change the current GSD deadlines regarding the payment and receipt of funds-only settlement amounts, which are set forth in the GSD's rules.

## III. Discussion

Section 17A(b)(3)(F) of the Act provides that the rules of a clearing agency should be designed to promote the prompt and accurate clearance and settlement of securities transactions.[10] Funds-only settlement is the payment made to or by FICC's netting members by or to FICC in settlement of their government securities transactions.[11] Accordingly, a rule that is designed to improve the efficiency of funds-only settlement should also promote the prompt and accurate clearance and settlement of securities transactions.

The proposed rule change should improve the efficiency of the funds-only settlement process for both FICC and its netting members by establishing a more automated and more centralized payment system for funds-only settlement. The NSS offered by the Federal Reserve System is a reliable and proven service that is used by, among others, other clearing agencies registered with the Commission. Although the proposed rule change will impose new requirements on FICC's netting members to appoint funds-only settling bank members to act on their behalf and to share in any losses incurred with respect to an indemnity claim made by a Federal Reserve Bank, the proposed rule change should ultimately improve the efficiency of funds-only settlement processing for FICC's netting members as well as for FICC.[12]

Each netting member will be required to use the NSS to make funds-only settlement payments in accordance with the procedures set forth in the changes to Rule 13. However, the netting member's obligation to make its funds-only settlement payment to FICC on time remains unchanged. If the netting member's funds-only settlement agent is unable to or chooses not to make a payment through the NSS, the netting member will be required to wire the payment to FICC's depository institution by the payment deadline. Accordingly, because the proposed rule change is designed to improve the efficiency of funds-only settlement payments without affecting netting members' ultimate responsibility for their funds-only settlement payments, the Commission finds that the proposed rule change is also consistent with FICC's obligation under Section 17A(b)(3)(F) to assure the safeguarding of securities and funds in its possession or control or for which it is responsible.[13]

[7] DTC currently performs this service for NSCC.

[8] This is the same financial requirement for NSCC settling bank-only members. Under FICC's program, FICC will retain the discretion to change this financial criterion by providing advanced notice to the fund-only settling banks and the netting members through Important Notices.

[9] These procedures are consistent with the NSCC and DTC procedures in this respect.

[10] 15 U.S.C. 78q–*l*(b)(3)(F).

[11] FICC's Rule 1 (Definitions) defines the term Funds-Only Settlement Amount as the net dollar amount of a netting member's obligation, calculated pursuant to FICC Rule 13 (Funds-Only Settlement), either to make a funds-only payment to FICC or to receive a funds-only payment from FICC.

[12] FICC's netting members have received notice of the proposed rule change and the related requirements and have not commented on them to the Commission.

[13] 15 U.S.C. 78q–*l*(b)(3)(F).

## IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–FICC–2005–14) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5–6888 Filed 12–5–05; 8:45 am]

**BILLING CODE 8010–01–P**

[14] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–52856; File No. SR–ISE–2005–46]**

## Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to the Operation of Primary Market Maker Memberships

November 30, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 27, 2005, the International Securities Exchange, Inc. (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by ISE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to raise from two to three the number of Primary Market Maker (''PMM'') memberships an ISE member may operate.

The text of the proposed rule change is below. Proposed new language is *italicized;* proposed deletions are in [brackets].

* * * * *

Rule 303. Approval to Operate Multiple Memberships

(a) An applicant to become a Member or an approved Member may seek approval to exercise trading privileges associated with more than one Membership in the form and manner prescribed by the Exchange.

(b) An applicant or approved Member will be denied approval with respect to a particular Membership if (together with any of its affiliates) approval would result in the applicant or approved Member being approved to exercise the trading privileges associated with more than one (1) Primary Market Maker Membership or more than ten (10) Competitive Market Maker Memberships. This requirement may be waived by the Board for good cause shown, but in no event shall the Board waive this requirement if such waiver would result in the applicant or approved Member (together with any of its affiliates) being approved to exercise trading privileges associated with more than *30%* [20%] of the outstanding Primary Market Maker Memberships or more than 20% of the outstanding Competitive Market Maker Memberships.

Supplementary Material to Rule 303

.01 When making its determination whether good cause has been shown to waive the limitations contained in Rule 303(b), the Board will consider whether an operational, business or regulatory need to exceed the limits has been demonstrated. In those cases where such a need is demonstrated, the Board also will consider any operational, business or regulatory concerns that might be raised if such a waiver were granted. The Board only will waive such limitations when, in its judgment, such action is in the best interest of the Exchange.

*.02 In approving any Primary Market Maker to exercise the trading privileges associated with more than 20% of the outstanding Primary Market Maker Memberships, the Board will not approve any arrangement in which such Primary Market Maker would gain ownership or voting rights in excess of those permitted under the Exchange's Certificate of Incorporation or Constitution.*

* * * * *

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its rules to increase the number of PMM memberships that an ISE member may operate from two to three.[3] A PMM membership manifests itself as a share of ISE Class B Common Stock, Series B–1, of which there are 10 shares authorized and outstanding. ISE's Certificate of Incorporation (''Certificate'') currently prohibits a member from owning (or voting the shares representing) more than 20 percent of the class of any ISE stock, thus limiting any one person from owning more than two PMM memberships.[4] Similarly, ISE's rules prohibit a member from operating more than 20 percent of a class of market maker memberships.[5] The result is that no one person can own, vote or operate more than two PMMs.

Due to the continued concentration and specialization in the options market making community, ISE is proposing to raise the limit on the number of PMMs one firm can operate from two to three. ISE believes this change is part of the natural evolution of the markets. Specifically, as competition inside and between exchanges increases, there continues to be consolidation and contraction of market makers. ISE believes that this evolution will result in a smaller number of strong, competitive market makers that will provide the Exchange with excellent market making capabilities. ISE believes that this is similar to the concentration of specialist units on the major equity exchanges, such as the New York Stock Exchange (''NYSE''), where there currently are only seven specialist units, down from over three dozen.[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A PMM serves a function similar to that of a specialist on other exchanges. Among other things, a PMM must provide continuous quotations in all assigned options classes and must address customer orders when another exchange is displaying a better price. *See* ISE Rule 803(c).

[4] *See* Sections III(a)(ii) and (b) of ISE's Certificate.

[5] *See* ISE Rule 303(b).

[6] As of December 31, 1992 there were 40 specialist firms on the NYSE; as recently as December 31, 1997 there were 37 specialist firms. *See* Shawn A. Corwin, *Specialist Portfolios,*

The Exchange is concerned that, as the number of strong market makers decreases, there may not be a sufficient number of members qualified to be PMMs if it retains the current two-PMM limit. ISE currently has seven PMMs operating the 10 PMM memberships, with three PMMs operating two such memberships and four PMMs operating one. While there is a constant entry and exit into options market making, ISE believes that if there is further contraction in the market making community, the Exchange may find itself with an insufficient number of PMMs to cover all ten memberships.

In addition, the options markets are highly competitive, and each exchange actively seeks to attract order flow by disseminating tight and liquid markets and by providing a high level of customer satisfaction. Ensuring that the Exchange has high quality PMMs is critical in this competitive battle. By limiting a member to operating two PMM memberships, the Exchange believes it could be forced to approve the operation of a PMM by a weaker member while a stronger PMM operating two such memberships also would be willing to operate such membership.

The Exchange recognizes that increasing the number of PMM memberships a member can operate could raise issues regarding concentration of market making expertise. In this regard, the proposal is only for an enabling rule. The ISE Board would need to approve any member application to operate three PMMs and would need to find ''good cause'' to do so. Thus, the Board will need to weigh each potential application on its own merits, balancing the potential benefits of allowing a member to operate three PMM memberships against any potential concentration concerns.

This proposed rule change would not amend the current prohibitions in the Certificate against a member owning or voting more than two such memberships. Thus, the only way a member could operate a third PMM membership would be to lease such membership, with the lease providing that the lessor retains all voting rights.[7] The proposed Supplementary Material .02 to Rule 303 makes this point clear. However, the Exchange believes it may be appropriate to permit a member to own and vote three PMM memberships. Thus, upon approval of this proposed rule change, the ISE Board would consider an additional proposed change to the Certificate regarding ownership and voting limitations. If the ISE Board approves such a change the Exchange would need to seek stockholder approval of that change before submitting it to the Commission for its consideration.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(5) of the Act[9] in particular, in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. In particular, the proposed rule change would provide the Exchange with greater flexibility in ensuring that strong PMMs operate on ISE.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which ISE consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2005–46 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–ISE–2005–46. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–ISE–2005–46 and should be submitted on or before December 27, 2005.

*Specialist Performances, and New Listing Allocations on the NYSE* 7–8 (University of Georgia, Working Paper, 1999).

[7] ISE has confirmed that (i) it will not approve any leasing arrangements under this proposed rule change unless the lessor/owner retains all voting rights and (ii) the voting limitations contained in the Certificate supersede any of the lessor/owner's rights to transfer voting rights. Telephone call between Nancy Sanow, Assistant Director, Commission; Leah Mesfin, Special Counsel, Commission; Rahman Harrison, Attorney, Commission; and Michael Simon, General Counsel and Secretary, ISE on November 18, 2005.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5–6887 Filed 12–5–05; 8:45 am]

**BILLING CODE 8010–01–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[05–22749]**

### Notice Correction; Request for Comments Concerning Compliance With Telecommunications Trade Agreements

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of request for public comment and reply comment; correction.

**SUMMARY:** The Office of the United States Trade Representative published a document in the **Federal Register** of November 16, 2005, concerning request for comments and reply comments on the operation, effectiveness, and implementation of and compliance with U.S. telecommunications trade agreements. The document contained the incorrect dates.

**FOR FURTHER INFORMATION CONTACT:** Arrow Augerot, 202–395–6099

**Correction**

In the **Federal Register** of November 16, 2005, in FR Document 05–22749, on page 69621, in the third column, correct the ''Dates'' caption to read:

**DATES:** Comments are due by noon on December 16, 2005, and Reply Comments by noon on January 13, 2006.

Dated: November 29, 2005.

**Carmen Suro-Bredie,**

*Chair, Trade Policy Staff Committee.*

[FR Doc. E5–6908 Filed 12–5–05; 8:45 am]

**BILLING CODE 3190–W6–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket No. WTO/DS–334]**

### WTO Dispute Settlement Proceeding Regarding Turkey—Measures Affecting the Importation of Rice

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is providing notice that on November 2, 2005, in accordance with the Marrakesh Agreement Establishing the World Trade Organization (''WTO Agreement''), the United States requested consultations regarding Turkey's import licensing regime and domestic purchase requirement on imports of rice. That request may be found at *http://www.wto.org* contained in a document designated as WT/DS334/1. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the consultations, comments should be submitted on or before January 1, 2006 to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to *FR0604@ustr.gov,* with ''Turkey Rice (DS334)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above, in accordance with the requirements for submission set out below.

**FOR FURTHER INFORMATION CONTACT:** Jeff Weiss, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–4498.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. In an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

**Major Issues Raised by the United States**

On November 2, 2005, the United States requested the establishment of a panel regarding Turkey's import licensing regime and domestic purchase requirement on imports of rice. Those measures include:

- Decree No. 96/7794 related to the General Assessment of the Regime Regarding Technical Regulations and Standardization for Foreign Trade (Official Gazette, No. 22541, February 1, 1996, Repeated)
- Decision of the board of ministers: Decree No. 2004/7135 related to the implementation of a tariff quota for certain types of paddy rice and rice types imports (Official Gazette, No. 25439, April 20, 2004);
- A notification related to implementation of tariff quotas for certain types of paddy and rice imports, from the Foreign Trade Undersecretariat (Official Gazette, No. 25445, April 27, 2004);
- Decision of the board of ministers: Decree No. 2004/7333 related to the management of quota and tariff contingent on import (Official Gazette, No. 25473, May 26, 2004);
- Decision of the board of ministers: Decree No. 2004/7756 related to the implementation of a tariff contingent on the import of certain paddy rice and rice types (Official Gazette, No. 25565, August 27, 2004);
- A notification about the implementation of a tariff contingent on the import of certain paddy rice and rice types, from the Foreign Trade Undersecretariat (Official Gazette, No. 25577, September 8, 2004);
- A notification on Standardization in Foreign Trade, Notification No. 2005/05 (Official Gazette, No. 25687, December 31, 2004);
- A notification about the amendment of the notification related to the implementation of a tariff contingent on the import of certain paddy rice and rice types, from the Foreign Trade Undersecretariat (Official Gazette, No. 25767, March 26, 2005);
- A notification about the amendment of the notification related to the implementation of a tariff contingent (customs duty) on the import of certain paddy rice and rice types, from the Foreign Trade Undersecretariat (Official Gazette, No. 25812, May 11, 2005);
- Decision of the board of ministers: Decree No. 2005/9315 related to the implementation of a tariff contingent on the import of certain types of paddy rice and rice types (Official Gazette, No. 25935, September 13, 2005);
- A notification related to the implementation of a tariff contingent on the import of certain paddy rice and rice types, from the Foreign Trade Undersecretariat (Official Gazette, No. 25943, September 21, 2005); and
- Any amendments or extensions to these measures, and any related or implementing measures.

[10] 17 CFR 200.30–3(a)(12).

Under Turkey's import regime for rice, Turkey requires an import license to import rice. However, Turkey appears to fail to grant licenses to import rice at the bound rate of duty. In addition, Turkey operates a tariff-rate quota for rice imports requiring that in order to import specified quantities of rice at reduced tariff levels, importers must purchase specified quantities of domestic rice, including from the Turkish Grain Board (TMO), Turkish producers, or producer associations (''the domestic purchase requirement''). Turkey appears to administer the domestic purchase requirement through its import licensing regime.

USTR believes these measures are inconsistent with Turkey's obligations under Article 2.1 and paragraph 1(a) of Annex 1 of the TRIMs Agreement; Articles III (including paragraphs 4, 5, and 7) and XI:1 of the GATT 1994; Article 4.2 of the Agriculture Agreement; and Articles 1.2, 1.3, 1.4, 1.5, 1.6, 3.2, 3.3, 3.5(a), 3.5(b), 3.5(d), 3.5(e), 3.5(f), 3.5(g), 3.5(h), 3.5(k), 5.1, 5.2, 5.3, and 5.4 of the Import Licensing Agreement.

**Public Comment: Requirements for Submissions**

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments should be submitted (i) electronically, to *FR0604@ustr.gov,* with ''Turkey Rice (DS334)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above. USTR encourages the submission of documents in Adobe PDF format as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly designated as such and ''BUSINESS CONFIDENTIAL'' must be marked at the top and bottom of the cover page and each succeeding page.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS–334, Turkey Rice Dispute) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

**Daniel Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

[FR Doc. E5–6905 Filed 12–5–05; 8:45 am]

BILLING CODE 3190–W6–P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket No. WTO/DS335]**

## WTO Dispute Settlement Proceeding Regarding United States—Antidumping Measure on Shrimp From Ecuador

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (''USTR'') is providing notice that on November 17, 2005, Ecuador requested consultations with the United States under the Marrakesh Agreement Establishing the World Trade Organization (''WTO Agreement'') concerning the final affirmative antidumping determination with respect to certain frozen warmwater shrimp from Ecuador issued by the U.S. Department of Commerce. That request may be found at *http://www.wto.org* contained in a document designated as WT/DS335/1. USTR invites written comments from the public concerning the issue raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before January 1, 2006 to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to *FR0603@ustr.eop.gov,* Attn: ''Ecuador Shrimp AD Dispute (DS335)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

**FOR FURTHER INFORMATION CONTACT:** Jeff Weiss, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–4498.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act (''URAA'') (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. In an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes (''DSU'').* If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

**Issue Raised by Ecuador**

On December 23, 2004, the Department of Commerce published in the **Federal Register** notice of its affirmative final less-than-fair-value (''LTFV'') determination in an investigation concerning certain frozen and canned warmwater shrimp from Ecuador (69 FR 76913). On February 1, 2005, Commerce published an amended

final LTFV determination, along with an antidumping duty order (69 FR 5156). The latter notice contains the final margins of LTFV sales, as provided in section 733 of the Tariff Act of 1930, as amended.

In its request for consultations, Ecuador alleges that Commerce's use of ''zeroing'' '' resulted in unfair and improper comparisons between the export price and the normal value, resulting in artificial and inflated margins of dumping where none existed,'' and therefore violated Articles 1, 2.1, 2.2, 2.4, 2.4.2, 5.8, 6.10, 9.2, 9.3, 9.4, and 18.1 of the AD Agreement and Article VI of the GATT 1994.

**Public Comment: Requirements for Submissions**

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit their comments either (i) electronically, to *FR0603@ustr.eop.gov,* Attn: ''Ecuador Shrimp AD Dispute (DS335)'' in the subject line, or (ii) by fax to Sandy McKinzy at (202) 395–3640. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS–335, Ecuador Shrimp AD Dispute) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

**Daniel Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

[FR Doc. E5–6907 Filed 12–5–05; 8:45 am]

BILLING CODE 3190–W6–P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Aviation Proceedings, Agreements filed the week ending November 11, 2005

The following Agreements were filed with the Department of Transportation under the sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* OST–2005–23008.
*Date Filed:* November 10, 2005.
*Parties:* Members of the International Air Transport Association.
*Subject:* PTC2 Within Africa Mail Vote 466, Special Passenger Amending Resolution 010z, From Cameroon to Africa, Intended effective date: 1 December 2005.

*Docket Number:* OST–2005–22975.
*Date Filed:* November 8, 2005.
*Parties:* Members of the International Air Transport Association.
*Subject:* Geneva, 10–13 October 2005, TC2 Within Europe, Intended effective date: 1 December 2005.

*Docket Number:* OST–2005–22977.
*Date Filed:* November 8, 2005.
*Parties:* Members of the International Air Transport Association.
*Subject:* Mail Vote 465—Resolution 010y, Special Passenger Amending Resolution from Korea (Rep.of) to Japan, Intended effective date: 15 November 2005.

*Docket Number:* OST–2005–22978.
*Date Filed:* November 8, 2005.
*Parties:* Members of the International Air Transport Association.
*Subject:* TC2 Within Europe, Geneva, 10–13 October 2005, Intended effective date: 15 January 2006.

*Docket Number:* OST–2005–22963.
*Date Filed:* November 7, 2005.
*Parties:* Members of the International Air Transport Association.
*Subject:* TC23/TC123 Mail Vote 458 between Middle East and South East Asia, Geneva, 12–14 September 2005, Intended effective date: 15 January 2006.

**Renee V. Wright,**

*Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. E5–6894 Filed 12–5–05; 8:45 am]

BILLING CODE 4910–62–P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending November 11, 2005

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* OST–2005–22935.
*Date Filed:* November 7, 2005.
*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* November 28, 2005.

*Description:* Application of Mokulele Flight Service, Inc. requesting a certificate of public convenience and necessity authorizing scheduled air transportation of persons, property and mail to the following airports: Honolulu International Airport, Kahului International Airport and Kona International Airport.

*Docket Number:* OST–1995–297.

*Date Filed:* November 8, 2005.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* November 29, 2005.

*Description:* Application of American Airlines, Inc. requesting renewal of segment 4 of its certificate for Route 389, authorizing scheduled foreign air transportation of persons, property, and mail between the coterminal points New York, New York/Newark, New Jersey and Miami, FL and the coterminal points Rio de Janeiro and Sao Paulo, Brazil.

*Docket Number:* OST–2000–8515.

*Date Filed:* November 8, 2005.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* November 29, 2005.

*Description:* Application of American Airlines, Inc. requesting renewal of its certificate for Route 583, authorizing scheduled foreign air transportation of persons, property, and mail between San Jose, CA, and Tokyo, Japan.

*Docket Number:* OST–2000–8910.

*Date Filed:* November 8, 2005.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* November 29, 2005.

*Description:* Application of American Airlines, Inc. requesting renewal of its certificate for Route 804, authorizing scheduled foreign air transportation of persons, property, and mail between Miami, FL and Medellin, Colombia.

**Renee V. Wright,**

*Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. E5–6891 Filed 12–5–05; 8:45 am]

**BILLING CODE 4910–62–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement; Sullivan County, TN

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed extension of SR–357 in Sullivan County, Tennessee.

**FOR FURTHER INFORMATION CONTACT:** Mr. Walter Boyd, P.E., Field Operations Team Leader, Federal Highway Administration, Tennessee Division, 640 Grassmere Park Road, Suite 112, Nashville, Tennessee 37211, Telephone: (615) 781–5774.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Tennessee Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to provide an extension to SR–357 in Sullivan County, Tennessee. The proposed project would involve the extension of SR–357 from existing SR–357 west of the Tri-Cities Airport to the U.S. 11E/19W-U.S. 19E intersection near Bluff City, Tennessee.

The proposed project is considered necessary to provide for the existing and projected traffic demand on the surrounding transportation network. The proposed project is anticipated to provide a multi-lane facility with the number of lanes and access control to be determined depending on forecasted traffic volumes. The EIS will address environmental, social, and economic impacts associated with the development of the proposed action.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public meetings will be held in the vicinity of the project throughout the development of the EIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: November 29, 2005.

**Walter Boyd,**

*Field Operations Team Leader, Nashville, Tennessee.*

[FR Doc. 05–23651 Filed 11–5–05; 8:45 am]

**BILLING CODE 4910–22–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2005–22194]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 49 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard in one eye for various reasons, including amblyopia, macular and retinal scars, and loss of an eye due to trauma.

**DATES:** The exemptions are effective December 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366–4001, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

#### Electronic Access

You may see all the comments online through the Document Management System (DMS) at *http://dmeses.dot.gov.*

#### Background

On September 30, 2005, the FMCSA published a notice of receipt of exemption applications fro 49 individuals, and requested comments from the public (70 FR 57353). The 49 individuals petitioned the FMCSA for exemptions from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. They are: Francis M. Anzulewicz, James S. Ayers, Bruce Barrett, Norm Braden, Levi A. Brown, Henry L. Chastain, Thomas R. Crocker, Cling Edwards, Neil G. Finegan, Jr., Gerald W. Fox, Ronald Fultz, Henke Galloway, Richard L. Gandee, Raymond A. Gravel, John C. Holmes, John L. Hynes, Kevin Jacoby, Fran E. Johnson, Jr., Vladimir Kats, John G. Kaye, Alfred Keehn, Richard H. Kind, Paul Laffredo, Jr., Bobby G. LaFleur, Robert S. Larrance, Earnest W. Lewis, John D. McCormick, Thomas C. Meadows, Timothy S. Miller, Roger D. Mollak, Michael R. Moore, Jade D. Morrical,

David A Morris, Leigh E. Moseman, Gary T. Murray, Larry D. Neely, Jorge L. Osuna, Joseph B. Peacock, Scott D. Russell, Louis R. Saalinger, James L. Schmidt, Richard P. Stanley, Paul Stoddard, Robert L. Tankersley, Jr., Scott Tetter, Benny R. Toothman, Dewayne Washington, Kris Wells, James T. Wortham, Jr.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the FMCSA has evaluated the 49 applications on their merits and made a determination to grant exemptions to all of them. The comment period closed on October 31, 2005. Two comments were received, and fully considered by FMCSA in reaching the final decision to grant the exemptions.

**Vision and Driving Experience of the Applicants**

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

Since 1992, the agency has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70 to 120 degrees, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Pual Aiello, M.D., and James W. Rosenberg, M.D., ''Visual Requirements and Commercial Drivers,'' October 16, 1998, filed in the docket, FMCSA–98–4334.) The panel's conclusion supports the agency's view that the present visual acuity standard is reasonable and necessary as a general standard to ensure highway safety. FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 49 exemption applicants listed in this notice fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, macular and retinal scars, and loss of an dye due to trauma. In most cases, their eye conditions were not recently developed. All but twenty of the applicants were either born with their vision impairments or have had them since childhood. The twenty individuals who sustained their vision conditions as adults have had them for periods ranging from 3 to 40 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 49 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 40 years. In the past 3 years, five of the drivers have had six convictions for traffic violations. Five of these convictions were for speeding, and one was for disregarding a traffic control light. Five applicants were involved in crashes but none received citations.

The qualifications, experience, and medical condition of each applicant were stated and discuss in detail in the September 30, 2005 notice (70 FR 57353).

**Basis for Exemption Determination**

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at docket number FMCSA–98–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996.) The fact that experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual

experiencing future crashes. (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 40 applicants receiving an exemption, we note that the applicants have had only one collision and three traffic violations in the last 3 years. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e) to the 49 applicants listed in the notice of September 30, 2005 (70 FR 57353).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 49 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## Discussion of Comments

FMCSA received two comments from one individual in this proceeding. The comments were considered and discussed below.

Ms. Barb Sachau believes that two fully functional eyes, as well as peripheral vision, are needed to drive safely. Ms. Sachau believes that the approval of vision exemptions make the roads much more dangerous.

In regard to these comments, the discussion under the heading, ''Basis for Exemption Determination,'' explains in detail the evaluation methods the Agency utilizes prior to granting an exemption to ensure that the granting of an exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at docket number FMCSA–98–3637.

## Conclusion

Based upon its evaluation of the 49 exemption applications, the FMCSA exempts Francis M. Anzulewicz, James S. Ayers, Bruce Barrett, Norm Braden, Levi A. Brown, Henry L. Chastain, Thomas R. Crocker, Cling Edwards, Neil G. Finegan, Jr., Gerald W. Fox, Ronald Fultz, Henke Galloway, Richard L. Gandee, Raymond A. Gravel, John C. Holmes, John L. Hynes, Kevin Jacoby, Fran E. Johnson, Jr., Vladimir Kats, John G. Kaye, Alfred Keehn, Richard H. Kind, Paul Laffredo, Jr., Bobby G. LaFleur, Robert S. Larrance, Earnest W. Lewis, John D. McCormick, Thomas C. Meadows, Timothy S. Miller, Roger D. Mollak, Michael R. Moore, Jade D. Morrical, David A. Morris, Leigh E. Moseman, Gary T. Murray, Larry D. Neely, Jorge L. Osuna, Joseph B. Peacock, Scott D. Russell, Louis R. Saalinger, James L. Schmidt, Richard P. Stanley, Paul Stoddard, Robert L. Tankersley, Jr., Scott Tetter, Benny R. Toothman, Dewayne Washington, Kris Wells, James T. Wortham, Jr., from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Issued on: November 28, 2005.

**Rose A. McMurray,**

*Associate Administrator, Policy and Program Development.*

[FR Doc. E5–6855 Filed 12–5–05; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

### Release of Waybill Data

The Surface Transportation Board has received a request from Covington & Burling on behalf of Union Pacific Corporation (WB468–7–11/23/05), for permission to use certain data from the Board's Carload Waybill Samples. A copy of the request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

*Contact:* Mac Frampton, (202) 565–1541.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 05–23617 Filed 12–5–05; 8:45 am]

BILLING CODE 4915–01–P

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

November 29, 2005.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

*Dates:* Written comments should be received on or before January 5, 2006 to be assured of consideration.

### Alcohol and Tobacco Tax and Trade Bureau (TTB)

*OMB Number:* 1513–0112.

*Type of Review:*Revision.

*Title:* Special Tax Registration and Return Alcohol and Tobacco.

*Form:* TTB form F 5630.5.

*Description:* U.S.C. Chapter 51 and 52 authorize the collection of an occupational tax from persons engaging in certain alcohol and tobacco businesses. TTB F 5630.5 is used to both compute and report the tax, and as an application for registry as required by statute. Upon receipt of the tax a special tax stamp is issued.

*Respondents:* Business or other for-profit, Individuals or households and Not-for-profit institutions.

*Estimated Total Burden Hours:* 48,374 hours.

*Clearance Officer:* Frank Foote, (202) 927–9347, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G Street, NW., Washington, DC 20005.

*OMB Reviewer:* Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Michael A. Robinson,**

*Treasury PRA Clearance Officer.*

[FR Doc. E5–6856 Filed 12–5–05; 8:45 am]

BILLING CODE 4810–31–P

# Corrections

Federal Register

Vol. 70, No. 233

Tuesday, December 6, 2005

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services; Overview Information; National Institute on Disability and Rehabilitation Research (NIDRR)—Research Fellowships Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006

*Correction*

In notice document E5–6724 beginning on page 72111 in the issue of Thursday, December 1, 2005, make the following correction:

On page 72111, in the second column, under the *Dates:* heading, in the second line, ''January 30, 2006'' should read ''*Deadline for Transmittal of Applications:* January 30, 2006''.

[FR Doc. Z5–6724 Filed 12–5–05; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
December 6, 2005

# Part II

# Department of Housing and Urban Development

## 24 CFR Part 203
## Eligibility of Adjustable Rate Mortgages; Final Rule

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 203**

**[Docket No. FR–4946–F–02]**

**RIN 2502–AI26**

## Eligibility of Adjustable Rate Mortgages

**AGENCY:** Office of the Assistant Secretary of Housing—Federal Housing Commissioner, HUD.

**ACTION:** Final rule.

**SUMMARY:** On March 29, 2005, HUD published an interim rule making available a new adjustable rate mortgage (ARM) product. In accordance with statutory authority, this rule enabled the Secretary to insure five-year hybrid ARMs with interest rates adjustable up to two percentage points annually (this type of mortgage is known as a 5/1 ARM). The lifetime cap on annual interest rate adjustments for five-year ARMs was set at six percentage points. This final rule follows publication of the March 29, 2005, interim rule, and makes no changes at this final rule stage.

**DATES:** *Effective Date:* January 5, 2006.

**FOR FURTHER INFORMATION CONTACT:** Margaret Burns, Deputy Director, Office of Program Development, Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9266, Washington, DC 20410–8000; telephone (202) 708–2121 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION**

### I. Background

Section 251 of the National Housing Act (12 U.S.C. 1715z–16) authorizes the Secretary to insure adjustable rate mortgages (ARMs). ARMs are mortgages that remain at a fixed interest rate for a certain period of time, but then provide for periodic adjustments in the interest rate charged on the mortgage. An ARM may be attractive to a potential homebuyer because it offers a lower initial interest rate than most fixed rate mortgage loans.

Section 251 of the National Housing Act limits the amount of the annual interest rate adjustments on ARMs insured by HUD-Federal Housing Administration (FHA) depending on the duration of the initial fixed interest rate term. Section 301 of Public Law 108–186 (approved December 16, 2003) (2003 Act), amended section 251(d) of the National Housing Act to provide for greater flexibility in this regard. Prior to enactment of the 2003 Act, section 251 of the National Housing Act limited annual interest rate adjustments on FHA-insured ARMs to one percentage point only if the initial fixed interest rate term was for a period of five years or less. Section 301 amended section 251(d)(1)(C) of the National Housing Act to reduce this period to three years or less. In other words, the annual adjustment of one percent only applies to ARMs with a fixed term for the first three or fewer years. For five-, seven-, and ten-year ARMs, the mortgagee may make an annual adjustment that exceeds one percent. Thus, prior to the enactment of the interim rule, § 203.49(f)(1) limited the annual interest rate adjustment for five-year ARMs to a single percentage point.

HUD became aware of concerns among mortgage lenders and borrowers regarding the one percentage point limitation on annual interest rate adjustments for five-year ARMs. These concerns were based primarily on the fact that a one percentage point limitation on FHA-insured five-year ARMs did not accurately reflect the realities of the mortgage market. Conventional mortgage lenders do not offer five-year ARMs with a one percentage point cap on annual interest rate adjustments. A maximum annual increase of one percentage point does not provide lenders with sufficient interest rate flexibility to offer five-year ARMs at an interest rate below the traditional 30-year fixed rate mortgage. Accordingly, the one percentage point limitation undercut HUD's ability to offer mortgage insurance for a full range of ARM loans with standing initial interest rates lower than those on conventional 30-year fixed rate mortgages.

On March 29, 2005 (70 FR 16080), HUD published an interim rule that enabled the Secretary to insure five-year hybrid ARMs with interest rates adjustable up to two percentage points annually (this type of mortgage is known as a 5/1 ARM). In addition, the interim rule raised the lifetime cap on interest rate adjustments for five-year ARMs to six percentage points. This change conformed the lifetime cap for five-year ARMs to those applicable to seven- and ten-year ARMs.

### II. This Final Rule

This final rule follows publication of the March 29, 2005, interim rule and takes into consideration the public comments received on the interim rule. The public comment period for the interim rule closed May 31, 2005. HUD received one public comment on the interim rule from an association representing real estate practitioners. The commenter wrote that it supports the interim rule because the new interest rate allows sufficient interest rate flexibility and will expand the number of available insured mortgage options. HUD has decided to adopt the March 29, 2005, rule as final without change.

### III. Findings and Certifications

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis on any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule permits greater flexibility for all lenders, regardless of size, to offer a revised mortgage product that is eligible for FHA insurance. This rule imposes no additional economic or monetary requirements on businesses. Therefore, the undersigned certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

*Environmental Impact*

A Finding of No Significant Impact with respect to the environment was made at the interim rule stage in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). That Finding remains applicable to this final rule and is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from publishing any rule that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local

governments or preempt State law within the meaning of the Executive Order.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. This final rule does not impose any Federal mandates on any State, local, or tribal government, or the private sector within the meaning of UMRA.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance numbers applicable to this rule are 14.108, 14.117, and 14.119.

**List of Subject in 24 CFR Part 203**

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

■ Accordingly, for the reasons stated in the preamble, the interim rule for part 203 of Title 24 of the Code of Federal Regulations, amending § 203.49, published on March 25, 2005, at 70 FR 16080, is promulgated as final, without change.

Dated: November 23, 2005.

**Brian D. Montgomery,**

*Assistant Secretary for Housing, Federal Housing Commissioner.*

[FR Doc. 05–23648 Filed 12–5–05; 8:45 am]

BILLING CODE 4210–27–P

# Reader Aids

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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**COMMERCE DEPARTMENT**

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**H.R. 2528/P.L. 109–114**

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