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Contents

Federal Register

Vol. 70, No. 234

Wednesday, December 7, 2005

Agency for Healthcare Research and Quality
NOTICES
Meetings:
Citizens' Health Care Working Group, 72838–72839
Health Care Policy and Research Special Emphasis Panel, 72839

Agency for Toxic Substances and Disease Registry
NOTICES
Organization, functions, and authority delegations:
Health Promotions and Community Involvement Branch et al., 72839–72840
Superfund program:
Hazardous substances priorities list (toxicological profiles), 72840–72842

Agricultural Marketing Service
RULES
Melons grown in—
South Texas, 72699–72702

Agriculture Department
See Agricultural Marketing Service
See Federal Crop Insurance Corporation
See Forest Service
See Risk Management Agency
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72778–72780

Alcohol and Tobacco Tax and Trade Bureau
RULES
Alcohol; viticultural area designations:
Ramona Valley, San Diego County, CA, 72717–72720
Sta. Rita Hills, Santa Barbara County, CA; name change, 72710–72713
Texoma; Montague, Cooke, Grayson and Fannin Counties, TX, 72713–72717
Wahluke Slope, Grant County, WA, 72707–72710
PROPOSED RULES
Alcohol; viticultural area designations:
Tracy Hills, San Joaquin and Stanislaus Counties, CA, 72733–72739
Alcoholic beverages:
Labeling and advertising; use of word pure or its variants, 72731–72733

Alcohol, Tobacco, Firearms, and Explosives Bureau
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72850–72852

Centers for Disease Control and Prevention
NOTICES
Organization, functions, and authority delegations:
Buildings and Facilities Office et al., 72842–72843

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Limited English proficient programs—
Native American and Alaska Native Children in School Program, 72791–72795
Postsecondary education—
Gaining Early Awareness and Readiness for Undergraduate Programs, 72795–72796
North American Mobility in Higher Education Program, 72796–72799
US-Brazil Higher Education Consortia Program, 72799–72803

Election Assistance Commission
NOTICES
Meetings; Sunshine Act, 72803

Employment and Training Administration
NOTICES
Adjustment assistance; applications, determinations, etc.:
Cabinet Industries, Inc., 72853
Cardinal Health 200, Inc., 72853–72854
Champion Laboratories, Inc., 72854
Diefendorf Gear, LLC, 72854
J.E. Morgan Knitting Mills, 72854–72855
Kone et al., 72855–72856
La-Z-Boy Greensboro, Inc., 72856
Luhr Jensen & Sons, Inc., 72856
Merrill Corp., 72857–72858
Solectron Corp., 72858

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Texas, 72720–72723
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Colorado, 72741–72757
Texas, 72740–72741
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Polymers; molecular weight limitations removed, 72757–72763
NOTICES
Air pollution control:
State operating permits programs—
Georgia, 72826–72827
Pesticide, food, and feed additive petitions:
Hercon Environmental, 72829–72831
Jabb of the Carolinas, 72831–72833
Syngenta Crop Protection, Inc., 72834–72836
Pesticide programs:
Risk assessments—
Azinphos-methyl, 72827–72829

Federal Aviation Administration
RULES
Standard instrument approach procedures, 72703–72707
PROPOSED RULES
Airworthiness directives:
Empresa Brasileira de Aeronautica S.A. (EMBRAER), 72726–72730

Federal Bureau of Investigation
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72852–72853

Federal Communications Commission
RULES
Digital television stations; table of assignments:
Digital television distributed transmission system technologies, 72723–72724
PROPOSED RULES
Digital television stations; table of assignments:
Digital television distributed transmission system technologies, 72763–72775
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72836–72837

Federal Crop Insurance Corporation
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72780

Federal Emergency Management Agency
NOTICES
Grants and cooperative agreements; availability, etc.:
9/11 Heroes Stamp Act of 2001 Assistance Program; republication, 72845

Federal Energy Regulatory Commission
PROPOSED RULES
Electric utilities (Fed. Power Act), natural gas companies (Natural Gas Act), Natural Gas Policy Act, and oil pipelines (Interstate Commerce Act):
Contested audit matters; disposition procedures, 72730–72731
NOTICES
Complaints filed:
Duncan's Point Lot Owners Association et al., 72814
Wisconsin Public Service Corp. et al., 72814–72815
Electric rate and corporate regulation combined filings, 72815–72817
Environmental statements; availability, etc.:
S.D. Warren Co., 72817
United Water Conservation District, 72817–72818
Yuba County Water Agency, 72818
Environmental statements; notice of intent:
Tennessee Gas Pipeline Co., 72818–72820
Transcontinental Gas Pipe Line Corp., 72820–72822
Hydroelectric applications, 72822–72826
Meetings:
CenterPoint Energy-Mississippi River Transmission Corp; technical conference, 72826
Electric Quarterly Reports Users Group, 72826
Senior Executive Service, Performance Review Board; membership, 72826
Applications, hearings, determinations, etc.:
American Electric Power Service Corp., 72803
CBK Group, LTD, 72803–72804
Chandeleur Pipe Line Co., 72804
Colorado Interstate Gas Co., 72804–72805
Columbia Gas Transmission Corp., 72805
Consolidated Edison Co. of New York, Inc., et al., 72805–72806
Discovery Gas Transmission LLC, 72806
Dominion Cove Point LNG, LP, 72806–72807
Eastern Shore Natural Gas Co., 72807
El Paso Natural Gas Co., 72807–72808
Empire State Pipeline et al., 72808
Enbridge Pipelines (KPC), 72808–72809
Exelon Corp. et al., 72809
Exelon Generation Corp., LLC, 72809–72810
Gas Transmission Northwest Corp., 72810
Great Lakes Gas Transmission LP, 72810
Liberty Power Maryland LLC, 72810–72811
Millennium Pipeline Co., L.P, 72811
Northern Natural Gas Co., 72811–72812
Portland Natural Gas Transmission System, 72812
Silverhill Ltd., 72812–72813
Venice Gathering System, L.L.C., 72813
Williston Basin Interstate Pipeline Co., 72813–72814

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Sullivan County, TN, 72870–72871

Federal Maritime Commission
NOTICES
Agreements filed, etc., 72837

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 72837
Formations, acquisitions, and mergers, 72837–72838
Permissible nonbanking activities, 72838

Federal Transit Administration
NOTICES
Environmental statements; notice of intent:
Honolulu, City and County, HI; Southern Corridor high-capacity transit improvements, 72871–72873

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Flat-tailed horned lizard, 72776

Food and Drug Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72843–72844
Meetings:
Industry Exchange Workshop on Food and Drug Administration Clinical Trial Requirements; correction, 72844
Medical device quality systems regulation; risk management, corrective and preventive actions, and training; public workshop, 72844–72845

Forest Service
NOTICES
Meetings:
Resource Advisory Committees—
Tehama County, 72780

Health and Human Services Department
See Agency for Healthcare Research and Quality

See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration

Health Resources and Services Administration
NOTICES
Meetings:
Childhood Vaccines Advisory Commission; correction, 72845

Homeland Security Department
See Federal Emergency Management Agency

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

Internal Revenue Service
NOTICES
Privacy Act; system of records, 72876–72878

International Trade Administration
NOTICES
Antidumping:
Carbon and alloy steel wire rod from—
Various countries, 72781–72787
Cut-to-length carbon-quality steel plate from—
France, 72787–72788
Quick frozen red raspberries from—
Chile, 72788–72789
Stainless steel plate in coils from—
Belgium, 72789–72791

Justice Department
See Alcohol, Tobacco, Firearms, and Explosives Bureau
See Federal Bureau of Investigation

Labor Department
See Employment and Training Administration

Land Management Bureau
NOTICES
Environmental statements; notice of intent:
Devers-Palo Verde No. 2 Transmission Line Project, CA, 72845–72846
Realty actions; sales, leases, etc.:
Colorado, 72846–72847
Resource management plans, etc.:
Humboldt County Coastal Lands, CA, 72847–72848

Maritime Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72873–72874

National Aeronautics and Space Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72858–72860

National Archives and Records Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72860–72861

National Credit Union Administration
RULES
NCUA examiners; post-employment restrictions, 72702–72703

National Highway Traffic Safety Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72874–72875
Motor vehicle defect proceedings; petitions, etc.:
Schneider, Miriam; petition denied, 72875–72876

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic highly migratory species—
Atlantic bluefin tuna, 72724–72725
PROPOSED RULES
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish, 72777
NOTICES
Meetings:
Alaska; non-American Fisheries Act trawl catcher/processor sector catch-monitoring standards; workshop, 72791

National Park Service
NOTICES
National Register of Historic Places; pending nominations, 72848–72850

National Science Foundation
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72861–72862

Nuclear Regulatory Commission
NOTICES
Regulatory guides; issuance, availability, and withdrawal, 72862–72864

Public Debt Bureau
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72878–72879

Risk Management Agency
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72781

Securities and Exchange Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 72864–72865
Meetings; Sunshine Act, 72866–72867
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 72867–72870
Applications, hearings, determinations, etc.:
Applera Corp., 72865–72866
SJW Corp., 72866

Surface Transportation Board
NOTICES
Railroad services abandonment:
Union Pacific Railroad Co., 72876

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Transit Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 72870
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 72870

Treasury Department
See Alcohol and Tobacco Tax and Trade Bureau
See Internal Revenue Service
See Public Debt Bureau
PROPOSED RULES
Privacy Act; implementation, 72739–72740

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
979 72699

12 CFR
796 72702

14 CFR
97 (2 documents) 72703, 72705

Proposed Rules:
39 72726

18 CFR

Proposed Rules:
41 72730
158 72730
286 72730
349 72730

27 CFR
9 (4 documents) 72707, 72710, 72713, 72717

Proposed Rules:
4 72731
5 72731
7 72731
9 72733

31 CFR

Proposed Rules:
1 72739

40 CFR
52 72720

Proposed Rules:
52 (3 documents) 72740, 72741, 72744
180 72757

47 CFR
73 72723

Proposed Rules:
73 72763

50 CFR
635 72724

Proposed Rules:
17 72776
660 72777

Rules and Regulations

Federal Register
Vol. 70, No. 234
Wednesday, December 7, 2005

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

[Docket No. FV05–979–2 FIR]

Melons Grown in South Texas; Continued Suspension of Handling and Assessment Collection Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule suspending the minimum grade, quality, maturity, container, pack, inspection, assessment collection, and other related requirements prescribed under the South Texas melon (cantaloupes and honeydews) marketing order (order). It also continues in effect a suspension of all reporting requirements under the order. The order regulates the handling of melons grown in South Texas and is administered locally by the South Texas Melon Committee (Committee). On September 7, 2005, the Committee recommended termination of the order. This rule continues to relieve handlers of regulatory requirements while the USDA evaluates the Committee's recommendation to terminate the order.

DATES: Effective January 6, 2006.

FOR FURTHER INFORMATION CONTACT: Martin J. Engeler, Senior Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102–B, Fresno, California 93721; telephone: (559) 487–5110, Fax: (559) 487–5906; or Kathleen M. Finn, Formal Rulemaking Team Leader, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 156 and Order No. 979 (7 CFR part 979), regulating the handling of melons grown in South Texas, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

USDA is issuing this rule in conformance with Executive Order 12866.

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

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

This rule continues in effect indefinitely a suspension of the minimum grade, quality, maturity, container, pack, inspection, and other related requirements prescribed under the South Texas melon order. For the purposes of this rule, these requirements are referred to as handling requirements. It also continues in effect indefinitely a suspension of assessment collection and reporting requirements under the order. An interim final rule published in the **Federal Register** on November 26, 2004 (69 FR 68761), suspended these requirements for the 2004–05 fiscal period to allow the South Texas melon industry to evaluate the need for the marketing order. A final rule was published in the **Federal Register** on February 23, 2005 (70 FR 8709). On September 7, 2005, the Committee recommended termination of the order after a year of evaluation. An interim final rule was published in the **Federal Register** on October 5, 2005, (70 FR 57995) continuing indefinitely the suspension of all regulatory requirements under the order while USDA evaluates the Committee's recommendation to terminate the order.

Section 979.52 of the order provides authority for grade, size, maturity, quality, and pack regulations for any variety of melons grown in the production area during any period. Section 979.52 also authorizes the modification, suspension, or termination of regulations issued under the order. Authority to terminate or suspend provisions of the order is specified in § 979.84.

Section 979.60 provides that whenever melons are regulated pursuant to § 979.52, such melons must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations. The cost of such inspection and certification is borne by handlers.

Under the order, fresh market shipments of South Texas melons are required to be inspected and are subject to minimum grade, quality, maturity, and container and pack requirements. Section 979.304 Handling regulation (7 CFR part 979.304) specifies minimum grade and quality requirements for the handling of cantaloupes and honeydew melons. That section also specifies pack and container requirements for these commodities.

Section 979.304 further includes a minimum quantity exemption of 120 pounds per day, and reporting and safeguard requirements for special purpose and experimental shipments. Related provisions appear in the

regulations in § 979.106 *Registered handlers;* § 979.152 *Handling of culls;* and § 979.155 *Safeguards.*

At its September 16, 2004, meeting, the Committee unanimously recommended suspending, for the 2004–2005 fiscal period, the handling, assessment collection, and all reporting requirements, except for the acreage planting reporting requirement. The 2004–05 fiscal period began October 1, 2004, and ended September 30, 2005.

These requirements initially were suspended pursuant to a rule published in the **Federal Register** on November 26, 2004 (69 FR 68761). It was believed that the cost of inspection and certification and administering the order may exceed the benefits. The regulations were suspended for one fiscal year so the industry would have time to evaluate whether the order should be continued. Consistent with the suspension of § 979.304, also suspended for the 2004–2005 fiscal year were § 979.106, § 979.152, and § 979.155 of the rules and regulations in effect under the order. Section 979.106 provides for the registration of handlers, § 979.152 details procedures for the handling of cull melons, and § 979.155 provides safeguard requirements for special purpose shipments and establishes reporting and recordkeeping requirements when such exemptions are in place.

In addition, § 979.219 requiring that an assessment rate of $0.09 per carton of melons be collected from South Texas melon handlers was also suspended. Consistent with suspension of § 979.219, § 979.112 specifying late payment charges on delinquent assessments was also suspended.

The Committee met on September 7, 2005, to evaluate the industry situation since the regulations were suspended. Planted acreage continued to decline, from 4,780 acres in 2003–04 to 2,364 acres in 2004–05. The number of melon growers and handlers also continued to decline. During the 2003–04 season, there were 29 growers and 16 handlers; in 2004–05 the number of known growers decreased to 13 and handlers decreased to seven. In addition, no new varieties were introduced to improve the quality and make the product more competitive with product from other producing areas. In short, the industry situation continues to worsen. The Committee believes that there is no longer a need for the order, and therefore recommended its termination. USDA is evaluating the Committee's recommendation.

The first suspension of regulations expired on September 30, 2005. The process to terminate a marketing order takes several months to complete; therefore, an interim final rule continuing indefinitely the suspension of regulations was issued in the **Federal Register** at 70 FR 57995 on October 5, 2005. That interim final rule also suspended the one remaining reporting requirement in effect regarding planted acreage, as the Committee believes there is no need to incur any costs or gather additional data. This final rule continues in effect the suspension of all regulatory requirements under the order.

Final Regulatory Flexibility Analysis

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

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

During the 2004–05 marketing year, there were approximately seven handlers of South Texas melons subject to regulation under the marketing order and approximately 13 melon growers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,000,000, and small agricultural growers are defined as those having annual receipts of less than $750,000.

Most of the handlers are vertically integrated corporations involved in growing, shipping, and marketing melons. For the 2003–04 marketing year, the industry's 16 handlers shipped melons produced on 4,780 acres with the average and median volume handled being 89,012 and 10,655 containers, respectively. In terms of production value, total revenue for the 16 handlers was estimated to be $12,175,919, with the average and median revenues being $760,996 and $91,094, respectively. Complete comparable data is not available for the 2004–05 marketing year, but based on a reduction of acreage from 4,780 acres in 2003–04 to 1,364 acres in 2004–05, and the reduced number of growers and handlers, it follows that the volume handled and the value of production likely declined as well.

The South Texas melon industry is characterized by growers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of melons. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the melon production season is complete. For this reason, typical melon growers and handlers either double-crop melons during other times of the year or produce alternative crops, like onions.

Based on the SBA's definition of small entities, it is estimated that all of the seven handlers regulated by the order would be considered small entities if only their Spring melon revenues are considered. However, revenues from other productive enterprises might push a number of these handlers above the $6,000,000 annual receipt threshold. Of the 13 growers within the production area, few have sufficient acreage to generate sales in excess of $750,000; therefore, the majority of growers may be classified as small entities.

At its September 16, 2004, meeting, the Committee unanimously recommended suspending, for the 2004–2005 fiscal period, the handling, assessment collection, and all reporting requirements, except for the acreage planting reporting requirement. The Committee requested that the rule be effective for the 2004–05 fiscal period, which began October 1, 2004, and ends September 30, 2005. A rule was published in the **Federal Register** on November 26, 2004, suspending these requirements for the specified period (69 FR 68762). A final rule was published in the **Federal Register** on February 23, 2005 (70 FR 8709).

The objective of the handling and inspection requirements is to ensure that only acceptable quality cantaloupe and honeydew melons enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to growers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes that the cost of inspection and certification (mandated when minimum requirements are in effect) may exceed the benefits derived, especially in view of reduced melon acreage and yields in recent years.

The South Texas cantaloupe and honeydew melon industry has been shrinking. South Texas historically had enjoyed a marketing window of

approximately six weeks beginning about May 1 each season. That window has steadily eroded in recent years due to strong competition and quality problems in Texas melons. As a result, acreage has decreased dramatically from a high of 27,463 acres in 1987, to 4,780 in 2004, and 1,364 acres in 2005. The number of producers and handlers also has steadily declined.

Underlying economics for the South Texas melon industry did not justify continuing the regulations for 2004–05. Too little assessment revenue could be generated for an effective marketing and promotion program, and buyer demands have superseded the regulations in dictating quality requirements.

Suspending the regulations enabled handlers to ship melons without regard to the minimum grade, quality, maturity, container, pack, inspection, and related requirements for the 2004–05 fiscal period. It decreased industry expenses associated with inspection and assessments.

In addition, this rule also suspended, for the 2004–05 marketing year, § 979.219 requiring that an assessment rate of $0.09 per carton of melons be collected from South Texas melon handlers. Consistent with suspension of § 979.219, § 979.112 specifying late payment charges on delinquent assessments was also suspended. Authorization to assess melon handlers enables the Committee to incur expenses that are necessary to administer the marketing order.

With the suspension of handling, inspection, and assessment requirements, a limited Committee budget was needed for program administration and collection of acreage planting reports. For the period of the suspension, the Committee recommended a reduced budget of $70,959 to cover anticipated expenses. Adequate funds to cover these expenses were provided from the Committee's reserves.

The Committee anticipated that suspending the regulations would not negatively impact small businesses. The suspension applied to minimum grade, quality, maturity, container, pack, inspection, assessment collection, some reporting, and other related requirements. Further, this rule allowed handlers and growers the choice to obtain inspection for melons, as needed, thereby reducing costs for the industry. The total cost of inspection and certification for fresh shipments of South Texas melons during the 2003–04 marketing season was $46,000. These costs were not incurred during the 2004–2005 season.

The suspension of the assessment collection requirements for the 2004–05 season also resulted in some cost savings. Assessment collections during the 2003–04 season totaled $102,988. As a result of the suspension of § 979.219, no assessments were collected during the 2004–05 season.

At its September 16, 2004, meeting, the Committee considered suspension of the marketing order, but chose to continue receiving data on plantings for a one-year period before deciding whether the order should be continued.

The Committee met on September 7, 2005, to evaluate the industry situation since the regulations were suspended. Planted acreage continued to decline, from 4,780 acres in 2003–04 to 2,364 acres in 2004–05. The number of melon growers and handlers also continued to decline. During the 2003–04 season, there were 29 growers and 16 handlers; in 2004–05 the numbers decreased to 13 and seven, respectively. In addition, no new varieties were introduced to improve the quality and make South Texas melons more competitive with other producing areas.

The Committee believes that there is no longer a need for the order, and therefore recommended its termination. USDA is evaluating the Committee's recommendation. The first suspension of regulations expired on September 30, 2005. A subsequent interim final rule was published in the **Federal Register** on October 5, 2005, (70 FR 57995) suspending all regulatory requirements under the order, including the one remaining reporting requirement in effect. This final rule continues in effect the suspension of all regulatory requirements indefinitely as USDA evaluates the Committee's recommendation to terminate the order.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements continuing to be suspended by this rule were approved previously by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. Suspension of all the reporting requirements under the order is expected to reduce the reporting burden on small or large South Texas melon handlers by 24.90 hours, and should further reduce industry expenses. Handlers are no longer required to file any forms with the Committee. This rule will, thus, not impose any additional reporting or recordkeeping requirements on either small or large melon handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

Further, the Committee's meeting was widely publicized throughout the melon industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the September 16, 2004, meeting and the September 7, 2005 meeting were public meetings and all entities, both large and small, were able to express their views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses. No comments were received.

An interim final rule concerning this action was published in the **Federal Register** on October 5, 2005. Copies of the rule were mailed by the Committee's staff to all Committee members and melon handlers. In addition, the rule was made available through the Internet by the USDA and the Office of the **Federal Register**. That rule provided for a 30-day comment period which ended November 4, 2005. No comments were received.

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

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that the regulations suspended in this final rule, which adopts, without change, the interim final rule, as published in the **Federal Register** (70 FR 57995) no longer tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

PART 979—MELONS GROWN IN SOUTH TEXAS

■ Accordingly, the interim final rule amending 7 CFR Part 979 which was published at 70 FR 57995 on October 5, 2005, is adopted as a final rule without change.

Dated: December 1, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05–23707 Filed 12–6–05; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 796

Post-Employment Restrictions for Certain NCUA Examiners

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is adding a new part to NCUA's regulations to implement new, post-employment restrictions that will apply to certain senior NCUA examiners starting December 17, 2005. The final rule prohibits senior NCUA examiners, for a year after leaving NCUA employment, from accepting employment with a credit union if they had continuing, broad responsibility for examination of that credit union for a total of two or more months during their last 12 months of NCUA employment.

DATES: Effective December 17, 2005.

FOR FURTHER INFORMATION CONTACT: Regina M. Metz, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION: On December 17, 2004, Congress enacted the Intelligence Reform Act, Public Law 108–458, creating new, post-employment restrictions for certain federal employees who examine banks and credit unions. Public Law No. 108–458, § 6303(c), 118 Stat. 3754 (2004). The law amended the Federal Credit Union (FCU) Act and requires NCUA to prescribe a rule implementing this section for federal examiners of federally insured credit unions. 12 U.S.C. 1786(w). The law also requires NCUA to consult to the extent it deems necessary with the federal banking agencies. In July, the Board issued a proposed rule with a 60-day comment period on post-employment restrictions for certain NCUA examiners to implement the amendments. 70 FR 43800, Jul. 29, 2005. NCUA reviewed and considered all comments received and, except for two minor clarifications, is issuing the final rule unchanged from the proposed rule. As with the proposed rule, NCUA staff consulted with an interagency group so that the final rule is consistent and comparable with the final rule the Federal banking agencies are issuing.

The post-employment restrictions will apply to senior examiners starting December 17, 2005. For a year after leaving NCUA employment, senior examiners will be prohibited from accepting employment with a federally insured credit union if they had continuing, broad responsibility for examination of that credit union for two or more months during their last 12 months of NCUA employment.

The final rule implements the statutory provisions by giving NCUA the authority to issue administrative orders removing a person from a position with a federally insured credit union and barring further participation with that credit union or any federally insured credit union for up to five years. Also, the final rule implements the statute by imposing civil money penalties for violations of up to $250,000. The rule also implements the statutory provision authorizing the NCUA Board to grant waivers if the NCUA Chairman certifies that granting the waiver would not affect the integrity of NCUA's supervisory program.

NCUA received eight comments: Three from national trade groups; one from a state trade group; three from Federal credit unions; and one from a state-chartered credit union. Four of the eight commenters fully supported the proposed rule and believe NCUA properly implemented the new statutory post-employment restrictions.

Two commenters thought the rule should be less restrictive and two commenters thought it should be more restrictive. Since the restrictions are statutory, the regulation cannot be less restrictive. One commenter who thought the post-employment restriction should be more restrictive supported a two-year cooling off period during which a senior examiner could not work for the credit union for which he or she had a substantial role in the supervision. The other commenter who thought the proposed rule should be stricter recommended NCUA expand the proposed ''senior examiner'' definition to include any examiners involved in a credit union in the last 12 months of their NCUA employment and at a minimum, examiners-in-charge. The commenter also proposed NCUA implement additional penalties for NCUA examiners seeking employment with credit unions.

The final rule retains the one-year cooling off period as specified in the statute. The final rule also retains the definition of NCUA senior examiner to whom the restriction will apply with one wording change from ''commissioned'' to ''authorized.'' 12 CFR 796.2. Congress intended the one-year post-employment prohibition to apply to examiners with a ''meaningful'' relationship to the credit union.[1] Consistent with that intent, the final rule defines a ''senior examiner'' as an NCUA employee, authorized as an examiner, who has continuing, broad, and lead responsibility for examining a particular federally insured credit union, routinely interacts with officers or employees of the credit union, and devotes a substantial portion of his or her time to supervising or examining that credit union. Finally, the wording of the final rule in section 796.3 has been slightly modified to reflect that the cooling off period applies to a senior examiner who performed work, including onsite or offsite work, for a federally insured credit union for a total of two months or more in his or her last year of NCUA employment.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities. NCUA considers credit unions having less than ten million dollars in assets to be small for purposes of RFA. Interpretive Ruling and Policy Statement (IRPS) 87–2 as amended by IRPS 03–2. The final rule prohibits senior examiners from accepting employment with a credit union if they had continuing, broad responsibility for examination of that credit union for two or more months during their last 12 months of NCUA employment. The NCUA has determined and certifies that this final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA has determined that an RFA analysis is not required.

Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board has determined that the final rule does not contain any information collections and, therefore, no PRA number is required.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on

[1] 150 CONG. REC. S10356 (daily ed. Oct. 4, 2004) (statement of Sen. Levin).

state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 796

Conflicts of interest, Credit unions, Ethical conduct, Government employees.

By the National Credit Union Administration Board on November 29, 2005.

Mary F. Rupp,

Secretary of the Board.

■ Accordingly, NCUA proposes to add a new 12 CFR part 796 as follows:

PART 796—POST–EMPLOYMENT RESTRICTIONS FOR CERTAIN NCUA EXAMINERS

Sec.

796.1 What is the purpose and scope of this part?
796.2 Who is considered a senior examiner of the NCUA?
796.3 What special post-employment restrictions apply to senior examiners?
796.4 When do these special restrictions become effective and may they be waived?
796.5 What are the penalties for violating these special post-employment restrictions?
796.6 What other definitions and rules of construction apply for purposes of this part?

Authority: 12 U.S.C. 1786(w).

§ 796.1 What is the purpose and scope of this part?

This part identifies those National Credit Union Administration (NCUA) employees who are subject to the special, post-employment restrictions in section 1786(w) of the Act and implements those restrictions as they apply to NCUA employees.

§ 796.2 Who is considered a senior examiner of the NCUA?

For purposes of this part, an NCUA employee is considered to be the ''senior examiner'' for a federally insured credit union if the employee—

(a) Has been authorized by NCUA to conduct examinations or inspections of federally insured credit unions on behalf of NCUA;

(b) Has continuing, broad, and lead responsibility for examining or inspecting that federally insured credit union;

(c) Routinely interacts with officers or employees of that federally insured credit union; and

(d) Devotes a substantial portion of his or her time to supervising or examining that federally insured credit union.

§ 796.3 What special post-employment restrictions apply to senior examiners?

(a) *Senior examiners of federally insured credit unions.* An officer or employee of the NCUA who performs work (onsite or offsite) as the senior examiner of a federally insured credit union for a total of two or more months during the last 12 months of individual's employment with NCUA may not, within one year after leaving NCUA employment, knowingly accept compensation as an employee, officer, director, or consultant from that credit union.

(b) *Example.* An NCUA resident corporate credit union examiner assigned to work at a federally insured, corporate credit union for two or more months during the last 12 months of that individual's employment with NCUA will be subject to the one-year prohibition of this section.

§ 796.4 When do these special restrictions become effective and may they be waived?

The post-employment restrictions in section 1786(w) of the Act and § 796.3 do not apply to any current or former NCUA employee, if:

(a) The individual ceased to be an NCUA employee on or before December 17, 2005; or

(b) The Chairman of the NCUA Board certifies in writing and on a case-by-case basis that granting the senior examiner a waiver of the restrictions would not affect the integrity of the NCUA's supervisory program.

§ 796.5 What are the penalties for violating these special post-employment restrictions?

(a) *Penalties under section 1786(w)(5) of the Act.* An NCUA senior examiner who violates the post-employment restrictions set forth in § 796.3 can be:

(1) Removed from participating in the affairs of the relevant credit union and prohibited from participating in the affairs of any federally insured credit union for a period of up to five years; and, alternatively, or in addition,

(2) Assessed a civil monetary penalty of not more than $250,000.

(b) *Other penalties.* The penalties in paragraph (a) of this section are not exclusive, and a senior examiner who violates the restrictions in § 796.3 also may be subject to other administrative, civil, and criminal remedies and penalties as provided in law.

§ 796.6 What other definitions and rules of construction apply for purposes of this part?

For purposes of this part, a person shall be deemed to act as a ''*consultant*'' for a federally insured credit union or other company only if the person works directly on matters for, or on behalf of, such credit union.

[FR Doc. 05–23710 Filed 12–6–05; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30466; Amdt. No. 3142]

Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and/or Weather Takeoff Minimums for operations at certain airports. These regulatory actions are needed because of the adoption of new

or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective December 7, 2005. The compliance date for each SIAP and/or Weather Takeoff Minimums is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 7, 2005.

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

For Examination—

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

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

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

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

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

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

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

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

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

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

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

The Rule

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on November 18, 2005.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

** * * Effective December 22, 2005*

Mountain View, CA, Moffett Federal Afld, TACAN RWY 32R, Orig
Mountain View, CA, Moffett Federal Afld, TACAN RWY 32L, Orig
Mountain View, CA, Moffett Federal Afld, LOC/DME RWY 14L, Orig
Mountain View, CA, Moffett Federal Afld, ILS OR LOC/DME RWY 32R, Orig
Mountain View, CA, Moffett Federal Afld, Takeoff Minimums and Textual DP, Orig
Colorado Springs, CO, Colorado Springs Muni, RNAV (GPS) RWY 35R, Amdt 1
Blakely, GA, Early County, LOC/NDB RWY 23, Orig
Cartersville, GA, Cartersville, RNAV (GPS) RWY 1, Orig
Cartersville, GA, Cartersville, RNAV (GPS) RWY 19, Orig
Cartersville, GA, Cartersville, LOC RWY 19, Amdt 3
Cartersville, GA, Cartersville, NDB RWY 19, Amdt 4
Cartersville, GA, Cartersville, VOR/DME–A, Amdt 2
Peru, IL, Illinois Valley Rgnl—Walter A. Duncan Field, NDB OR GPS RWY 18, Amdt 3, CANCELLED
Covington, KY, Cincinnati Northern Kentucky International, NDB RWY 9, Amdt 15, CANCELLED
Lafayette, LA, Lafayette Regional, ILS OR LOC/DME RWY 4R, Orig
Marksville, LA, Marksville Municipal, RNAV (GPS) RWY 4, Orig-A
Hyannis, MA, Barnstable Muni-Boardman/Polando Field, ILS OR LOC RWY 15, Amdt 3
Mosby, MO, Clay County Regional, NDB RWY 18, Amdt 2
Mosby, MO, Clay County Regional, RNAV (GPS) RWY 18, Orig
Mosby, MO, Clay County Regional, GPS RWY 18, Orig-D, CANCELLED
Mosby, MO, Clay County Regional, RNAV (GPS) RWY 36, Amdt 1
Mosby, MO, Clay County Regional, Takeoff Minimums and Textual DP, Orig
Concord, NC, Concord Regional, ILS OR LOC RWY 20, Amdt 2
Wadesboro, NC, Anson County, RNAV (GPS) RWY 16, Orig
Wadesboro, NC, Anson County, RNAV (GPS) RWY 34, Orig
Wadesboro, NC, Anson County, NDB RWY 17, Amdt 2, CANCELLED
Wadesboro, NC, Anson County, GPS RWY 17, Orig, CANCELLED
Wadesboro, NC, Anson County, GPS RWY 35, Orig, CANCELLED
Wadesboro, NC, Anson County, Takeoff Minimums and Textual DP, Amdt 1
McCook, NE, McCook Regional, LOC/DME RWY 12, Orig
McCook, NE, McCook Regional, VOR RWY 30, Amdt 11
Norfolk, NE, Karl Stefan Memorial, RNAV (GPS) RWY 19, Amdt 1A
Manchester, NH, Manchester, ILS OR LOC RWY 35; ILS RWY 35 (CAT II); ILS RWY 35 (CAT III), Amdt 1
Westhampton Beach, NY, Francis S. Gabreski, ILS OR LOC RWY 24, Amdt 9
Westhampton Beach, NY, Francis S. Gabreski, COPTER ILS OR LOC RWY 24, Amdt 2
Westhampton Beach, NY, Francis S. Gabreski, RNAV (GPS) RWY 24, Amdt 1
Eugene, OR, Mahlon Sweet Field, NDB RWY 16R, Amdt 29D, CANCELLED
Conway, SC, Conway-Horry County, RNAV (GPS) RWY 22, Orig
Conway, SC, Conway-Horry County, GPS RWY 22, Orig, CANCELLED
Bristol/Johnson/Kingsport, TN, Tri-Cities Rgnl TN/VA, Takeoff Minimums and Textual DP, Amdt 6
Union City, TN, Everett-Stewart, RNAV (GPS) RWY 19, Orig
Union City, TN, Everett-Stewart, RNAV (GPS) RWY 1, Orig
Union City, TN, Everett-Stewart, NDB RWY 1, Amdt 7
La Porte, TX, La Porte Muni, RNAV (GPS) RWY 30, Amdt 1
Seattle, WA, Seattle-Tacoma Intl, ILS OR LOC RWY 16L, Amdt 2, ILS RWY 16L (CAT II)

** * * Effective January 19, 2006*

Owensboro, KY, Owensboro-Daviess County, RNAV (GPS) RWY 36, Amdt 2

** * * Effective February 16, 2006*

Middleton Island, AK, Middleton Island, RNAV (GPS) RWY 1, Orig
Middleton Island, AK, Middleton Island, RNAV (GPS) RWY 19, Orig
Middleton Island, AK, Middleton Island, VOR/DME RWY 19, Amdt 5
Middleton Island, AK, Middleton Island, NDB–A, Orig–A, CANCELLED
Middleton Island, AK, Middleton Island, VOR RWY 1, Amdt 2
Chicago/Aurora, IL, Aurora Muni, RNAV (GPS) RWY 9, Amdt 1
Chicago/Aurora, IL, Aurora Muni, ILS OR LOC RWY 9, Amdt 3
Indianapolis, IN, Indianapolis Intl, ILS OR LOC RWY 14, Amdt 5
Indianapolis, IN, Indianapolis Intl, ILS OR LOC RWY 5R, ILS RWY 5R (CAT II), ILS RWY 5R (CAT III), Amdt 4
Indianapolis, IN, Indianapolis Intl, ILS OR LOC RWY 23L, Amdt 4
Baton Rouge, LA, Baton Rouge Metropolitan Ryan Field, RNAV (GPS) RWY 31, Amdt 1A
St Paul, MN, St Paul Downtown Holman Fld, RNAV (GPS) RWY 14, Orig
St Paul, MN, St Paul Downtown Holman Fld, RNAV (GPS) RWY 32, Orig
St Paul, MN, St Paul Downtown Holman Fld, NDB RWY 31, Amdt 8
St Paul, MN, St Paul Downtown Holman Fld, GPS RWY 14, Orig, CANCELLED
Castroville, TX, Castroville Muni, RNAV (GPS) RWY 15, Orig–A
Appleton, WI, Outagamie County Regional, RNAV (GPS) RWY 3, Amdt 1
Appleton, WI, Outagamie County Regional, RNAV (GPS) RWY 21, Amdt 1
Appleton, WI, Outagamie County Regional, LOC BC RWY 21, Amdt 1, CANCELLED
Appleton, WI, Outagamie County Regional, VOR/DME RWY 21, Amdt 1

The FAA published an Amendment in Docket No. 30464 Amdt No. 3140 to Part 97 of the Federal Aviation Regulations (Vol. 70, FR. No. 219, page 69273, dated November 15, 2005). Under section 97.33 effective for 22 December 2005, which is hereby corrected to be effective for 24 November 2005:

Portland, ME, Portland Intl Jetport, RNAV (GPS) RWY 11, Amdt 2

The FAA published an Amendment in Docket No. 30464 Amdt No. 3140 to Part 97 of the Federal Aviation Regulations (Vol 70, FR No. 219, pages 69273 and 69274, dated November 15, 2005). Under Section 97.29 effective 22 December 2005, which is hereby corrected as follows:

Greenwood, MS, Greenwood-LeFlore, VOR/DME RNAV RWY 36, Amdt 3A, CANCELLED
Greenwood, MS, Greenwood-LeFlore, VOR/DME RNAV RWY 18, Amdt 6A, CANCELLED

[FR Doc. 05–23645 Filed 12–6–05; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30467; Amdt. No. 3143]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective December 7, 2005. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 7, 2005.

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

For Examination—

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

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) amends Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in the appropriate FAA Form 8260, as modified by the the National Flight Data Center (FDC)/Permanent Notice to Airmen (P-NOTAM), which is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Code of Federal Regulations. Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on November 18, 2005.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendemnt

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

. . . Effective Upon Publication

FDC date	State	City	Airport	FDC No.	Subject
11/03/05	TX	Lubbock	Lubbock Preston Smith Intl	5/0297	ILS OR LOC RWY 26, AMDT 3A.
11/07/05	ND	Hillsboro	Hillsboro Muni	5/0375	RNAV (GPS) RWY 34, ORIG-A.
11/07/05	ND	Hillsboro	Hillsboro Muni	5/0376	RNAV (GPS) RWY 16, ORIG-A.
11/15/05	FL	Melbourne	Melbourne Intl	5/0328	RNAV (GPS) RWY 27L, ORIG-A.
11/03/05	SC	Myrtle Beach	Myrtle Beach Intl	5/0232	ILS OR LOC RWY 36, AMDT 1C.
11/03/05	SC	Myrtle Beach	Myrtle Beach Intl	5/0233	RNAV (GPS) RWY 36, AMDT 1A.
11/03/05	SC	Myrtle Beach	Myrtle Beach Intl	5/0234	RADAR–1, AMDT 1C.

FDC date	State	City	Airport	FDC No.	Subject
11/03/05	SC	Myrtle Beach	Myrtle Beach Intl	5/0235	ILS OR LOC RWY 18, AMDT 1F.
11/03/05	SC	Myrtle Beach	Myrtle Beach Intl	5/0236	RNAV (GPS) RWY 18, AMDT 1C.
11/09/05	TN	Chattanooga	Lovell Field	5/0497	ILS OR LOC RWY 2, AMDT 7A.
11/15/05	OR	Eugene	Mahlon Sweet Field	5/0407	LOC/DME RWY 16L, ORIG-A.
11/15/05	OR	Eugene	Mahlon Sweet Field	5/0409	RNAV (GPS) RWY 16L, ORIG-A.
11/15/05	WA	Pasco	Tri-Cities	5/0394	VOR/DME RWY 30, AMDT 2A.
11/15/05	WA	Pasco	Tri-Cities	5/0395	ILS RWY 21R,.AMDT 10D.
11/15/05	WA	Pasco	Tri-Cities	5/0396	RNAV (GPS) RWY 30, ORIG-A.
11/08/05	IL	Jacksonville	Jacksonville Muni	5/0388	RNAV (GPS) RWY 31, ORIG-A.
11/08/05	IL	Jacksonville	Jacksonville Muni	5/0389	RNAV (GPS) RWY 4, ORIG-A.
11/08/05	IL	Jacksonville	Jacksonville Muni	5/0390	RNAV (GPS) RWY 22, ORIG-A.
11/08/05	SD	Brookings	Brookings Muni	5/0401	ILS OR LOC RWY 30, ORIG-A.
11/08/05	ND	Dickinson	Dickinson-Theodore Roosevelt Regional.	5/0402	ILS OR LOC RWY 32, AMDT 1A.
11/08/05	OH	Port Clinton	Carl R Keller Field	5/0422	NDB RWY 27, AMDT 12A.
11/08/05	MN	Minneapolis	Flying Cloud	5/0441	ILS OR LOC RWY 10R, AMDT 2B.
11/09/05	MN	Minneapolis	Flying Cloud	5/0442	COPTER OR ILS RWY 10R, ORIG-C.
11/09/05	IL	Champaign/Urbana	University of Illinois-Willard	5/0485	GPS RWY 36, ORIG-B.
11/09/05	IL	Champaign/Urbana	University of Illinois-Willard	5/0487	VOR RWY 18, ORIG-A.
11/09/05	IL	Champaign/Urbana	University of Illinois-Willard	5/0488	ILS OR LOC RWY 32R, AMDT 11C.
11/09/05	IL	Champaign/Urbana	University of Illinois-Willard	5/0489	GPS RWY 18, ORIG-B.
11/09/05	IL	Jacksonville	Jacksonville Muni	5/0490	RNAV (GPS) RWY 13, ORIG-A.
11/15/05	IL	Springfield	Abraham Lincoln Capital	5/0636	ILS OR LOC RWY 31, AMDT 2A.
11/15/05	IL	Springfield	Abraham Lincoln Capital	5/0637	ILS OR LOC RWY 22, AMDT 8A.
11/15/05	IL	Springfield	Abraham Lincoln Capital	5/0638	ILS OR LOC RWY 4, AMDT 25A.
11/08/05	RI	Providence	Theodore Francis Green State	5/0412	ILS RWY 34, AMDT 10B.
11/08/05	RI	Providence	Theodore Francis Green State	5/0413	RNAV (GPS) RWY 5, ORIG-A.
11/08/05	RI	Providence	Theodore Francis Green State	5/0414	RNAV (GPS) RWY 16, ORIG-A.
11/08/05	RI	Providence	Theodore Francis Green State	5/0415	RNAV (GPS) RWY 23, ORIG-B.
11/08/05	RI	Providence	Theodore Francis Green State	5/0416	RNAV (GPS) RWY 34, ORIG-B.
11/08/05	RI	Providence	Theodore Francis Green State	5/0417	VOR/DME RWY 16, AMDT 4C.
11/08/05	RI	Providence	Theodore Francis Green State	5/0418	VOR/DME RWY 23, AMDT 6F.
11/08/05	RI	Providence	Theodore Francis Green State	5/0419	VOR/DME RWY 34, AMDT 5D.
11/08/05	RI	Providence	Theodore Francis Green State	5/0420	VOR RWY 5, AMDT 13E.
11/08/05	RI	Providence	Theodore Francis Green State	5/0421	VOR RWY 34, AMDT 4D.
11/17/05	NM	Farmington	Four Corners Regional	5/0438	ILS OR LOC ILS RWY 25, AMDT 7A.
11/17/05	NM	Roswell	Roswell International Air Center	5/0464	LOC BC RWY 3, AMDT 9A.
11/17/05	NM	Santa Fe	Santa Fe Muni	5/0504	VOR/DME-A, AMDT 1B.
11/17/05	NM	Santa Fe	Santa Fe Muni	5/0506	VOR RWY 33, AMDT 9B.

[FR Doc. 05–23646 Filed 12–6–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB–40; Re: Notice No. 46]

RIN 1513–AB01

Establishment of the Wahluke Slope Viticultural Area (2005R–026P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the Wahluke Slope viticultural area in Grant County, Washington. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

EFFECTIVE DATE: January 6, 2006.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; telephone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its

geographical origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Wahluke Slope Petition and Rulemaking

General Background

The Wahluke Slope Wine Grape Growers Association, represented by Alan J. Busacca, Ph.D., proposed the establishment of the 81,000-acre Wahluke Slope viticultural area. Located in southern Grant County in eastern Washington State, the Wahluke Slope area is approximately 145 miles southeast of Seattle and immediately north of the Hanford Reservation of the United States Department of Energy (USDOE). The proposed Wahluke Slope area is also entirely within the existing Columbia Valley viticultural area (27 CFR 9.74).

The major distinguishing features of the proposed Wahluke Slope viticultural area include its single landform and geographic isolation, distinctive soil patterns, and unique climatic characteristics. We summarize below the evidence submitted in support of the petition.

Name Evidence

The eight USGS quadrangle maps used to describe the boundary of the proposed viticultural area label the region within the proposed area and the nearby Hanford Reservation as ''Wahluke Slope.'' Several commercial maps also label this region of southern Grant County as Wahluke Slope.

The 2002 Washington Wine Grape Acreage Survey, compiled by the Washington Agricultural Statistics Service, identifies the Wahluke Slope area within the larger Columbia Valley viticultural area. Also, the April 19, 1999, edition of the ''Hanford Reach,'' a USDOE publication, states that the Secretary of Energy proposed to preserve a portion of the Wahluke Slope area along the Columbia River. A Grant County tourism press release dated March 24, 2004, describes the scenery and recreational opportunities in the Wahluke Slope area.

Boundary Evidence

The Wahluke Slope sits on a mega alluvial plain, also known as an alluvial fan. The proposed boundary line encompasses the entire portion of the mega fan potentially available for vineyard development, including all land held in private ownership and small amounts of government-owned land. Also, the Wahluke Slope area is an isolated island of wine grape production, with no known vineyards within five miles, in any direction, beyond the proposed boundary line.

Generally, lands to the east, south, and west of the proposed Wahluke Slope area's boundary line are Federal-owned or State-owned property, as noted on USGS maps of the area. To the north, the Saddle Mountains flank the proposed area's 1,480-foot boundary line.

To the southeast of the proposed Wahluke Slope viticultural area, the land has a high water table, cold air pockets, and frost, which create an environment unsuitable for vineyard production. To the south of the proposed boundary is the Hanford Reservation. The classified activities and history of this USDOE reservation make it unsuitable for agricultural development. To the west of the Wahluke Slope area, and across the Columbia River, are steeply sloping, rugged canyons. The soils there are shallow, stony, and unsuitable for any crop. Also, to the north, beyond the proposed area's 1,480-foot boundary line, the Saddle Mountains have high elevation bedrock slopes, no irrigation access, and non-agricultural soils.

The combination of terrain with unsuitable growing conditions and government-owned lands surrounding the proposed Wahluke Slope viticultural area, in conjunction with the distinguishing viticultural features of the area, makes the proposed boundary line the most appropriate for the proposed Wahluke Slope viticultural area.

Distinguishing Features

The Wahluke Slope region is situated on the Columbia Plateau in eastern Washington, which is bordered by the Rocky Mountains on the north and east, the Blue Mountains to the south, and the Cascade Mountains to the west. The proposed Wahluke Slope viticultural area sits on the south-facing alluvial benchlands of the Saddle Mountains.

Topography

The proposed Wahluke Slope viticultural area's elevation varies from 425 feet along the Columbia River to 1,480 feet on the south slope of the Saddle Mountains. Most of the proposed area's vineyards are between 425 feet and 1,000 feet in elevation.

The proposed Wahluke Slope viticultural area is geographically isolated from other wine production areas in the State of Washington. Wahluke Slope is bounded by the bedrock ridge of the Saddle Mountains, the Columbia River, and government-owned lands, providing isolation and a separate viticultural identity.

The proposed Wahluke Slope viticultural area sits on a mega alluvial fan, a single landform geographical area, extending 15 miles in length. Other viticultural areas in Washington State have more diverse and complex landforms, with the possible exception of the much smaller Red Mountain viticultural area (27 CFR 9.167).

The south-facing Wahluke Slope landform has relatively flat agricultural sites that allow for viticultural uniformity in plant vigor and ripening. The mega fan eventually drops away several hundred feet on three sides, providing good air drainage that minimizes spring and fall freezes in the area.

Soils

Ice-age events played an important role in the formation of soils in the proposed viticultural area. When the Lake Missoula glacial ice dam repeatedly failed, large water floods flowed across eastern Washington depositing gravel bars and fine-grained sandy and silty sediments. Winds reworked the glacial sediments to form dunes of sand and loess (the silty sediment accumulated from the fallout of dust). These sediments range in

thickness from a few inches to many feet deep. Soils of the proposed Wahluke Slope viticultural area have formed predominantly from deep wind-blown sand, averaging greater than 60 inches in depth. To a lesser extent, some soils have formed from the wind-blown sand or silty loess sediments of the giant glacial floods.

Wahluke Slope soils are distinctive by their uniformity over large areas. The Quincy-Burbank-Hezel soil series, which covers more than half the proposed viticultural area, encompasses a contiguous area of several square miles as documented in the Soil Survey of Grant County, Washington, (Gentry, 1984) on map sheets 163, 164, and 169. This uniformity contrasts with the soil variability of some nearby regions, including the Red Mountain viticultural area and the Canoe Ridge area of the Horse Heaven Hills region. Other soils series within the proposed boundaries documented in the Soil Survey of Grant County include the Sagemoor-Kennewick-Warden, the Taunton-Timmerman-Quincy, and the Scoon-Taunton-Finley series, as well as several others with small acreages.

Wahluke Slope soils are unique with their smooth landform shape, shallow slope angle that averages less than 8 percent, and predominant south-facing orientation at the top of the mega alluvial fan. This smooth landform results in consistent climate variability across the proposed viticultural area.

Climate

The State of Washington's Public Agricultural Weather System (PAWS) Web site provides the statistics used in the Wahluke Slope viticultural area petition. Climatic information for the petition generally spans 10 years—1994 through 2003—as available.

Precipitation in the proposed Wahluke Slope viticultural area averages 5.9 inches annually, making it the driest area in that region of eastern Washington, according to PAWS. Also, the proposed area has the lowest harvest rainfall average for the weather stations compared. The viticultural advantages include irrigation control during the growing season and low potential for harmful rainfall at harvest.

Pan evapotranspiration (Etp) in the Wahluke Slope area ranks first among the nine PAWS stations cited. Photosynthesis and transpiration, which are key factors in grape production, are the highest in the Wahluke Slope area as compared to other selected stations in Washington.

Wahluke Slope averages 3,013 degree-days of heat accumulation annually. Each degree that a day's mean temperature is above 50 degrees Fahrenheit, which is the minimum temperature required for grapevine growth, is counted as one degree-day (*see* ''General Viticulture,'' Albert J. Winkler, University of California Press, 1975). In addition, the Wahluke Slope region ranks third highest in mean maximum temperature, mean annual temperature, and solar radiation, according to PAWS data. These temperatures confirm Wahluke Slope as a grape-growing hot spot within Washington State.

Finally, Wahluke Slope is the third windiest site evaluated, which affects grape plant growth, causing shorter shoot length, smaller leaf size, and fewer and smaller grape clusters.

Notice of Proposed Rulemaking and Comments Received

On May 19, 2005, TTB published a notice of proposed rulemaking regarding the establishment of the Wahluke Slope viticultural area in the **Federal Register** (70 FR 28861) as Notice No. 46. In that notice, TTB requested comments by July 18, 2005, from all interested persons. TTB received one comment in response. This comment strongly supports the establishment of the Wahluke Slope viticultural area.

TTB Finding

After review of the petition and the comment received, TTB finds that the evidence submitted supports the establishment of the proposed viticultural area. Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we establish the ''Wahluke Slope'' viticultural area in Grant County, Washington, effective 30-days from this document's publication date.

Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this notice.

Maps

The petitioner provided the required maps, and we list them below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the establishment of this viticultural area and its inclusion in part 9 of the TTB regulations, its name, ''Wahluke Slope,'' is recognized as a name of viticultural significance. In addition, with the establishment of the Wahluke Slope viticultural area, the name ''Wahluke'' standing alone will be considered a term of viticultural significance because consumers and vintners could reasonably attribute the quality, reputation, or other characteristic of wine made from grapes grown in the Wahluke Slope viticultural area to the name Wahluke itself. Consequently, wine bottlers using ''Wahluke Slope'' or ''Wahluke'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, must ensure that the product is eligible to use the viticultural area's name as an appellation of origin.

For a wine to be eligible to use as an appellation of origin, a viticultural area name or other term specified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name or other viticulturally significant term as an appellation of origin and that name or other term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other viticulturally significant term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. *See* 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866 (58 FR 51735). Therefore, it requires no regulatory assessment.

Drafting Information

Nancy Sutton of the Regulations and Rulings Division drafted this document.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter 1, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Amend subpart C by adding § 9.192 to read as follows:

§ 9.192 Wahluke Slope.

(a) *Name*. The name of the viticultural area described in this section is ''Wahluke Slope''. For purposes of part 4 of this chapter, ''Wahluke Slope'' and ''Wahluke'' are terms of viticultural significance.

(b) *Approved Maps*. The appropriate maps for determining the boundary of the Wahluke Slope viticultural area are eight United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Beverly Quadrangle, Washington, 1965;

(2) Beverly SE Quadrangle, Washington—Grant Co., 1965;

(3) Smyrna Quadrangle, Washington—Grant Co., Provisional Edition 1986;

(4) Wahatis Peak Quadrangle, Washington—Grant Co., Provisional Edition 1986;

(5) Coyote Rapids Quadrangle, Washington, Provisional Edition 1986;

(6) Vernita Bridge Quadrangle, Washington, Provisional Edition 1986;

(7) Priest Rapids NE Quadrangle, Washington, Provisional Edition 1986; and

(8) Priest Rapids Quadrangle, Washington, 1948; photo revised 1978.

(c) *Boundary*. The Wahluke Slope viticultural area is located in Grant County, Washington. The boundary of the Wahluke Slope viticultural area is as described below:

(1) The beginning point is at the northwest corner of the viticultural area where the east bank of the Columbia River intersects the north boundary line of section 22, T15N/R23E, on the Beverly map; then

(2) From the beginning point proceed straight east 1.5 miles to the intersection of the section 23 north boundary line and the 1,480-foot elevation line, T15N/R23E, Beverly map; then

(3) Proceed generally east along the meandering 1,480-foot elevation line, crossing the Beverly map, the Beverly SE map, and the Smyrna map, and continue onto the Wahatis Peak map to the intersection of the 1,480-foot elevation line and the eastern boundary line of section 15, which forms a portion of the boundary line of the Hanford Site, T15N/R26E, Wahatis Peak map; then

(4) Proceed generally southwest along the Hanford Site boundary in a series of 90 degree angles, crossing the Wahatis map, the Coyote Rapids map in section 36, T15N/R25E, and the Vernita Bridge map, and continue onto the Priest Rapids NE map to the intersection of the Hanford Site boundary and the north bank of the Columbia River, section 10, T13N/R24E, Priest Rapids NE map; then

(5) Proceed generally west along the north bank of the Columbia River, crossing onto the Priest Rapids map and, turning north-northwest, continue along the river bank and, crossing onto the Beverly map, return to the beginning point.

Signed: September 29, 2005.

John J. Manfreda,

Administrator.

Approved: November 3, 2005.

Timothy E. Skud,

Deputy Assistant Secretary, (Tax, Trade, and Tariff Policy).

[FR Doc. 05–23679 Filed 12–6–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB–37; Notice No. 40; Ref: T.D. ATF–454]

RIN 1513–AA50

Santa Rita Hills Viticultural Area Name Abbreviation to Sta. Rita Hills (2003R–091P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision modifies the name of the existing ''Santa Rita Hills'' American viticultural area by abbreviating its name to ''Sta. Rita Hills.'' We make this change to prevent possible confusion between wines bearing the Santa Rita Hills appellation and wines bearing the Santa Rita brand name used by a Chilean winery. The size and boundary of the existing viticultural area will remain unchanged. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

EFFECTIVE DATE: January 6, 2006.

FOR FURTHER INFORMATION CONTACT: Rita Butler, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, 1310 G St., NW., Washington, DC 20220; telephone 202–927–8210.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive American viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party

may petition TTB to establish a grape-growing region as a viticultural area. Petitioners may use the same procedure to request changes involving existing viticultural areas. Section 9.3(b) of the TTB regulations requires the petition to include:

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, elevation, physical features, and soils, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Sta. Rita Hills Petition

General Background

TTB received a petition from a group of 11 viticulturists and vintners in the established Santa Rita Hills viticultural area (27 CFR 9.162) in Santa Barbara County, California, proposing to abbreviate the name of the viticultural area as ''Sta. Rita Hills.'' The petitioners requested abbreviation of the name of the Santa Rita Hills viticultural area as ''Sta. Rita Hills'' in order to prevent confusion between wine bearing the ''Santa Rita Hills'' appellation and wines bearing the ''Santa Rita'' brand name. The petitioners do not believe such confusion is likely, but want to accommodate the concerns of Viña Santa Rita, the Chilean producer of Santa Rita brand wines. The petitioners believe it would be in the best interests of all parties, including consumers in the United States and abroad, to use the Sta. Rita Hills abbreviation for the viticultural area. Viña Santa Rita endorses this proposal.

According to the petitioners, abbreviating the viticultural area name by using the abbreviation as suggested above would accommodate Viña Santa Rita's brand and trademark rights without compromising the accuracy of the viticultural area's name. As discussed more fully below:

- The term ''Sta.'' is a recognized abbreviation for the word ''Santa,'' as evidenced by standard dictionaries of abbreviations.
- Of particular significance is the use of the abbreviation ''Sta.'' in the United States to refer to wines made from grapes grown in such well-known appellations as Santa Barbara, Santa Barbara County, the Santa Cruz Mountains, and the Santa Maria Valley.
- Historic evidence demonstrates that ''Sta. Rita'' has been used as an abbreviation for the ''Santa Rita Hills'' region. Such evidence also shows the term ''Sta.'' was frequently used with other California place names, such as Santa Barbara, Santa Clara, and Santa Rosa.
- The use of abbreviations in viticultural area names is not uncommon; approved viticultural areas include names like ''Mt. Veeder'' (27 CFR 9.123), ''Mt. Harlan'' (27 CFR 9.131), ''St. Helena'' (27 CFR 9.149), and ''Isle St. George'' (27 CFR 9.51). The petitioners believe the name ''Sta. Rita Hills'' fits comfortably within these precedents.

Background for Petition

The current petition notes that on March 31, 1998, a group of viticulturists and vintners in Santa Barbara County, California, petitioned the Bureau of Alcohol, Tobacco and Firearms (ATF, TTB's predecessor agency) to establish the ''Santa Rita Hills'' viticultural area in the western portion of the Santa Ynez Valley viticultural area. ATF published a notice of proposed rulemaking in the **Federal Register** on September 11, 1998 (*see* Notice No. 866, 63 FR 48658).

ATF received comments from 35 parties. Eleven parties, mostly Santa Barbara County winemakers, grape growers, and public officials, supported the proposed viticultural area. The remaining 24 parties were opposed, not to the establishment of the viticultural area, but to its proposed name.

Viña Santa Rita, a publicly traded Chilean company that has produced and sold wines under the brand name ''Santa Rita'' for more than 120 years, led this opposition. Viña Santa Rita commented that recognition of the ''Santa Rita Hills'' viticultural area would cause widespread consumer confusion and would damage Viña Santa Rita's vested trademark rights.

On May 31, 2001, ATF published a final rule in the **Federal Register** approving Santa Rita Hills as an American viticultural area (*see* T.D. ATF–454, 66 FR 29476). ATF concluded that the region was locally known as the Santa Rita Hills and that it was geographically, viticulturally, and climatically distinct from the surrounding Santa Ynez Valley viticultural area.

ATF recognized the similarities between the Santa Rita trademark and brand name and the Santa Rita Hills viticultural area, but concluded that consumers would not be confused by wines bearing the Santa Rita brand name and wines labeled with the Santa Rita Hills viticultural area. ATF stated as follows in this regard:

> The fact that imported products are required to state the words ''Imported by'' followed by the name and address of the party responsible for importation world, in the case of a product with a ''Sta. Rita Hills appellation, signal to consumers that the product is domestically produced rather than imported. The fact that imported products are also required to state the words ''Product of _____'' followed by the country of origin, further identifies the origin of imported products to consumers, as distinct from domestic products. Likewise, the fact that domestic products are required to indicate the name and address of the bottler or packer, minimizes the likelihood of confusion between a ''Sta. Rita Hills'' wine and a product of Santa Rita in Chile or any other place.

The current petition states that Viña Santa Rita and the petitioners have since negotiated in good faith about the use of the Santa Rita Hills viticultural area name. The petitioners, with the agreement of Viña Santa Rita, believe that abbreviating the name ''Santa Rita Hills'' to ''Sta. Rita Hills'' would be in the best interest of everyone, including consumers in the United States and abroad. Moreover, the requested modification will, by agreement, obviate the need for further legal proceedings.

Avoiding Conflict With the Existing Santa Rita Brand Name

TTB regulations recognize that consumers can be confused when an American viticultural area and a brand name contain the same or similar terms but are used for different wines (*see* 27 CFR 4.39(i)). When confronted with a proposed viticultural area name that is similar to an existing brand or trademark, TTB solicits public comment for other potential names that might avoid such a dilemma. Upon occasion, TTB has modified the proposed viticultural area name to avoid conflict, provided the modification could be justified under TTB regulations.

For example, in 1981, ATF considered recognizing a new AVA called ''The Pinnacles'' (46 FR 49601; Oct. 7, 1981). That brand name, however, was already in use by a California winery. ATF thus determined the proposed name was ''inappropriate'' due to ''trademark claims by another winery and the possibility of consumer confusion that would result if the proposed name were approved'' (*see* 47 FR 25517; June 14, 1982). After soliciting alternative proposals, ATF recognized the

viticultural area under the name ''Chalone'' (27 CFR 9.24).

Similarly, in 1992, ATF proposed establishing the Spring Mountain viticultural area (58 FR 8726; February 17, 1993). Spring Mountain Vineyards protested, claiming that its brand name, ''Spring Mountain,'' would be ''rendered worthless'' by establishment of a viticultural area of the same name. At Spring Mountain Vineyards' suggestion, the petitioners amended their petition to request the name ''Spring Mountain District'', which was approved (27 CFR 9.143).

More recently, ATF considered recognizing the Diamond Mountain viticultural area (66 FR 29695; June 1, 2001). Diamond Mountain Vineyards objected, claiming the name would cause consumer confusion and conflict with its trademark right in the ''Diamond Mountain Vineyards'' brand. ATF agreed, noting consumers might confuse wines labeled with the Diamond Mountain viticultural area name with wines bearing the brand name ''Diamond Mountain Vineyards.'' Sufficient name evidence was provided for recognition of the ''Diamond Mountain District'' name and, therefore, ATF approved the viticultural area under this alternative name (*see* 27 CFR 9.166).

The current petition states that the requested modification to the viticultural area's name is intended to reconcile various interests in the ''Santa Rita'' name. The petition contends that modifying the viticultural area's name to feature the abbreviation ''Sta.'' would reduce the potential for consumer confusion. The petitioners feel that abbreviating the viticultural area's name would be consistent with TTB's policy of minimizing, when possible, the potential for consumer confusion between existing brand names and newly created viticultural areas.

Name Evidence for Sta. Rita Hills

Below, we discuss the evidence provided in the petition showing that ''Sta. Rita Hills'' is an appropriate name for the Santa Rita Hills viticultural area. According to the petition, ''Sta. Rita Hills'' is equally accurate and appropriate name for the area, since the term ''Sta.'' is a well-recognized abbreviation for ''Santa.'' This abbreviation is confirmed by authoritative sources such as the ''Gale Press Abbreviations Dictionary'' and ''The Oxford Dictionary of Abbreviations.'' The petition included copies of these sources. Based on this, the petitioners state that the terms ''Santa Rita Hills'' and ''Sta. Rita Hills'' are functionally identical.

The abbreviation ''Sta.'' has been used in reference to the Santa Rita Hills region, as well as other California regions, for over a century, according to the petition. The petition included copies of historic *diseños,* or sketches, that were presented, along with land grant petitions, to the governors of Mexican California. There were no official surveyors in the region at that time; therefore, each *diseño* graphically defined the tract of land solicited. On these *diseños,* the term ''Sta. Rita'' was used to describe ''Santa Rita.'' Likewise, ''Sta. Clara'' denotes ''Santa Clara,'' ''Sta. Rosa'' denotes ''Santa Rosa,'' and ''Sta. Izabel'' denotes ''Santa Izabel.''

According to the petition, the ''Sta.'' abbreviation continues to be used throughout the United States today, especially in connection with California wines. The Wine Enthusiast's Web site advertises a ''wine boot camp'' in ''Sta. Barbara Cty,'' and the term ''Sta. Barbara'' is used in wine reviews (see *http://www.dooyou.co.uk/product/141787.html*—visited on August 19, 2002). Top restaurants and retailers from around the United States use the terms ''Sta. Barbara,'' ''Sta. Cruz Mountains,'' and ''Sta. Maria Valley'' as appellations for fine wines (references: *http://www.renaissancehollywood.com/docs/twistwine.pdf; http://www.ambrosiaonhuntington.com/html/wines.html; http://www.circa1886.com/cabernet_sauvignon_circa_restaurant_charleston.asp?subject=circa1886; http://www.northsidewine.com/level3/us_west.htm; http://www.hotelastor.com/wine.htm; http://www.capitalraleigh.com/dining/wine_list.htm;* and *http://www.villacreek.com/pages/winelist.html*—all visited on October 11, 2002). Babcock Winery & Vineyards uses the abbreviation ''Sta. Barbara'' on its distributors list (*http://www.babcockwinery.com/distributionlist.html*—visited on October 11, 2002).

Internet searches reveal many additional uses of the abbreviation ''Sta.'' with California place names. A tourism page promoting Santa Barbara County uses the abbreviation ''Sta. Barbara'' for addresses within the city (*http://www.maintour.com/socal/stabarb.html*—visited on October 11, 2002). Ship schedules refer to ''Sta. Barbara'' (*http://www.gso.uri.edu/unols/schedules/Sproul/Sproul99.html*—visited on August 19, 2002), as do high school athletic calendars (*http://www.ouhsd.k12.ca.us/sites/cihs/handbook/december.htm*—visited on October 11, 2002).

The term ''Sta. Rita'' is used as an abbreviation for ''Santa Rita'' throughout the United States and in Spanish-speaking countries. For example, a simple Internet search performed by a petitioner found a University of Arizona faculty Web site that uses the term ''N. Sta. Rita St.'' to refer to ''North Santa Rita Street,'' located in Tucson, Arizona (*http://www.bened.arizona.edu/ransdell/english_102_108.htm*—visited on August 19, 2002). Another Web site concerning husbandry and breeding of reptiles and amphibians abbreviates the ''Santa Rita Mountains,'' a range in Arizona, as ''Sta. Rita Mts.'' (*http://www.herper.com/MantidNA3.html,* and *http://www.herper.com?PhasmidNA2.html*—both visited on August 19, 2002).

The petition states that use of the ''Sta.'' abbreviation is consistent with practices of the United States Board on Geographic Names, the body responsible for standardizing geographic names used by the Federal Government and printed on Federal maps. The Board's guidelines specify that the term ''Saint'' may be abbreviated ''St.''. Particularly in regions where place names are derived from the Spanish language, as in Southern California, abbreviating the term ''Santa,'' the Spanish feminine form of the English word ''Saint,'' as ''Sta.'' is consistent with the Board's general approach to abbreviations.

Notice of Proposed Rulemaking and TTB Finding

TTB published a notice of proposed rulemaking, Notice No. 40, in the **Federal Register** on April 29, 2005 (70 FR 22283), regarding the modification of the Santa Rita Hills viticultural area by abbreviating it as ''Sta. Rita Hills.'' In that notice, TTB requested comments by June 28, 2005, from anyone interested. We received three supporting comments, no opposing comments, and one unrelated comment.

After careful review, TTB finds that it is appropriate to modify the name of the Santa Rita Hills viticultural area by using the abbreviation ''Sta.'' in place of ''Santa.'' Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we modify the ''Santa Rita Hills'' viticultural name to read ''Sta. Rita Hills'' effective 30 days from this document's publication date. Viña Santa Rita will be able to obtain future label approvals of its use of its ''Santa Rita'' brand name on wines imported into the United States because it is distinguishable from ''Sta. Rita Hills.''

Impact on Current Wine Labels

General

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the adoption of this modification of the name for the Santa Rita Hills viticultural area, the abbreviated ''Sta. Rita Hills'' name will be recognized as a name of viticultural significance. Consequently, wine bottlers using ''Sta. Rita Hills'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's name as an appellation of origin. Accordingly, the amended regulatory text set forth below in § 9.162(a) specifies that ''Sta. Rita Hills'' is a term of viticultural significance for purposes of part 4 of the TTB regulations.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name. If the wine is not eligible to use the viticultural area name as an appellation of origin and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Accordingly, if a new label or a previously approved label uses the name ''Sta. Rita Hills'' for a wine that does not meet the 85 percent standard, the new label will not be approved, and the previously approved label will be subject to revocation.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. *See* 27 CFR 4.39(i)(2) for details.

Use of the Name ''Santa Rita Hills''

Since July 30, 2001, the name of this viticultural area has been expressed as ''Santa Rita Hills.'' After the effective date of this final rule, we will approve wine labels showing ''Sta. Rita Hills,'' and not ''Santa Rita Hills,'' as the viticultural area appellation.

The final rule includes, under our authority pursuant to 27 CFR 13.72(a)(2), a transition period during which vintners may continue to use approved labels that carry ''Santa Rita Hills'' as the name of the viticultural area. However, one year after the effective date of that final rule, certificates of label approval showing ''Santa Rita Hills'' as an appellation of origin will be revoked by operation of that final rule (see 27 CFR 13.51). We have added a statement to this effect as a new paragraph (d) in § 9.162.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866 (58 FR 51735). Therefore, it requires no regulatory assessment.

Drafting Information

Rita Butler of the Regulations and Rulings Division drafted this document.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend title 27, chapter 1, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. In subpart C, amend § 9.162 by revising the section heading, revising paragraph (a) and the introductory text of paragraphs (b) and (c), and adding a new paragraph (d), to read as follows:

§ 9.162 Sta. Rita Hills.

(a) *Name.* The name of the viticultural area described in this section is ''Sta. Rita Hills''. For purposes of part 4 of this chapter, ''Sta. Rita Hills'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Sta. Rita Hills viticultural area are five United States Geological Survey (USGS) 7.5 Minute Series maps titled:

* * * * *

(c) *Boundary.* The Sta. Rita Hills viticultural area is located in Santa Barbara County, California. The boundary is as follows:

* * * * *

(d) From July 30, 2001, until January 5, 2006, this viticultural area was named ''Santa Rita Hills''. Effective January 6, 2006, the name of this viticultural area is ''Sta. Rita Hills''. Existing certificates of label approval showing ''Santa Rita Hills'' as the appellation of origin are revoked by operation of this regulation on January 6, 2007.

Signed: August 25, 2005.

John J. Manfreda,

Administrator.

Approved: November 3, 2005.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 05–23682 Filed 12–6–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB–38; Re: Notice No. 25]

RIN 1513–AA77

Establishment of the Texoma Viticultural Area (2003R–110P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the Texoma viticultural area in north-central Texas, in Montague, Cooke, Grayson, and Fannin Counties. The proposed area covers approximately 3,650 square miles on the south side of Lake Texoma and the Red River, along the Texas-Oklahoma Stateline. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

EFFECTIVE DATE: January 6, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, P.O. Box 18152, Roanoke, VA 24014; telephone 540–344–9333.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on such labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Texoma Petition and Rulemaking

General Background

The Texoma Appellation Committee, in Denison, Texas, petitioned TTB to establish the ''Texoma'' viticultural area in north-central Texas. Located along the Texas-Oklahoma Stateline on the south side of Lake Texoma and the Red River, the proposed area covers approximately 3,650 square miles, or about 2.3 million acres, in Montague, Cooke, Grayson, and Fannin Counties. The proposed viticultural area contains four wineries and a number of small vineyards with approximately 55 acres planted to vines. Both native Texas grape varieties and *Vitis vinifera* varieties thrive in the proposed area.

Below, we summarize the evidence presented in the petition.

Name Evidence

The name ''Texoma'' originates with Lake Texoma, a large man-made lake on the Texas-Oklahoma Stateline. People have referred to the region within the proposed viticultural area as ''Texoma'' for over 60 years, roughly since the completion of Lake Texoma in 1938. The petition provided numerous examples of the use of the name ''Texoma'' by businesses and governments serving the four-county (Montague, Cooke, Grayson, and Fannin) region, including the Texoma Regional Health Care System, the Texoma Association of Realtors, and the Texoma Council of Governments.

In addition, an Internet search of the word ''Texoma'' returned several thousand website listings, with references to Montague, Cooke, Grayson, and Fannin Counties in Texas, as well as the region of south-central Oklahoma bordering Lake Texoma.

Boundary Evidence

The proposed Texoma viticultural area boundary line corresponds to the Texoma region of north-central Texas. The Red River, Lake Texoma, and the Texas-Oklahoma Stateline form the proposed area's northern boundary. The ridge between the Red River drainage basin and the Trinity River drainage basin forms the southern boundary of the proposed area. The Montague County line forms most of the proposed area's western boundary, while the Fannin County line forms most of its eastern boundary.

Historical evidence in the petition for the proposed boundaries includes the contributions of the Texoma region to world viticulture. Renowned 19th century viticulturalist Thomas Volney (T.V.) Munson chose the Texoma area as the site for his experimental vineyards. An expert on native grape varieties, it was reported that he was particularly excited by the varieties of native grapes found within the region, calling the area his ''grape paradise.'' He developed over 300 new grape varieties from the wild grapes growing along the bluffs of the Red River and its tributaries. Today, the T.V. Munson Memorial Vineyard at Grayson County College in Denison, Texas, carries on Munson's legacy. The vineyard grows 65 of the 300 grape varieties developed by Munson, and the college, unlike most junior colleges in the nation, bestows an associate degree in viticulture.

Because of the importance of native grape species to the viticultural history and identity of the Texoma region, the petitioner bases the southern boundary in part on the distribution of wild grapevines through the area. The proposed Texoma viticultural area southern boundary excludes some southern portions of the four counties since wild grapevines generally do not grow on the south-facing slopes beyond the ridge that divides the Red River and Trinity River drainage basins.

Distinguishing Features

Topography

Much of the terrain in the Texoma region slopes downward and northward toward the Red River. The elevation ranges from a low of 597 feet above sea level in northeast Fannin County to a high of 1,271 feet on ridges in southeast Montague County. Evening breezes off the Texoma bluffs and rolling hillsides temper the intense heat of the day, and cool the vineyards. Numerous small creeks flow northward to Lake Texoma and the Red River throughout the Texoma area. Several varieties of wild grapes grow freely in these creek beds, just as they did in the days of T.V. Munson.

The north-facing slopes (3 percent to 12 percent incline) in the proposed Texoma viticultural area diminish the power of the summer sun and thus provide excellent conditions for vineyards. Recent research indicates that 15-degree north-facing slopes can reduce the sunlight index in June from 107 to 86. (The sunlight index is a scale

measuring the amount of solar radiation received by plants.) This results in significantly less heat stress on the vines. In September, the effect is even greater, with the sunlight index reduced from 122 to 70. The petitioner contrasts the sunlight index with land south of the proposed Texoma viticultural area. For example, in the Dallas-Fort Worth area, the land slopes south, resulting in a much higher sunlight index and greater heat stress on grape vines.

The Texoma area has numerous lakes and ponds, including Lake Texoma, all of which provide ample irrigation sources. The numerous bodies of water also provide sunlight reflection, which helps to ripen grapes. A similar reflective effect occurs in the Finger Lakes region of New York and in the Mosel and Rhine River valleys of Germany. Additionally, gentle breezes off Lake Texoma provide advection warming to the surrounding hillsides during cool autumn nights.

Climate

Nighttime temperatures in the proposed Texoma viticultural area from November through February generally are 5.3 to 6.7 degrees cooler than those in areas to the south and southeast, such as the Dallas-Fort Worth area (which averages 33.6 °F) and Greenville, Texas (which averages 34.9 °F). The nighttime winter temperatures in the Texoma region, ranging in the mid- to upper-20s, are cold enough to kill the insect that spreads the toxic Pierce's disease, but are not cold enough to cause damage to the vines. Vineyards to the south with warmer winter temperatures, specifically in the Dallas-Fort Worth area, typically suffer extensive damage from Pierce's disease.

Areas north and west of the Texoma area, including Oklahoma and northwestern Texas, have winter temperatures that are 4 to 6 degrees colder than in the proposed Texoma viticultural area. Colder temperatures increase the risk of damage to vines. Freeze and thaw cycles in these areas can split vine trunks, while the milder winter temperatures in the Texoma area prevent such damage.

The Texoma region receives an annual rainfall of 30 to 40 inches, which is sufficient when coupled with the ample sources of irrigation in the region. To the west of the Texoma region, the climate is increasingly dry. Wichita Falls, Texas, for example, receives only 28 inches of rain a year, an amount that cannot sustain vineyards. Few sources of water for irrigation, such as Lake Texoma, exist west of the Texoma region. Areas east of the Texoma region receive much heavier rainfall, as much as 51 inches annually in Texarkana. Such heavy rainfall often results in standing water, which can cause root rot and kill vines.

Soils

The soils found in the proposed Texoma viticultural area differ from the soils in surrounding areas. The proposed Texoma area contains sandy, loamy soils that provide good drainage for vineyards. Conversely, the surrounding areas outside the proposed Texoma viticultural area boundary line contain black-land soils, which do not provide good drainage for vineyards. The sandy soils found in the proposed viticultural area are also a natural deterrent to phylloxera.

The petitioner submitted a detailed soil report on the proposed Texoma viticultural area prepared by a committee of soil scientists consisting of Maurice Jurena and Jerry Rives from the Natural Resources Conservation Service of the U.S. Department of Agriculture, Dr. George McEachern of Texas A&M University, and Dr. Charles E. Pehl, a private consultant. The report lists 36 soil series suitable for viticulture in the proposed area and refers to maps that show these soil series throughout the Texoma area. According to the soil report authors, these soils have the characteristics needed for productive vineyards—good internal drainage, adequate soil depth, and good water-holding capacity. Based on available soil surveys of the region, the soil report authors specify that about one-third of the proposed viticultural area, an estimated 690,000 acres (1,078 sq. miles), should be suitable for productive viticulture. The report describes three soils of particular interest:

> The Hicota series consists of fine sandy loams that are deep, moderately well drained, slowly permeable, and have good water holding capacity. These soils are found on the high terraces mainly along the Red River. Formed in loamy alluvium, their slopes range from 0 to 3 percent * * *.
>
> The Freestone series consists of fine sandy loams that are very deep, moderately well drained, slowly permeable, and have good water holding capacity. These soils are found on Pleistocene terraces of remnant terraces on upland positions. Formed in loamy and clayey sediments, their slopes vary from 0 to 5 percent. The soils have aquic soil moisture conditions due to an extremely thin area of episaturation above the clay layer in the spring at a depth of 20 to 40 inches during most years.
>
> The Frioton series consists of silty clay loams that are very deep, well drained, moderately slowly permeable, with good water holding capacity. Formed in loamy and clayey Pleistocene sediments on nearly level flood plains, their slopes range from 0 to 1 percent. They may be flooded for very brief periods during the months of February to July.

As additional soil evidence, the petitioner submitted soil survey maps published by the Natural Resources Conservation Service, U.S. Department of Agriculture, for each of the four counties in the proposed area. These maps consistently describe the various soils of the proposed Texoma viticultural area, including those detailed in the soil report submitted with the petition as either ''loamy and sandy'' or ''loamy and clayey.''

Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this notice.

Maps

The petitioner(s) provided the required maps, and we list them below in the regulatory text.

Notice of Proposed Rulemaking and Comments Received

On November 30, 2004, TTB published in the **Federal Register** (69 FR 69557) a notice of proposed rulemaking regarding the establishment of the Texoma viticultural area as (Notice No. 25). In that notice, TTB requested comments by January 31, 2005, from all interested persons. TTB received three comments in response.

A Montague County vineyard owner opposed the petition on several grounds. Regarding the petition's name and boundary evidence, the commenter states that his region of Montague County, which is within the proposed viticultural area, is not known by the Texoma name. He also notes that T.V. Munson chose ''the Denison area to do his research, not Texoma,'' a name which ''did not exist until 1938.'' While acknowledging that a north Texas radio station does identify its listening area as ''Texoma Land,'' the commenter states that this name usage is not adequate justification to propose a viticultural area. In addition, the commenter notes the dual Texas/Oklahoma nature of the Texoma name and contends that Oklahoma vineyards ''would not want to be confused with Texas vineyards.''

The commenter also states that Montague County has two soil types suitable for viticulture, including the Antlers Sands, which, he states, ''do not exist in Fannin or Grayson Counties.'' The comment also contends that the climate and elevation of the proposed area are ''simply too diverse'' to be included within one viticultural area.

In response to the opposing comment regarding name and boundary evidence,

a petitioner submitted a rebuttal providing additional information to demonstrate the use of the ''Texoma'' name in Montague County. The petitioner also expressed concern over the accuracy of the opposing comment's soil and climatic information, calling the opposing comment a matter of personal opinion that lacked substantiating facts.

TTB has carefully evaluated these two comments with reference to the submitted supporting information. Regarding the proposed name and boundary evidence, the opposing comment provided no specific evidence to show that Montague County is not part of the generally recognized ''Texoma'' area. We believe the petitioner's evidence supports the use of the Texoma name in the portion of Montague County that lies within the proposed viticultural area.

In response to the comment regarding T.V. Munson, we note that the purpose of presenting the grape-growing history of a proposed viticultural area is to document previous grape growing in the area. Reference to the innovative individuals responsible for the early plantings in the area is of some historical viticultural interest, but grape-growing history is not an absolute requirement for the establishment of an American viticultural area. In response to the commenter's statements on the subject of Oklahoma vineyards, we note that we did not receive any comments from Oklahoma vineyard industry members regarding the proposed Texoma viticultural area.

We also note that the Montague County soil, elevation, and climate information offered in the opposing comment generally conforms to the overall petition evidence, except for the lower annual precipitation rate in Montague County. TTB believes that the variances referred to by the commenter are minor differences that should not affect the decision on whether to establish the proposed viticultural area. With regard to comments on soils that were submitted, we note that while soil characteristics are an important factor in assessing a proposed viticultural area, it would be overly restrictive and thus inappropriate to require uniformity of soil types throughout a proposed viticultural area.

The third comment expresses concern over a possible name conflict between the proposed Texoma viticultural area and the commenter's planned ''Texoma Vineyards'' and ''Texoma Winery.'' The commenter supports the viticultural area's establishment as long as his future business is allowed to use the Texoma Vineyard or Texoma Winery names ''in the name and address area of the label'' regardless of the wine's origin.

With regard to this third comment, TTB does not believe that the commenter's future winery operations should have any bearing on the establishment of the proposed Texoma viticultural area. We make our decision based on the facts presented to us, not based on hypothetical future events. It was for this purpose that, in the comment notification of Notice No. 25, we specifically invited comments on the impact that the proposed viticultural area might have on an existing (not future) viticultural enterprise. According to the information provided by the commenter, he has not commenced winery operations and has not filed for label approvals using the ''Texoma Vineyard'' or ''Texoma Winery'' brand names. In the future, should the commenter wish to bottle and label wine using those names, he must ensure that the wine meets the appellation of origin requirements set forth in 27 CFR part 4 and summarized in the Impact on Current Wine Labels discussion below.

TTB Finding

After careful review of the petition and the comments received, TTB finds that the evidence submitted supports the establishment of the proposed viticultural area. Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we establish the ''Texoma'' viticultural area in north-central Texas in Montague, Cooke, Grayson, and Fannin Counties, effective 30 days from publication of this document.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the establishment of this viticultural area and its inclusion in part 9 of the TTB regulations, its name, ''Texoma,'' is recognized as a name of viticultural significance. Consequently, wine bottlers using ''Texoma'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, must ensure that the product is eligible to use the viticultural area's name as an appellation of origin.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name as an appellation of origin and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866 (58 FR 51735). Therefore, it requires no regulatory assessment.

Drafting Information

Nancy Sutton of the Regulations and Rulings Division drafted this document.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter 1, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Amend subpart C by adding § 9.185 to read as follows:

§ 9.185 Texoma.

(a) *Name.* The name of the viticultural area described in this section is ''Texoma''. For purposes of part 4 of this chapter, ''Texoma'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Texoma viticultural area are two United States Geological Survey, 1:250,000 scale, topographic maps. They are titled:

(1) Sherman, Texas; Oklahoma, 1954, revised 1977; and

(2) Texarkana, Tex.; Ark.; Okla.; La., 1953, revised 1972.

(c) *Boundary.* The Texoma viticultural area is located in Montague, Cooke, Grayson, and Fannin Counties, Texas. The boundary is defined as follows:

(1) The beginning point is the northwest corner of Montague County (at the Red River, which is also the Texas-Oklahoma State line) on the Sherman map. From this point, the boundary line:

(2) Follows the Red River eastward along the Texas-Oklahoma State line, passes onto the Texarkana map, and continues to the northeast corner of Fannin County; then

(3) Continues southward along the eastern Fannin County line to a point approximately three miles west of Petty, Texas, where a power line shown on the Texarkana map crosses the county line; then

(4) Continues southwest in a straight line for approximately 13 miles to the intersection of State Routes 34/50 and State Route 64 at Ladonia, Texas; then

(5) Follows State Route 34 west to its intersection with State Route 68; then

(6) Continues west-southwesterly in a straight line from that intersection to the intersection of U.S. Highway 69 and State Route 78 at Leonard, Texas, on the Sherman map; then

(7) Continues northwest on U.S. Highway 69 for approximately 6 miles to the intersection of U.S. Highway 69 and State Route 121 at Trenton, Texas; then

(8) Continues westerly in a straight line to the intersection of State Routes 160 and 121, and then continues west on State Route 121 to its intersection with U.S. Highway 75 at Van Alstyne, Texas; then

(9) Continues south along U.S. Highway 75 to the Grayson County line; then

(10) Continues west along the southern Grayson County line and then the southern Cooke County line to the county line's intersection with Interstate 35; then

(11) Continues north along Interstate 35 to its intersection with State Route 922 in Valley View, Texas; then

(12) Follows State Route 922 west for approximately 17 miles to Rosston, Texas; then

(13) Continues west-southwest from Rosston in a straight line for approximately 19 miles to the intersection of U.S. Highway 287 and State Route 101 at Sunset, Texas; then

(14) Follows U.S. 287 northwest approximately 17 miles to the western Montague County line; and

(15) Continues north along the western Montague County line to the beginning point at the northwest corner of Montague County.

Signed: September 28, 2005.

John J. Manfreda,

Administrator.

Approved: November 3, 2005.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 05–23683 Filed 12–6–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB–39; Re: Notice No. 38]

RIN 1513–AA94

Establishment of the Ramona Valley Viticultural Area (2003R–375P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the 89,000-acre Ramona Valley viticultural area in central San Diego County, California. The proposed area is entirely within the established South Coast viticultural area. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: *Effective Date:* January 6, 2006.

FOR FURTHER INFORMATION CONTACT: Nancy Sutton, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, California 94952; telephone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity and prohibits the use of misleading information on such labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Ramona Valley Petition and Rulemaking

General Background

TTB received a petition from the Ramona Vineyard Association of Ramona, California, proposing to establish the Ramona Valley viticultural area in central San Diego County, California. Surrounding the town of Ramona, the proposed viticultural area is located 28 miles northeast of the city of San Diego, and is entirely within the established, multi-county South Coast viticultural area (27 CFR 9.104). In addition, the Ramona Valley area is south of two other viticultural areas, Temecula Valley (27 CFR 9.50) and San Pasqual Valley (27 CFR 9.25), both within the South Coast viticultural area. The proposed 89,000-acre Ramona Valley viticultural area contains 17 vineyards currently cultivating an estimated 45 acres of wine grapes.

The distinguishing factors of the proposed Ramona Valley viticultural area include its elevation, which contrasts with the surrounding areas, and climatic factors related to its elevation and inland location. Oriented west-southwest to east-northeast, the proposed area is roughly centered in the town of Ramona and is about 14.5 miles long and 9.5 miles wide.

Below, we summarize the evidence presented in the petition.

Name Evidence

Californians have used the ''Ramona Valley'' name for at least a century. In 1906, historian Ed Fletcher wrote ''An Auto Trip Through San Diego's Back Country.'' As republished in the spring 1969 issue of the Journal of San Diego History, the auto trip article makes several references to Ramona Valley and its geography, climate, and agricultural potential. Mr. Fletcher states, ''The higher valley lands can easily be covered with water from the mountain streams, but a railroad is absolutely necessary, and when it does come, Ramona Valley will be heard from.''

In 1963, Richard F. Pourade wrote ''The Silver Dons 1833–1865,'' found in volume three of ''The History of San Diego.'' He describes the difficulty of reaching the Ramona Valley by different routes during its settlement. Mr. Pourade writes, ''Both routes had difficult climbs, the San Pasqual route at the San Pasqual hill and the Lakeside route in the last mile before reaching the Ramona Valley.''

In 1961, Clarence Woodson wrote ''Tea-Kettle Days,'' published in the San Diego Historical Society Quarterly, volume 7, number 4, October 1961. He explained, ''My grandfather, Dr. M. C. Woodson served as a surgeon in the Confederate Army, and a few years after the Civil War he brought my father and the rest of the family out to California from Paducah, Ky. He homesteaded land in the Ramona Valley in 1873 * * *.''

The proposed Ramona Valley viticultural area surrounds the unincorporated town of Ramona in San Diego County, which lies in a flat, broad valley largely isolated by the surrounding hills and mountains. Several businesses within the proposed viticultural area use ''Ramona Valley'' in their names, including the Ramona Valley Inn, which was established in 1981 on Main Street in Ramona.

Boundary Evidence

Using a boundary largely drawn through the surrounding mountain peaks, the proposed Ramona Valley viticultural area encompasses not only the valley in which the town of Ramona lies, but also several smaller side valleys and canyons, especially to the east and south of the town. The proposed boundary is based on historical and current viticultural activity within the proposed area and on its geographical and climatic features.

The history of Ramona Valley viticulture began with the arrival of Spanish missionaries in 1769. American viticulture started as early as 1889, with wine grapes grown at Rancho Bernardo for use at the Bernardo Winery. In modern times, Ross Rizzo, the master vintner at Bernardo Winery, recalls that up to a thousand acres of wine grapes were growing in Ramona Valley during the 1940s and 1950s. The Schwaesdall Winery, which opened in 1993, uses grape vines planted in the Ramona Valley in the 1950s as well as their own plantings begun in 1989.

The elevation of the proposed Ramona Valley viticultural area, which lies between the lower coastal valleys to the south, west, and north, and the surrounding mountains and the higher desert-like areas to the east, distinguishes the proposed viticultural area from surrounding areas. Climatic factors related to the elevation of the Ramona Valley and its inland location also distinguish the proposed viticultural area from nearby grape-growing regions. These factors are discussed in more detail below.

Distinguishing Features

Geography

The proposed Ramona Valley viticultural area is encircled by a ring of hills and mountains that isolate it from the surrounding regions of San Diego County. Santa Maria Creek flows west through the proposed viticultural area before passing through a narrow gap in the hills near the northwestern corner of the area.

The lowest elevation of the proposed Ramona Valley viticultural area, 650 feet, is at the southwest corner of the area at the San Vicente Reservoir. Elevations within the northern, southern, and western portions of the proposed viticultural area vary between 650 and 1,600 feet, with an average base elevation of about 1,400 feet. The eastern terrain of the proposed area climbs to more than 3,000 feet at the foothills of the Cuyamaca Mountains. The highest elevation suitable for viticulture within the proposed area is 2,640 feet.

Beyond the proposed Ramona Valley viticultural area boundary line to the south, west, and north are the lower coastal valleys with elevations of 500 feet or less. While higher in elevation than these nearby coastal valleys, the proposed Ramona Valley viticultural area is significantly lower than that of the Cuyamaca Mountain range to the east, which has peaks of 6,200 feet.

Climate

The proposed Ramona Valley viticultural area has a distinguishable microclimate as compared to the surrounding regions. With the Anza-Borrego Desert 25 miles to the east and the Pacific Ocean 25 miles to the west, the desert and ocean influences affect and moderate the Ramona Valley climate during the growing season.

Also known locally as ''the Valley of the Sun,'' due to its lack of cool coastal morning fog, the proposed Ramona Valley viticultural area is warmer than the lower elevation coastal areas and valleys to its south, west, and north. The proposed area is cooler in the summer, but warmer in the winter, than the higher Cuyamaca Mountains to its east.

A comparison of daily temperature variations among the towns of Ramona, Poway, Escondido, and Julian indicates that Ramona has greater daily temperature fluctuations than the surrounding areas. The proposed viticultural area enjoys up to 320 frost-free days and has a heat summation of 3,470 degree-days annually. (During the growing season, one degree day accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, which is the minimum temperature required for grapevine growth; see ''General Viticulture,'' Albert J. Winkler, University of California Press, 1975.)

The proposed Ramona Valley viticultural area receives an average

annual rainfall of 16.5 inches. This rainfall total is more than that of the lower coastal valleys, but less than the 31-inch average received at Julian in the higher mountains to the east of the Ramona Valley area.

Soils

The proposed Ramona Valley viticultural area has a variety of soil types due to its differing landforms, slopes, and geology. The mountains surrounding the proposed area consist of igneous rock. Also, the mid-slopes to the east and west of the Ramona Valley floor have the reddish coloration of San Marcos Gabbro, a mafic rock type. Mafic rock formations are known to generate nutrient-rich soil, which is ideal for agriculture.

Soil series of the proposed Ramona Valley viticultural area include Ramona, Visalia, Los Posas, and Fallbrook loams. The Ramona soil series, as documented in the 1973 U.S. Soil Conservation Service Soil Survey for San Diego County, consists of well-drained, very deep sandy loams with sandy clay loam subsoil. This series is found between the 200-foot and 1,800-foot elevations on terraces and alluvial fans.

Notice of Proposed Rulemaking

On March 31, 2005, TTB published a notice of proposed rulemaking regarding the establishment of the Ramona Valley viticultural area in the **Federal Register** (70 FR 16459) as Notice No. 38. In that notice, TTB requested comments by May 31, 2005, from all interested persons. TTB received no comments in response to Notice No. 38.

TTB Finding

After careful review of the petition, TTB finds that the evidence submitted supports the establishment of the proposed viticultural area. Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we establish the ''Ramona Valley'' viticultural area in San Diego County, California, effective 30 days from the publication date of this document.

Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this notice.

Maps

The petitioner provided the required maps, and we list them below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the establishment of this viticultural area and its inclusion in part 9 of the TTB regulations, its name, ''Ramona Valley,'' is recognized as a name of viticultural significance. Consequently, wine bottlers using ''Ramona Valley'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, must ensure that the product is eligible to use the viticultural area's name as an appellation of origin.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name as an appellation of origin and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866 (58 FR 51735). Therefore, it requires no regulatory assessment.

Drafting Information

Nancy Sutton of the Regulations and Procedures Division drafted this document.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter 1, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Amend subpart C by adding § 9.191 to read as follows:

§ 9.191 Ramona Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Ramona Valley''. For purposes of part 4 of this chapter, ''Ramona Valley'' is a term of viticultural significance.

(b) *Approved Maps.* The two United States Geological Survey 1:100,000 scale topographic (30 x 60 Minute Quadrangle) maps used to determine the boundaries of the Ramona Valley viticultural area are titled—

(1) Borrego Valley, California, 1982 edition; and

(2) El Cajon, California, 1979 edition.

(c) *Boundary.* The Ramona Valley viticultural area is located in central San Diego County, California. The area's boundaries are defined as follows—

(1) Beginning in the southwest corner of the Borrego Valley map at the 882-meter (2,894-foot) peak of Woodson Mountain, T13S, R1W, proceed straight north-northwest approximately 3.25 miles to the 652-meter (2,140-foot) peak of Starvation Mountain, T13S, R1W (Borrego Valley map); then

(2) Proceed straight east-northeast approximately 12.5 miles to the Gaging Station on the northwest shoreline of Sutherland Lake, T12S, R2E (Borrego Valley map); then

(3) Proceed straight southeast approximately 4.4 miles to the 999-meter (3,278-foot) peak of Witch Creek Mountain, T13S, R2E, east of Ballena Valley (Borrego Valley map); then

(4) Proceed straight south-southeasterly approximately 6.6 miles, crossing onto the El Cajon map, to the summit of Eagle Peak (3,166 feet), T14S, R3E, northeast of the El Capitan Reservoir (El Cajon map); then

(5) Proceed straight west-southwest approximately 12.7 miles, passing through Barona Valley, to the peak (1,002 feet) near the center of the unnamed island in the San Vicente

Reservoir, T14S, R1E (El Cajon map); then

(6) Proceed straight northwesterly approximately 3.9 miles to the 822-meter (2,697-foot) peak of Iron Mountain, T14S, R1W (El Cajon map); and

(7) Proceed straight north-northwest approximately 2.8 miles, crossing onto the Borrego Valley map, and return to the beginning point at the peak of Woodson Mountain.

Signed: August 29, 2005.

John J. Manfreda,

Administrator.

Approved: November 3, 2005.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 05–23684 Filed 12–6–05; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06–OAR–2005–TX–0030; FRL–8005–9]

Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Construction or Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to approve revisions to the Texas State Implementation Plan (SIP) which the Texas Commission on Environmental Quality (TCEQ) submitted to EPA on February 5, 2004. The adopted amendments revise minimum distance limitation permit requirements for operation of new and modified sources to allow storage of an inoperative concrete crusher within 440 yards of a residence, school, or place of worship; define how distance measurements should be taken and when they would be applicable to concrete crushers and other facilities; and allow concrete crushers to recycle broken concrete at temporary demolition sites within 440 yards of nearby buildings, unless the facility is located in a county with a population of 2.4 million or more, or in a county adjacent to such a county. The TCEQ also revised the existing distance limitation for hazardous waste management facilities to cross-reference duplicative language elsewhere in its regulations. This action is being taken under section 110 of the Federal Clean Air Act (the Act, or CAA).

DATES: This rule is effective on February 6, 2006, without further notice, unless EPA receives adverse comment by January 6, 2006. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06–OAR–2005–TX–0030, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- Agency Web site: *http://docket.epa.gov/rmepub/,* Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.
- EPA Region 6 ''Contact Us'' Web site: *http://epa.gov/region6/r6coment.htm*. Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.
- E-mail: Mr. David Neleigh at *neleigh.david@epa.gov*. Please also forward a copy to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), at fax number 214–665–7263.
- Mail: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- Hand or Courier Delivery: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Regional Material in RME ID No. R06–OAR–2005–TX–0030. EPA's policy is that all comments received will be included in the public file without change, and may be made available online at *http://docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through Regional Material in EDocket (RME), Regulations.gov, or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the Federal regulations.gov are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at *http://docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in the official file which is available at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665–7523 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The state submittal is also available for public inspection at the state Air

Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7212; fax number 214–665–7263; e-mail address *spruiell.stanley@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

Table of Contents

I. What Is Being Addressed in This Document?
II. Have the Requirements for Approval of a SIP Revision Been Met?
III. What Final Action is EPA Taking?
IV. Statutory and Executive Order Review

I. What Is Being Addressed in This Document?

We are taking direct final action to approve revisions to Title 30 of the Texas Administrative Code (30 TAC) Section 116.112—Distance Limitations into the Texas SIP. The TCEQ adopted these revisions on January 14, 2004, and submitted the revisions to us for approval as a revision to the SIP on February 5, 2004. The rulemaking implements Texas House Bills 555 and 1287, section 5.07, 78th Legislature, 2003.

Section 116.112 currently establishes distance limitations for lead smelters, hazardous waste facilities, and concrete crushing facilities. These distance limitations apply to new and modified facilities in these source categories as conditions of their new source review authorizations. The existing distance limitations were approved September 30, 2003 (68 FR 56176).

The revisions to section 116.112 which TCEQ submitted to EPA on February 5, 2004, revised the section 116.112 as follows:

- The revised rule allows for storage of an inoperative concrete crusher within 440 yards of a residence, school, or place or worship if the residence, school, or place or worship was in use at the time the owner or operator filed an application for the initial authorization to operate that facility at that location with the TCEQ.
- The revised rule defines how distance measurements should be taken and when they would be applicable to distances between concrete crushers and other facilities.
- The revised rule provides an exemption from minimum distance limitations for concrete crushing which results from on-site demolition for use primarily at that site. The exemption is limited to one period of no more than 180 days and is applicable if the facility is not located in a county with a population of 2.4 million or more, or in a county adjacent to such county.
- The citation of the distance limitations for hazardous waste management facilities was redesignated from section 116.112(2) to section 116.112(c) and revised to refer to the duplicative distance limitations for such facilities in 30 TAC section 335.204 (relating to Unsuitable Characteristics) and section 335.205 (relating to Prohibition of Permit Issuance). These cross-referenced sections are equivalent to the former provisions of section 116.112(2). The TCEQ limited applicability of the cross-referenced provisions to section 335.204, as amended and adopted in the August 22, 2003 issue of the *Texas Register* (28 TexReg 6915), and section 335.205, as amended and adopted in the November 9, 2001 issue of the *Texas Register* (26 TexReg 9135). Thus hazardous waste management facilities must comply with the distance limitations in the specific versions of sections 335.204 and 335.205 identified in section 116.112(c). If TCEQ later revises section 335.204 or section 335.205, it must submit an appropriate SIP revision to EPA to incorporate the revised version of section 335.204 or section 335.205 into section 116.112 and receive EPA approval in order for EPA to recognize the revised versions of these sections.

The Technical Support Document, which is part of the record for this action, contains more detailed information on how the revision meets the requirements of the Act, including Section 110 and implementing regulations.

II. Have the Requirements for Approval of a SIP Revision Been Met?

The distance limitations in section 116.112 are a discretionary measure not mandated by the CAA. The revision strengthens the SIP by providing protection for persons located near a lead smelter, concrete crushing facility, or hazardous waste management facility. By restricting the location of these types of facilities, the SIP provides additional assurance that persons located near these types of facilities will not be adversely affected by exposure to the air contaminants emitted from these facilities. House Bill 1287 restricts Texas' authority to provide an exemption from the distance limitation and measurement requirements to facilities for which the Commission determines that operation at the location will cause no adverse environmental or health effects. Texas has stated that compliance with this condition will be determined during protectiveness review as part of permit development. The permit review will determine compliance with section 116.111(2)(A)(i) of the existing SIP, which provides that the emissions from a new or modified facility will comply with all rules and regulations of the Commission and with the intent of the Texas Clean Air Act, including the protection of the health and physical property of the people. Texas noted that sources must also comply with the nuisance provisions of section 101.4 of the SIP. We have determined that the revision meets the requirements of 40 CFR 51.160(a) and section 110(l) of the CAA because it sets forth legally enforceable procedures that require the TCEQ to determine whether the construction or modification will result in a violation of applicable portions of the control strategy or will interfere with attainment or maintenance of a national standard. The revision also meets the requirement of 40 CFR 51.160(e) to identify types of facilities that will be subject to review.

III. What Final Action Is EPA Taking?

We are approving as a revision to the Texas SIP revisions of 30 TAC section 116.112—Distance Limitations, which Texas submitted on February 5, 2004. We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on February 6, 2006 without further notice unless we receive adverse comment by January 6, 2006. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. 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). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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 action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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. 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, 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. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 6, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 30, 2005.

Carl E. Edlund,

Acting Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS—Texas

■ 2. The table in § 52.2270(c) entitled ''EPA Approved Regulations in the Texas SIP'' is amended by revising the entry for Section 116.112 to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/Subject	State approval submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification				
*	*	*	*	*
Subchapter B—New Source Review Permits Division 1—Permit Application				
*	*	*	*	*
Section 116.112	Distance Limitations	01/14/04	12/07/05	
*	*	*	*	*

[FR Doc. 05–23717 Filed 12–6–05; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 05–312; FCC 05–192]

Digital Television Distributed Transmission System Technologies; Clarification Order

AGENCY: Federal Communications Commission.

ACTION: Clarification.

SUMMARY: In this document, the Commission clarifies the interim guidelines relating to DTS that were established in the *Second DTV Periodic Report and Order.* The interim rules apply to stations that wish to use DTS during the pendency of this rulemaking proceeding in this docket.

DATES: Effective October 4, 2004.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Evan Baranoff, *Evan.Baranoff@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Clarification Order,* FCC 05–192, adopted on November 3, 2005, and released on November 4, 2005. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

Summary of the Clarification

I. Introduction

1. In the *Second DTV Periodic Report and Order*, we approved in principle the use of distributed transmission system (DTS) technologies but deferred to a separate proceeding the development of rules for DTS operation and the examination of several policy issues related to its use. (*See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 69 FR 59500, October 4, 2004, (*Second DTV Periodic Report and Order*)). With this *Clarification*, we clarify the interim rules established in the *Second DTV Periodic Report and Order*, which will continue to be available for stations that wish to apply to use DTS technology during the pendency of this rulemaking proceeding. In the Notice of Proposed Rulemaking (*NPRM*), which is published elsewhere in this issue of the **Federal Register**, we examine the issues related to the use of DTS and propose rules for future DTS operation. The rules we propose in the *NPRM* will apply with respect to existing authorized facilities and to use of DTS after establishment of the new DTV Table of Allotments, which may afford stations the opportunity to apply to maximize their service areas after our current freeze on the filing of most applications.

II. Background

2. In the *Second DTV Periodic NPRM* in MB Docket No. 03–15, we sought comment on whether we should permit DTV stations to use DTS technologies. (*See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 03–15, 68 FR 7737 February 18, 2003, (*Second DTV Periodic NPRM*).). A DTV distributed transmission system would employ multiple synchronized transmitters spread around a station's service area. Each transmitter would broadcast the station's DTV signal on the same channel, relying on the performance of ''adaptive equalizer'' circuitry in DTV receivers to cancel or combine the multiple signals plus any reflected signals to produce a single signal. Such distributed transmitters could be considered to be similar to analog TV booster stations, a secondary, low power service used to fill in unserved areas in the parent station's coverage area, but DTV technology has the ability to enable this type of operation in a much more efficient manner. For analog TV boosters, in contrast to DTV DTS operation, significant self-interference will occur unless there is substantial terrain blocking the arrival of multiple signals into the same area (for example, interference will occur if one signal arrives from the primary analog station directly and a second signal arrives from a booster station).

3. We received 18 comments in the *Second DTV Periodic Report and Order* relating to the use of DTS, with the parties generally supporting use of this technology. We agreed with the generally supportive comments that DTS technology offers potential benefits to the public and noted the encouraging, though limited, reports of the technology tested thus far. Accordingly, in the *Second DTV Periodic Report and Order* we approved in principle the use of DTS technology, set forth interim guidelines, and committed to undertake a rulemaking proceeding to adopt rules for DTS operations. We now initiate that rulemaking to propose rules for future DTS operation, seek further comment on DTS operations and clarify certain aspects of the interim rules established in the *Second DTV Periodic Report and Order*.

III. Clarification of DTS Interim Authorization Policy

4. In the *Second DTV Periodic Report and Order*, we decided to permit interim DTS operations if they provided predicted service only within a station's currently authorized area (including its replication area as well as any maximization area resulting from facilities granted by a construction permit or license). In addition, for an interim DTS proposal to be approved, we stated that it needed to be designed to serve essentially all of its replication coverage area. We now take this opportunity to respond to informal industry inquiries by clarifying how the interim guidelines apply to DTS during the pendency of this proceeding. Specifically, consistent with the requirement to serve the population that is currently served, DTS transmitters must be located within the DTV station's predicted noise-limited service contour (PNLC). We will consider on a case-by-case basis requests to extend beyond the PNLC by a minimal distance, provided such extension is necessary to permit coverage of the area within the PNLC. Further, consistent with this limitation, DTS transmitters will be limited to power levels such that any individual DTS transmitter's PNLC would only exceed the station's PNLC by a minimal amount consistent with the use of DTS to serve viewers within the PNLC. For this interim policy, a station's PNLC is based on its existing authorizations (combined coverage areas

from its DTV allotment, also referred to as its ''replication'' service area, plus its maximization construction permit, if any, and maximization license, if any). This policy reflects the decisions made in the *Second DTV Periodic Review Report and Order* to (1) require that DTS provide service to essentially all of a station's replication coverage area; (2) permit but not require coverage of any maximization area; and (3) prohibit use of DTS on a primary basis beyond a station's currently authorized area (including its replication area as well as any maximization area resulting from facilities granted by a construction permit or license).

5. We also clarify the requirement that the combined DTS noise-limited service be provided over all of a station's replication service area. To evaluate whether a request to use DTS during this interim period conforms to this requirement, we examine whether every location in a station's replication service area is within the PNLC of at least one proposed DTS transmitter. Because we do not protect DTS service beyond the station's PNLC, DTS signals beyond the PNLC are considered to have secondary status and must protect other licensed operations. Stations designing DTS operations should also recognize that DTS service beyond the area that the station ''certified'' it intends to serve (on Form 381 filed in accordance with the channel election process) may be considered secondary and unprotected in the planning for post-transition DTV service, and therefore may not be allowed to continue past the end of the transition unless specifically re-authorized. Consistent with our determination in the *Second DTV Periodic Report and Order*, the threshold for unacceptable interference to other stations will be new interference exceeding 0.1 percent based on the strongest of the multiple DTS signals (not based on the combined effect of the multiple DTS transmitters). Stations wishing to use DTS, like all other stations, are required to comply with § 73.625 of our rules with respect to service within the station's community of license (sometimes referred to as a predicted signal strength that is ''noise-limited plus 7 dB'') (47 CFR 73.625).

6. A station's desire to explore DTS operation is not acceptable grounds for an extension of the replication and maximization interference protection deadline. Any station employing an interim arrangement of DTS transmitters on its build-out deadline will be expected to demonstrate that its DTS operation meets the appropriate build-out requirement. Beyond these decisions, our staff will determine on a case-by-case basis the adequacy of other aspects of proposed operation (including permissible power, antenna height, and the acceptability of interference showings).

IV. Procedural Matters

A. Regulatory Flexibility Act Analysis

7. No Regulatory Flexibility Act Analysis is legally required in the case of this *Clarification*.

B. Paperwork Reduction Act of 1995 Analysis

8. This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

C. Congressional Review Act

9. In order to supplement the submission of the *Second Periodic DTV Report and Order* which was made on October 8, 2004, the Commission will send a copy of *Clarification* in a report to be sent to Congress and the General Accountability Office, pursuant to the Congressional Review Act.

IV. Ordering Clauses

10. *It is ordered* pursuant to sections 1, 4(i) and (j), 5(c)(1), 7, 301, 302, 303(f) and (r), 307, 308, 309, 316, 319, and 336, of the Communications Act of 1934, as amended, 47 U.S.C. 51, 154(i) and (j), 155(c)(1), 157, 301, 302, 303(f) and (r), 307, 308, 309, 316, 319, and 336, that the policy regarding interim use of distributed transmission systems (DTS) is *clarified* as described herein. *It is further ordered* that, pursuant to 47 U.S.C. 155(c), the Chief, Media Bureau, is *granted delegated authority* to review and process applications to use DTS.

List of Subjects in 47 CFR Part 73

Digital television, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–23660 Filed 12–6–05; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 112305D]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS has determined that an Atlantic bluefin tuna (BFT) quota transfer from the Atlantic tunas General category to the Reserve category in the amount of 200 metric tons (mt), is warranted. This action is being taken to account for any potential overharvests that may occur in the Angling category during the 2005 fishing year (June 1, 2005 through May 31, 2006) and to ensure that U.S. BFT harvest is consistent with recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), pursuant to the Atlantic Tunas Convention Act (ATCA), and to meet the domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP).

DATES: The effective date of the BFT quota transfer is December 2, 2005 through May 31, 2006.

FOR FURTHER INFORMATION CONTACT: Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Act, (16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by ICCAT among the various domestic fishing categories. The categories, together with the General category effort controls, are specified annually through procedures provided at § 635.23(a) and § 635.27(a). The 2005 BFT fishing year began on June 1, 2005, and ends May 31, 2006. The final initial 2005 BFT specifications and General category effort controls were published on June 7, 2005 (70 FR 33033).

Quota Transfer

To date, preliminary fishing reports from the 2005 recreational BFT fishery indicate a season of strong effort and participation which could potentially equate to high landings. This is in contrast with the low landing rates across the commercial BFT categories. The Angling category quota allocation of 288.6 mt for the 2005 season addressed several issues including Angling category quota overages during the last several years, consistency with baseline quota percentages established in the HMS FMP, and the Agency's intent to

provide a limited recreational season during the 2005 fishing year. However, final 2005 recreational BFT landings estimates will not be available until mid to late January. Based on the lack of final recreational BFT catch estimates and the Angling category overharvests experienced over the last couple of years, NMFS has determined that a risk adverse strategy to transfer 200 mt from the General category quota to the Reserve category is warranted as a precautionary measure to address any potential overharvests in the Angling category. The Reserve category was established for the purpose of compensating for any overharvest in any category and would be used to take subsequent actions in the year following an overharvest and as necessary to meet ICCAT obligations.

This transfer is conducted in accordance with the implementing regulations at § 635.27(a)(8), which state that NMFS has the authority to transfer quotas among categories, or, as appropriate, subcategories, of the fishery, after considering several factors.

End of General Category Season

The amount of this transfer will still provide ample quota, approximately 545 mt, for the remainder of the General category BFT fishery, while ensuring there is sufficient quota in the Reserve category to address any potential Angling category overharvests that may occur during the 2005 fishing year. As of November 28, 2005, approximately 163.5 mt has been landed against the General category quota of 908.3 mt and catch rates to date have been extremely slow. NMFS is concerned over the unusually large magnitude of General category quota remaining at the end of the 2005 fishing year. NMFS is aware of the need to provide adequate fishing opportunities and to continue its support of traditional fishing practices and patterns. Thus, NMFS needs to be especially prudent and careful as the fishery enters the last months of the season with an unprecedented large amount of quota, and will be carefully monitoring landings to assess the status of, and any impacts to, the fishery.

Monitoring and Reporting

NMFS will continue to closely monitor the General category BFT fishery through daily dealer BFT landing reports and communication with industry and affected parties. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional management actions are necessary to ensure that the objectives of the HMS FMP and appropriate mandates are met. Closures, subsequent adjustments to the daily retention limits, and/or additional inseason quota transfers, if any, will be published in the **Federal Register**. In addition, individuals may access the Internet at *www.nmfspermits.com* or call the Atlantic Tunas Information Line at (888) 872–8862 or (978) 281–9260, for updates on quota monitoring and retention limit adjustments.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on this action. NMFS has recently become aware of increased availability of large school, small medium, large medium, and giant BFT on the South Atlantic fishing grounds. This increase in abundance provides the potential to increase Angling and General category landings rates. As noted above, the regulations implementing the HMS FMP provide for inseason quota transfers, taking into consideration several factors including the probability of exceeding the total BFT quota.

NMFS needs to act promptly while quota is still available in the General category in order to take precautionary steps regarding potential Angling category overharvests. In addition, it is necessary to promptly inform General category participants of the amount of quota available for the remainder of the General category BFT season to allow for industry to adequately plan and prepare. This action would allow the General and Angling category fisheries to remain open while remaining consistent with recommendations of ICCAT, pursuant to ATCA, and meeting the domestic management objectives under the Magnuson-Stevens Act and the HMS FMP.

Delays in performing this inseason quota transfer from the General category to the Reserve category would be contrary to the public interest. Such delays would adversely affect those Angling and General participants, as well as their support industries, attempting to make plans for the remainder of the BFT fishery and may jeopardize the availability of quota to account for potential overharvests if landings rates increase dramatically.

Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.27(a)(8) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: December 1, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–23734 Filed 12–2–05; 2:27 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 234
Wednesday, December 7, 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–2005–23145; Directorate Identifier 2000–NM–215–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all EMBRAER Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. The existing AD currently requires repetitive inspections to detect cracking or failure of the rod ends of the aileron power control actuator (PCA), and corrective actions if necessary. This proposed AD would require the same repetitive inspections of additional parts at new inspection intervals for certain airplanes; provide new corrective actions; and provide an optional terminating action for the proposed requirements. This proposed AD results from the issuance of mandatory continuing airworthiness information by the Brazilian airworthiness authority. We are proposing this AD to detect and correct cracking or breaking of the rod ends and connecting fittings of the aileron PCA, which could result in reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by January 6, 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. FAA–2005–23145; Directorate Identifier 2000–NM–215–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

On March 16, 1999, we issued AD 99–05–04, amendment 39–11087 (64 FR 13892, March 23, 1999), for all EMBRAER Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. That AD requires repetitive inspections to detect cracking or failure of the rod ends of the aileron power control actuator (PCA), and corrective actions if necessary. That AD resulted from the issuance of mandatory continuing airworthiness information by the Brazilian civil aviation authority, the Departmento de Aviacao Civil (DAC). We issued that AD to detect and correct cracking or failure of the rod ends of the aileron PCA, which could result in reduced controllability of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 99–05–04, the DAC notified us that it has received additional reports of broken rod ends of the aileron PCA, involving part numbers (P/N) on which AD 99–05–04 did not apply. The rod ends were broken either at the aileron or at the wing side of the PCA. More recently, there have been reports of cracking in the aileron PCA fittings at the wing side. Failure/breaking of the aileron PCA rod ends or connecting fittings, if not corrected, could result in reduced controllability of the airplane.

Relevant Service Information

EMBRAER has issued the following service documents:

1. Service Bulletin 145–27–0054, Change 03, dated March 30, 2000; and Service Bulletin 145–27–0054, Change

04, dated February 14, 2005. For PCAs having certain P/Ns, these service bulletins describe procedures for repetitive visual inspections for cracking or failure of the aileron PCA rod ends and connecting fittings at the aileron connection points for the wing structure. Among other things, these service bulletins also describe procedures for corrective actions that include replacing PCAs that have cracked or failed rod ends with new PCAs, replacing cracked or failed fittings with new reinforced fittings, and replacing any aileron having any discrepancy found during the described inspections with a new or serviceable aileron.

2. Service Bulletin 145–57–0019, Change 02, dated May 3, 2001; and Service Bulletin 145–57–0019, Change 03, dated February 11, 2004. These service bulletins describe procedures for replacing all PCA connecting fittings with new, redesigned, and reinforced fittings in the half-wings, among other actions. EMBRAER recommends that these service bulletins be done at the same time as the actions in EMBRAER Service Bulletin 145–27–0061 and in EMBRAER Service Bulletin 145–27–0062 (both described below).

3. Service Bulletin 145–27–0061, Change 02, dated September 12, 2000; Service Bulletin 145–27–0061, Change 03, dated March 14, 2001; and Service Bulletin 145–27–0061, Revision 04, dated August 11, 2004. These service bulletins describe procedures for reinforcing the aileron PCA fittings and reidentifying the aileron. EMBRAER recommends that these service bulletins be done at the same time as the actions in EMBRAER Service Bulletins 145–57–0019 and 145–27–0062.

4. Service Bulletin 145–27–0062, Revision 03, dated December 11, 2002; and Service Bulletin 145–27–0062, Revision 04, dated March 8, 2004. For PCAs with certain P/Ns, these service bulletins describe procedures for replacing the aileron PCAs with new, improved aileron PCAs, among other actions. EMBRAER recommends that the actions in EMBRAER Service Bulletins 145–57–0019 and 145–27–0061 be done before the actions in these service bulletins. These service bulletins also specify that operators send the replaced PCAs to the parts manufacturer.

5. Service Bulletin 145–27–0063, dated March 30, 2000; Service Bulletin 145–27–0063, Change 01, dated October 2, 2000; Service Bulletin 145–27–0063, Change 02, dated March 22, 2002; Service Bulletin 145–27–0063, Change 03, dated May 27, 2004; Service Bulletin 145–27–0063, Revision 04, dated October 13, 2004; and Service Bulletin 145–27–0063, Revision 05, dated March 16, 2005. These service bulletins describe procedures for installing an aileron damper and modifying the hydraulic system, among other actions.

6. Subtask 27–12–01–212–002–A00 of the EMBRAER EMB–145 Aircraft Maintenance Manual. This subtask provides procedures for inspecting the aileron PCA rod ends and fitting lugs.

The DAC mandated the service information and issued Brazilian airworthiness directive 1999–02–01R6, dated June 21, 2004, to ensure the continued airworthiness of these airplanes in Brazil.

FAA's Determination and Requirements of the Proposed AD

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

This proposed AD would supersede AD 99–05–04 and would continue to require repetitive inspections to detect cracking or failure of the rod ends of the aileron PCA, and corrective actions if necessary. This proposed AD would also:

1. Require the same repetitive inspections of additional P/Ns at new inspection intervals for certain airplanes;

2. Provide new corrective actions;

3. Require use of a new revision of the previously required service bulletin; and

4. Provide an optional terminating action for the proposed requirements.

The proposed AD would require you to use the service information described previously to perform these actions.

Differences Between the Proposed AD and the Brazilian Airworthiness Directive

The Brazilian airworthiness directive does not give a compliance time for the initial inspection of the PCA rod ends and fittings. We would require that inspection to be done at the applicable time specified in the following table, ''Compliance Times for Initial Inspection.'' In developing an appropriate compliance time for this inspection, we considered the manufacturer's recommendation, the degree of urgency associated with the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (1 hour). We also considered that the referenced service bulletin (EMBRAER Service Bulletin 145–27–0054, Change 03, dated March 30, 2000), which contains the procedures for accomplishing the required inspection, has been available to all operators of the subject EMBRAER airplanes since March 2000. (EMBRAER Service Bulletin 145–27–0054, Change 03, was revised on February 14, 2005, to add two airplanes to the effectivity; we understand that the actions specified in the service bulletin have been accomplished on those two airplanes.) In light of all of these factors, we find that the initial inspection must be accomplished at the applicable time specified in the table below, which represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

TABLE.—COMPLIANCE TIMES FOR INITIAL INSPECTION

For airplanes that have PCAs with these part numbers (P/N)—	Do the initial inspection—
394900–1003 or 394900–1005	Within 3 days after the effective date of this AD.
394900–1007	Within 14 days after the effective date of this AD.
418800–1001, 418800–1003, 418800–9003, 418800–1005, 418800–9005, 418800–1007, or 418800–9007; and that have new reinforced PCA fittings installed in accordance with paragraph (k) or (l) of this AD.	Within 500 flight hours after the effective date of this AD.

The Brazilian airworthiness directive also does not give a compliance time for replacing cracked or failed PCA fittings or rod ends. This proposed AD would require replacing any cracked or failed part before further flight.

In addition, the Brazilian airworthiness directive does not specify what operators should do when no cracked or failed aileron PCA rod ends or connecting fittings are found. This AD would require the inspection to be repeated at the intervals specified in the following table.

TABLE.—REPEAT INSPECTION INTERVALS

For airplanes that have PCAs with these part numbers (P/N)—	Repeat the inspection—
394900–1003 or 394900–1005	At intervals not to exceed 25 flight hours or 3 days, whichever occurs later.
394900–1007	At intervals not to exceed 100 flight hours or 14 days, whichever occurs later.
418800–1001, 418800–1003, 418800–9003, 418800–1005, 418800–9005, 418800–1007, or 418800–9007; and that have new reinforced PCA fittings installed in accordance with paragraph (j) or (k) of this AD.	At intervals not to exced 500 flight hours.

These differences have been coordinated with the DAC and they are in agreement.

Change to Existing AD

This proposed AD would retain certain requirements of AD 99–05–04. Since AD 99–05–04 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 99–05–04	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).

In addition, all references to a ''detailed visual inspection'' have been changed to refer to a ''detailed inspection.'' A definition of detailed inspection is included in Note 1 of the proposed AD.

We have also removed the requirement in paragraph (c) of AD 99–05–04 to send a report of any cracked or failed rod end to the Manager, Atlanta Aircraft Certification Office, FAA. We no longer need this information from operators.

Interim Action

We consider this proposed AD interim action. If final action is later identified, we may consider further rulemaking then.

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspections (required by AD 99–05–04).	1	$65	None	$65, per inspection cycle	661	$42,965, per inspection cycle.
Inspections (new proposed action for airplanes subject to EMBRAER Service Bulletin 145–27–0054).	1	65	None	$65, per inspection cycle	661	$42,965, per inspection cycle.
Replacing the PCA connecting fittings (new proposed action).	24	65	$19,817	$21,377	661	$14,130,197.

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 removing amendment 39–11087 (64 FR 13829, March 23, 1999) and adding the following new airworthiness directive (AD):

Empresa Brasileira De Aeronautica S.A. (EMBRAER): Docket No. FAA–2005–23145; Directorate Identifier 2000–NM–215–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by January 6, 2006.

Affected ADs

(b) This AD supersedes AD 99–05–04.

Applicability

(c) This AD applies to all EMBRAER Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from the issuance of mandatory continuing airworthiness information by the Brazilian airworthiness authority. We are issuing this AD to detect and correct cracking or breaking of the rod ends and connecting fittings of the aileron power control actuator (PCA), which could result in reduced controllability of the airplane.

Compliance

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

Restatement of Certain Requirements of AD 99–05–04

Initial and Repetitive Inspections

(f) Within 24 hours (1 day) after March 29, 1999 (the effective date of AD 99–05–04), perform a detailed inspection to detect cracking or failure of the rod ends of the PCA at the aileron and wing connection points, in accordance with EMBRAER Alert Service Bulletin 145–27–A054, Change 01, dated February 17, 1999; or EMBRAER Service Bulletin 145–27–0054, Change 03, dated March 30, 2000, or Change 04, dated February 14, 2005. Repeat the inspection in accordance with the service bulletin thereafter at intervals not to exceed 3 days or 25 flight hours, whichever occurs later, until the initial inspection required by paragraph (h) of this AD is done.

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

(g) If any cracked or failed rod end is detected during any inspection performed in accordance with paragraph (f) of this AD, prior to further flight, replace the aileron PCA with a new part having the same part number, in accordance with EMBRAER Alert Service Bulletin 145–27–A054, Change 01, dated February 17, 1999; or EMBRAER Service Bulletin 145–27–0062, Revision 03, dated December 11, 2002, or Revision 04, dated March 8, 2004. After the effective date of this AD replace the aileron PCA only with a new part that is listed in the ''New P/N'' column in section 2. ''Material—Cost and Availability'' of EMBRAER Service Bulletin 145–27–0062, Revision 03, dated December 11, 2002, or Revision 04, dated March 8, 2004. Do the replacement in accordance with the Accomplishment Instructions of the service bulletin. Where the service bulletin says to send parts to the parts manufacturer, that action is not required by this AD.

New Requirements of This AD

Repetitive Inspections

(h) At the applicable ''Initial Inspection'' compliance time in Table 1 of this AD: Do a general visual inspection to detect cracking or failure of the rod ends and connecting fittings in the left- and right-hand PCAs at the aileron and wing structure connection points, in accordance with Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 145–27–0054, Change 03, dated March 30, 2000, or Change 04, dated February 14, 2005. Repeat the inspection at the applicable ''Repeat'' interval in Table 1 of this AD. Doing the initial inspection in accordance with paragraph (h) of this AD terminates the repetitive inspections in paragraph (f) of this AD.

TABLE 1.—INITIAL AND REPETITIVE INSPECTION INTERVALS

For airplanes that have PCAs with part numbers (P/N)—	Do the initial inspection—	Repeat the inspection—
394900–1003, 394900–1005	Within 3 days after the effective date of this AD.	At intervals not to exceed 25 flight hours or 3 days, whichever occurs later.
394900–1007	Within 14 days after the effective date of this AD.	At intervals not to exceed 100 flight hours or 14 days, whichever occurs later.
418800–1001, 418800–1003, 418800–9003,418800–1005, 418800–9005, 418800–1007, or 418800–9007; and that have new reinforced PCA fittings installed in accordance with paragraph (k) or (l) of this AD.	Within 500 flight hours after the effective date of this AD.	At intervals not to exceed 500 flight hours.

Note 2: For the purposes of this AD, a general visual inspection is ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

No Cracked or Failed PCA Rod Ends or Connecting Fittings

(i) If no cracked or failed PCA rod end or connecting fitting is found during any inspection required by paragraph (h) of this AD: Repeat the inspection required by paragraph (h) of this AD at the applicable time specified in Table 1 of this AD.

Corrective Actions for Cracked or Failed Rod Ends

(j) If any cracked or failed rod end is found during any inspection required by paragraph (h) of this AD: Before further flight, replace the aileron PCA with a new part as listed in the ''New P/N'' column in section 2.

''Material—Cost and Availability'' of EMBRAER Service Bulletin 145–27–0062, Revision 03, dated December 11, 2002, or Revision 04, dated March 8, 2004. Do the replacement in accordance with the Accomplishment Instructions of the service bulletin. Where the service bulletin specifies to send parts to the parts manufacturer, that action is not required by this AD.

Corrective Actions for Cracked or Failed PCA Connecting Fittings

(k) If any cracked or failed PCA connecting fitting at the wing or aileron side is found during any inspection required by paragraph (h) of this AD: Before further flight, replace the PCA connecting fitting with a new, reinforced fitting, in accordance with Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 145–57–0019, Change 02, dated May 3, 2001, or Change 03, dated February 11, 2004; and EMBRAER Service Bulletin 145–27–0061, Change 02, dated September 12, 2000, Change 03, dated March 14, 2001, or Revision 04, dated August 11, 2004.

PCA Connecting Fitting Replacement

(l) For airplanes with aileron PCAs with P/N 394900–1003, 394900–1005, 394900–1007, 418800–1001, 418800–1003, 418800–9003, 418800–1005, 418800–9005, 418800–1007, or 418800–9007: Except as required by paragraph (k) of this AD, at the applicable time in paragraphs (l)(1) and (l)(2) of this AD, replace the aileron PCA connecting fittings with new, reinforced fittings, in accordance with Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 145–57–0019, Change 02, dated May 3, 2001, or Change 03, dated February 11, 2004; and Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 145–27–0061, Change 02, dated September 12, 2000, Change 03, dated March 14, 2001, or Revision 04, dated August 11, 2004.

(1) For airplanes with PCAs with P/N 394900–1003, 394900–1005, or 394900–1007: At the later of the times in paragraphs (l)(1)(i) and (l)(1)(ii) of this AD.

(i) Before the airplane accumulates 6,000 total flight hours.

(ii) Within 3 days or 25 flight hours after the effective date of this AD, whichever occurs later.

(2) For airplanes with PCAs with P/N 418800–1001, 418800–1003, 418800–9003, 418800–1005, 418800–9005, 418800–1007, or 418800–9007: Before the airplane accumulates 6,000 total flight hours, or within 600 flight hours after the effective date of this AD, whichever occurs later.

(m) For airplanes with PCAs with P/N 418800–1001, 418800–1003, 418800–9003, 418800–1005, 418800–9005, 418800–1007, or 418800–9007: At the applicable time specified in Table 1 of this AD following the replacement specified in paragraph (l) of this AD, do a general visual inspection of the replaced part using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Departmento de Aviacao Civil (or its delegated agent). Doing the inspections in accordance with EMBRAER EMB–145 Aircraft Maintenance Manual Task 27–12–01–212–002–A00, ''Inspect (Visual Inspection) Aileron PCA Rod Ends/Fitting Lugs for Integrity and General Condition'', is one approved method. Thereafter, repeat the inspection at the applicable time specified in Table 1 of this AD.

Optional Terminating Action

(n) Airplanes that meet all conditions in paragraphs (n)(1), (n)(2), (n)(3), and (n)(4) of this AD are not subject to the requirements of paragraphs (f), (h), (i), (j), (k), (l), and (m) of this AD.

(1) The airplane is equipped with new aileron PCAs with P/N 418800–1001, 418800–1003, 418800–9003, 418800–1005, 418800–9005, 418800–1007, or 418800–9007.

(2) The airplane is equipped with new, reinforced PCA fittings installed in production or in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–57–0019, Change 02, dated May 3, 2001, or Change 03, dated February 11, 2004; and EMBRAER Service Bulletin 145–27–0061, Change 02, dated September 12, 2000, Change 03, dated March 14, 2001, or Revision 04, dated August 11, 2004; as applicable.

(3) The airplane is equipped with an aileron damper with P/N 41012130–103 or 41012130–104 that was installed in production or in accordance with the Accomplishment Instructions of any service bulletin listed in Table 2 of this AD.

TABLE 2.—AILERON DAMPER INSTALLATION SERVICE BULLETINS

EMBRAER service bulletin	Revision level	Date
145–27–0063	Original	March 30, 2000.
145–27–0063	Change 01	October 2, 2000.
145–27–0063	Change 02	March 22, 2002.
145–27–0063	Change 03	May 27, 2004.
145–27–0063	Revision 04	October 13, 2004.
145–27–0063	Revision 05	March 16, 2005.

(4) The general visual inspections for structural integrity of the aileron PCA and the aileron damper terminals and fittings at the wing and aileron sides at intervals not exceeding 1,000 flight hours, established in the EMBRAER Model EMB–145 Maintenance Review Board document, are implemented.

Alternative Methods of Compliance (AMOCs)

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

(2) Before using any AMOC approved in accordance with § 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) Alternative methods of compliance approved previously in accordance with AD 99–05–04 are approved as alternative methods of compliance with this AD.

Related Information

(p) Brazilian airworthiness directive 1999–02–01R6, dated June 21, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on November 1, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–23702 Filed 12–6–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 41, 158, 286 and 349

[Docket No. RM06–2–000]

Procedures for Disposition of Contested Audit Matters

November 30, 2005.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking: Extension of comment period.

SUMMARY: On October 20, 2005, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking regarding procedures for the disposition of contested audit matters (70 FR 65866, November 1, 2005). The Commission is

extending the date for filing reply comments at the request of the Interstate Natural Gas Association.

DATES: Reply comments are due on or before December 9, 2005.

ADDRESSES: Reply comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426. Refer to the Comment Procedures section of the preamble for additional information on how to file comments.

FOR FURTHER INFORMATION CONTACT: John R. Kroeger, Office of Market Oversight and Investigations, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8177.

SUPPLEMENTARY INFORMATION:

Notice of Extension of Time

On November 29, 2005, the Interstate Natural Gas Association of America (INGAA) filed a motion for an extension of time to file reply comments in response to the Commission's Notice of Proposed Rulemaking issued October 20, 2005, in the above-docketed proceeding. *Procedures for Disposition of Contested Audit Matters,* 113 FERC ¶ 61,069 (2005). The motion states that because of the extensive and substantial initial comments that were filed in this proceeding, the intervening Thanksgiving holiday and the press of the significant Commission proceedings in which INGAA is participating, INGAA requires additional time to consult with its members and prepare well-developed and responsive reply comments.

Upon consideration, notice is hereby given that an extension of time for filing reply comments in this proceeding is granted to and including December 9, 2005, as requested by INGAA.

Magalie R. Salas,

Secretary.

[FR Doc. 05–23728 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 4, 5, and 7

[Notice No. 53]

RIN 1513—AB16

Use of the Word ''Pure'' or Its Variants on Labels or in Advertisements of Alcohol Beverage Products; Request for Public Comment

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau is considering amending the regulations concerning the use of the word ''pure'' on labels or in advertisements of alcohol beverage products. We wish to gather information by inviting comments from the public and industry as to whether the existing regulations should be revised.

DATES: We must receive written comments on or before February 6, 2006.

ADDRESSES: You may send comments to any one of the following addresses:

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 53, P.O. Box 14412, Washington, DC 20044–4412.
- 202–927–8525 (facsimile).
- *nprm@ttb.gov* (e-mail).
- *http://www.ttb.gov/alcohol/rules/index.htm* (an online comment form is posted with this notice on our Web site).
- *http://www.regulations.gov* (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this advance notice and any comments we receive on this notice by appointment at the TTB Library, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400. You may also access copies of the advance notice and comments online at *http://www.ttb.gov/alcohol/rules/index.htm.*

See Section VI of this notice for specific instructions and requirements for submitting comments and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 128, Morganza, MD 20660; (301) 290–1460.

SUPPLEMENTARY INFORMATION:

I. Authority to Prescribe Alcohol Beverage Labeling and Advertising Regulations

Sections 105(e) and 105(f) of the Federal Alcohol Administration Act (FAA Act), codified in the United States Code at 27 U.S.C. 205(e) and 205(f), set forth standards for the regulation of the labeling and advertising of distilled spirits, wine (at least 7 percent alcohol by volume), and malt beverages, generally referred to as ''alcohol beverage products'' throughout this document. These sections give the Secretary of the Treasury the authority to issue regulations to prevent deception of the consumer, to provide the consumer with ''adequate information'' as to the identity and quality of the product, and to prohibit false or misleading statements on product labels and in advertisements. Additionally, these FAA Act provisions give the Secretary the authority to prohibit, irrespective of falsity, statements relating to age, manufacturing processes, analyses, guarantees, and scientific or irrelevant matters which are likely to mislead the consumer. In the case of malt beverages, the labeling and advertising provisions of the FAA Act apply only if the laws of the State into which the malt beverages are to be shipped impose similar requirements. The Alcohol and Tobacco Tax and Trade Bureau (TTB) is responsible for the administration of the FAA Act and the regulations promulgated under it. The labeling and adverting regulations for wine, distilled spirits, and malt beverages are codified in title 27 of the Code of Federal Regulations (CFR), parts 4, 5, and 7, respectively.

II. Current Regulatory Standards

Sections 5.42(b)(5) and 5.65(a)(8) of the TTB regulations (27 CFR 5.42(b)(5) and 5.65(a)(8)), hereinafter referred to collectively as the ''pure regulations,'' currently state that the word ''pure'' may not be used on distilled spirits labels or in advertisements unless:

- It refers to a particular ingredient used in the production of the distilled spirits, and is a truthful representation about the ingredient; or
- It is part of the bona fide name of a permittee or retailer for whom the distilled spirits are bottled; or
- It is part of the bona fide name of the permittee who bottled the distilled spirits.

TTB considers variants of the word ''pure'' such as ''purest,'' ''purity,'' and ''pureness'' to fall within the purview of these regulations. These prohibitions apply only to distilled spirits. There are no similar prohibitions on the use of the

word ''pure'' in the labeling or advertising of wine or malt beverages.

III. Regulatory History Concerning the Use of ''Pure'' on Distilled Spirits Labels and in Advertisements

TTB and its predecessor agencies have had a regulation in force concerning the word ''pure'' since the 1930s. The original regulation was first published on April 2, 1936 (1 FR 92), and provided that labels and advertisements of distilled spirits shall not contain the word ''pure'' except as part of the bona fide name of a permittee or a retailer for whom the distilled spirits are bottled. This regulation, as well as additional regulations governing the labeling and advertising of distilled spirits, was codified into 27 CFR part 5.

On April 22, 1936, the Treasury Department published a notice of hearing with reference to proposed amendments to the distilled spirits regulations. Included among the proposed amendments were possible amendments to the regulations prohibiting the word ''pure'' on distilled spirits labels and in advertisements. On May 15, 1936, the Treasury Department conducted the hearings. During the hearings, Treasury's Assistant General Counsel, John E. O'Neill, stated that the ''ordinary man'' regarded the word ''pure'' as denoting that the product is wholesome, free from adulterants, free from harmful ingredients, and not deleterious to a person's health. O'Neill further argued that if a product were permitted to be called ''pure'' consumers would regard it as meeting that definition. Others testified against the prohibition of the word ''pure'' with respect to its use to describe certain types of whisky. One individual testified that while he was satisfied with the regulations prohibiting the word ''pure'' on labels and in advertisements, he did not believe that the word ''pure'' described a healthful commodity. Rather, he believed the word ''pure'' would refer to whether the product had been adulterated with some other material. Another testified that to the average person the word ''pure'' denotes quality and that those seeking to use it have the desire to distinguish between the quality of one product over another. Upon the conclusion of the hearings concerning the regulations in part 5, the prohibition of the word ''pure'' remained unchanged.

The prohibition of the word ''pure'' on distilled spirits labels and in advertisements was raised for reconsideration on November 21, 1978, when the Bureau of Alcohol, Tobacco and Firearms (ATF), TTB's predecessor agency, published an advance notice of proposed rulemaking, Notice No. 313, in the **Federal Register** (43 FR 54266). The purpose of Notice No. 313 was to obtain input from industry members and the general public concerning the advertising provisions of the FAA Act, and it suggested specific topics within 27 CFR parts 4, 5, and 7, which ATF was considering changing. Among these topics, ATF considered changing the total prohibition of the use of the term ''pure.'' Of those that commented directly on the pure regulations, fourteen commenters were equally divided on whether to allow the term ''pure'' to be used or not. Two other commenters favored its use on straight whiskeys only, while one commenter favored deleting the particular sections prohibiting its use (§ 5.42(b)(5) and § 5.65(a)(8)) and, instead, prohibiting its use under false or misleading statements (§ 5.42(a)(1) and § 5.65(a)(1)). Three commenters stated that alcohol beverages were not pure, and that the use of the word ''pure'' as applied to alcohol beverages was misleading. Various regulatory definitions for ''pure'' suggested by commenters were viewed by ATF as too broad or vague to be of any assistance.

On December 19, 1980, ATF published a notice of proposed rulemaking, Notice No. 362 (45 FR 83530), proposing to lift the total restriction against the use of the term ''pure,'' among other proposals. The notice stated:

> Historically, the Bureau has prohibited the use of pure when it refers to a distilled spirits product. However, with current consumer awareness and understanding, the Bureau believes that its present restrictive position is unnecessary when such terms used are truthful and not misleading. Therefore, the Bureau is proposing to lift the total restriction against the use of the term ''pure.'' For example, the Bureau will allow its use when referring to the water used in producing the distilled spirits. However, the Bureau is particularly interested in comments on this issue.

Sixteen commenters responded concerning this issue, with 12 supporting ATF's proposal. Two commenters who supported the use of ''pure'' stated that it should refer to particular ingredients only, not the finished distilled spirits product.

On August 8, 1984, ATF issued TD–180 (49 FR 31667), which, among other changes, amended the distilled spirits labeling and advertising regulations to modify the pure regulation to reflect its present content. The language in the preamble to the regulatory amendments explains the reasoning for the relaxation of the prohibition of the word ''pure:''

> ATF believes that when the word ''pure'' reflects a truthful statement about a particular ingredient, such as ''pure water,'' it should be allowed to be stated. However, the word ''pure'' may not be used to describe the finished product, such as ''pure gin.'' Therefore, ATF is amending the regulations to allow for such statements and claims on labels and in advertisements of distilled spirits. Further, the present use of ''pure'' when it is part of the bona fide name of a permittee or retailer for whom the distilled spirits are bottled is retained. One commenter suggested that the word ''pure'' should be allowed to appear in the name of the permittee who bottles the distilled spirits. ATF has no objection to this and is amending the regulation accordingly.

IV. Recent Enforcement Activities and Challenges to the Pure Regulations

After receiving a complaint concerning advertisements of distilled spirits products boasting purity claims, TTB undertook a project to identify and contact distilled spirits industry members that were using the word ''pure'' or its variants in their advertising. TTB has found that the use of pure terminology in advertising (and in some labeling) appears to be confined exclusively to clear spirits such as vodka and gin. Within that sector, TTB has found that its use is widespread. TTB has sent letters stating the Bureau's policy to over 20 different distilled spirits industry members regarding their website advertising of 26 different distilled spirits products.

As a result of the letters, some industry members raised questions about the pure regulations as well as TTB's policy that extends the regulations to include variants of the word ''pure.'' The following summarizes the principal arguments we received:

- The plain language of the regulation at 27 CFR 5.65(a)(8) prohibits the use of the word ''pure'' only, and does not extend to variations on the word ''pure'' such as ''purest'' or ''purity.'' Other sections in the distilled spirits advertising regulations that prohibit certain words and variations of the prohibited words do so by using phrases such as ''synonymous terms'' or ''similar terms.'' The lack of such terms in the pure regulation evidences the intent to limit the regulation to the word ''pure'' only.
- Certain vodkas are pure in the general sense of the term and therefore the statements are not misleading and are protected by the First Amendment to the U.S. Constitution.
- Even though distilled spirits contain some impurities, other commodities, such as beer and wine, also contain impurities and TTB regulations do not prohibit use of the

term ''pure'' as it relates to those commodities.

V. Request for Comments

TTB is considering whether to amend the regulations concerning the use of the word ''pure'' or its variants in the labeling and advertising of alcohol beverage products. To assist TTB in identifying and implementing the best course of action, we wish to gather information by inviting comments from the public and industry as to how, if at all, the existing regulations should be amended. In addition to general comments on the issue, we are seeking comments on the following specific questions.

A. What does the general public consider the word ''pure'' to mean when used on labels and in advertisements of alcohol beverage products? Does its use convey information to the consumer about the identity and quality of the product? Does its use convey information about the alcohol content of a product?

B. TTB considers variants of the word ''pure'' such as ''pureness,'' ''purest,'' and ''purity'' to fall within the purview of the pure regulations. Are these variants misleading and, if so, should TTB amend the regulations to prohibit their use? Should TTB limit the scope of the pure regulations to the word ''pure'' only?

C. Would the use of terms or claims such as ''pure vodka,'' ''pure whisky,'' ''vodka with exceptional purity'' on distilled spirits labels and in advertisements mislead consumers? Would the use of similar terms or claims on wine and malt beverage products mislead consumers?

D. Should TTB amend the pure regulations to allow the use of the word ''pure'' and its variants on distilled spirits labels and in advertisements if the statements are truthful? How can TTB substantiate the truthfulness of such claims? How should pure be defined?

E. Should TTB permit the use of the word ''pure'' or its variants on distilled spirits product labels and in advertisements if those products meet a certain standard? If so, what should that standard be?

F. What would be the impact of allowing the use of these terms?

G. Should TTB prohibit the use of the word ''pure'' and its variants on labels and in advertisements for malt beverages and wine products? Why or why not?

VI. Submitting Comments

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals. You may submit comments in one of five ways:

- *Mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *Facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—
  (1) Be on 8.5 by 11-inch paper;
  (2) Contain a legible, written signature; and
  (3) Be no more than five pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.
- *E-mail:* You may e-mail comments to *nprm@ttb.gov.* Comments transmitted by electronic mail must—
  (1) Contain your e-mail address;
  (2) Reference this notice number on the subject line; and
  (3) Be legible when printed on 8.5 by 11-inch paper.
- *Online form:* We provide a comment form with the online copy of this notice on our Web site at *http://www.ttb.gov/alcohol/rules/index.htm.* Select the ''Send comments via e-mail'' link under this notice number.
- *Federal e-Rulemaking Portal:* To submit comments to us via the Federal e-rulemaking portal, visit *http://www.regulations.gov* and follow the instructions for submitting comments.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine, in light of all circumstances, whether to hold a public hearing.

Confidentiality

All submitted material is part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider confidential or inappropriate for public disclosure.

Public Disclosure

You may view copies of this advance notice, the petitions, and any comments we receive by appointment at the TTB Library at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5 by 11-inch page. Contact our librarian at the above address or telephone 202–927–2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post this advance notice and any comments we receive on this proposal on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Library. To access the online copy of this notice, visit *http://www.ttb.gov/alcohol/rules/index.htm.* Select the ''View Comments'' link under this notice number to view the posted comments.

VII. Drafting Information

Lisa M. Gesser and Joanne C. Brady of the Regulations and Procedures Division drafted this advance notice.

Signed: September 29, 2005.

John J. Manfreda,

Administrator.

Approved: November 3, 2005.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 05–23680 Filed 12–6–05; 8:45 am]

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 54]

RIN 1513–AA89

Proposed Establishment of Tracy Hills Viticultural Area (2003R–508P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the 39,200-acre Tracy Hills viticultural area in San Joaquin and Stanislaus Counties, California, approximately 55 miles east-southeast of San Francisco. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed addition to our regulations.

DATES: We must receive written comments on or before February 6, 2006.

ADDRESSES: You may send comments to any of the following addresses:

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 54, P.O. Box 14412, Washington, DC 20044–4412.
- 202–927–8525 (facsimile).
- *nprm@ttb.gov* (e-mail).

• *http://www.ttb.gov/alcohol/rules/index.htm.* An online comment form is posted with this notice on our Web site.

• *http://www.regulations.gov* (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive about this notice by appointment at the TTB Library, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400. You may also access copies of the notice and comments online at *http://www.ttb.gov/alcohol/rules/index.htm.*

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; telephone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

• Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;

• Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;

• Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;

• A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and

• A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Tracy Hills Petition

TTB has received a petition from Sara Schorske of Compliance Service of America, Inc., filed on behalf of the Brown family, owners of a vineyard near Tracy, California. The petitioner proposes to establish the 39,200-acre ''Tracy Hills'' viticultural area south and southwest of the city of Tracy, California, in southern San Joaquin and northern Stanislaus Counties. Located approximately 55 miles east-southeast of San Francisco, the proposed Tracy Hills viticultural area currently encompasses 1,005 acres of vineyards. The proposed area is not within, nor does it include, any other proposed or established viticultural area. The distinguishing climatic features of the proposed viticultural area, the petition states, include the area's limited rainfall and consistent winds, along with its sparse fog, frost, and dew.

Originally, the petitioner proposed the name ''Mt. Oso'' for this viticultural area. However, after a careful evaluation of the original petition, TTB concluded, and advised the petitioner, that the submitted evidence did not demonstrate, as required by section 9.3(b)(1) of the TTB regulations, that the proposed viticultural area is locally or nationally known as Mt. Oso. In response, the petitioner amended the petition to propose use of the name ''Tracy Hills'' for the proposed viticultural area. The petitioner also has revised the proposed viticultural area's western boundary and submitted additional evidence to support the amended petition. We summarize below the information submitted in support of the petition.

Name Evidence

The petitioner states that the name ''Tracy,'' which is used to identify the city of Tracy, California, and its surrounding agricultural land, together with the geographical modifier ''Hills,'' accurately describes and names the proposed Tracy Hills viticultural area. Stating that the name ''Tracy Hills'' is ''locally and nationally associated with the proposed area,'' the petition discusses the rationale for the Tracy Hills name and offers examples of its use for the land within the proposed viticultural area.

The petition included copies of eight newspaper articles from the Tracy Press featuring petitioner Jeff Brown's Mt. Oso Vineyards or wines made from its grapes. The articles list the vineyard's location as Tracy, demonstrating, according to the petition, the close association between the proposed area's vineyards and the ''Tracy'' name.

However, the petition states that the use of ''Tracy'' alone for the proposed viticultural area does not accurately describe the area and would mislead consumers about the specific location of the area. The proposed viticultural area includes only a small part of the land within the Tracy city limits, and it does not include all the land surrounding the city of Tracy. Due to differences in climate, soil, water table levels, and slope, the land to the north, east, and southeast of Tracy is excluded from the proposed viticultural area.

Therefore, the petitioner emphasizes that it would be misleading and inaccurate to name the proposed viticultural area ''Tracy,'' without the addition of the ''Hills'' modifier. In support of this usage, the petitioner cites the use of ''Valley'' as a modifier in the names of the Napa Valley viticultural area (27 CFR 9.23), which surrounds the city of Napa, and the Temecula Valley viticultural area (27 CFR 9.50), which lies outside the city of Temecula in southern California.

To further support the use of the proposed ''Tracy Hills'' name, the petitioner notes that the Coast Range foothills southwest of the city of Tracy,

the lower elevations of which are included within the proposed viticultural area, are informally called ''the Tracy Hills,'' and the petitioner provides examples of the name's association with the proposed area.

The petition states that ''Tracy Hills'' is the name of a large real estate development located on the southwest side of the city of Tracy along either side of Interstate Highway 580 (I–580). Part of the Tracy Hills development, the petition notes, is within the northern portion of the proposed Tracy Hills viticultural area. In 1998, the city of Tracy annexed the development, according to a July 7, 2004, Stockton Record newspaper article, ''Council Delays Tracy Hills Vote,'' included in the revised petition. The revised petition also included copies of, or statements from, Federal government environmental reports from the early 1990s, a 1999 Sierra Club newsletter, and newspaper articles from the Sacramento Bee and the Tracy Press that discuss the Tracy Hills real estate development and its location, growth, and impact on local water resources.

In addition, the petition included evidence of other references to the Tracy Hills name. For example, the petition includes a map of the proposed Northern California Passenger Rail Network. This map shows a future high-speed rail line running through Altamont Pass and, east of the pass, a ''Tracy Hills'' station within the Tracy Hills development. The petition also includes information about the ''Tracy Hills Ride,'' sponsored by the San Joaquin Valley Rangers horse enthusiasts club (*www.sjvr.org*). This horseback ride begins and ends within the proposed area along State Highway 132 (Bird Road), according to club information included in the petition. A 1995 NASCAR publication, the petition states, places the reopened Altamont Raceway ''in the Tracy hills,'' while a September 29, 2003, East Bay Business Times article titled ''Sutter, Kaiser Build Up Valley Presence,'' notes that a donor gave 20 acres ''in the Tracy hills'' for a hospital.

Boundary Evidence

Located south and southwest of the city of Tracy in southern San Joaquin and northern Stanislaus Counties, California, the proposed Tracy Hills viticultural area largely lies between State Route 33 to the east and Interstate 580 to the west, with a portion of the area reaching west of the Interstate into the foothills of the Diablo Mountains. The proposed area is about 15 miles long northwest to southeast, and about 5 miles wide east to west.

The portion of the Tracy Hills real estate development appropriate for viticulture, the petitioner explains, is included in the northern region of the proposed Tracy Hills viticultural area. Other parts of the proposed viticultural area lie within the rural, San Joaquin Valley agricultural lands to the southwest and south of the city of Tracy, according to the provided USGS maps and the California State Automobile Association Central California map of May 2001.

The boundary of the proposed Tracy Hills viticultural area, according to the petitioner, encompasses viticultural features that distinguish the proposed area from the regions north, east and southeast of the city of Tracy. According to the petitioner, these distinguishing features include the proposed area's microclimate, soils, and slope.

The proposed Tracy Hills viticultural area, which is nestled between the lower elevations of the San Joaquin River valley floor to the east and the steeper terrain of the Diablo Range to the west, has east-sloping terrain, as shown on the provided USGS maps. The proposed viticultural area boundary encompasses a 400-foot change in elevation and includes streams and east-sloping alluvial fans and plains, according to the petitioner and the provided USGS maps.

The petitioner notes that the 100-foot to 500-foot elevation within the proposed Tracy Hills viticultural area is distinct from the surrounding areas. To the west of the proposed boundary line are the significantly higher elevations and steep terrain of the Diablo Range, as noted on USGS maps of the area. To the north and east are the nearly sea level flood plains of the San Joaquin River. The proposed southern boundary line, according to the petitioner, is the dividing point between two alluvial fans.

The petitioner states that the proposed Tracy Hills viticultural area soils are predominantly of alluvial origin from the higher Diablo Range elevations, beyond the proposed boundary. While similar to the soils found to the south, the petitioner explains that the alluvial soils of the proposed area are distinct from the mountainous sedimentary soils to the west, the organic peat soils to the north, and the heavy clay soils to the east.

The petitioner also states that the proposed Tracy Hills viticultural area has a distinctive microclimate, which contrasts with the climate found in the surrounding region. The proposed area, the petition states, is located within the rain shadow created by Mt. Oso, which is located to the proposed area's southwest in the Diablo Mountains. This rain shadow effect gives the proposed viticultural area a drier climate with less fog, dew, frost, and hail. Beyond the proposed boundary to the west, north, and south, the distinctive differences in geography and proximity to the Altamont Pass create a wetter, windier climate, according to the petition.

Distinguishing Features

Topography

The western portion of the proposed Tracy Hills viticultural area lies in the eastern foothills of the Diablo Range, while the remainder of the proposed area slopes to the east towards the lower elevations of the San Joaquin River valley, according to the provided USGS maps. This transitional terrain, between 500 feet and 100 feet in elevation, creates a 400-foot drop within a 3 to 3.7 mile west-to-east span, giving the proposed area a 2 percent to 2.5 percent slope, as noted in the petition.

Three intermittent streams, Corral Hollow, Lone Tree, and Hospital Creeks, flow east through the proposed Tracy Hills viticultural area, to the San Joaquin Valley flood plain, the petitioner explains. Flowing down from the higher Diablo Range elevations, these streams created the alluvial fans and deposits found within the proposed Tracy Hills viticultural area.

Climate

The petitioner emphasizes that the unique climate of the proposed Tracy Hills viticultural area is its most distinctive characteristic. The sheltering effect of Mt. Oso and the Diablo Range, the marine winds coming through the Altamont Pass, and the cold air drainage from the higher mountain elevations, the petitioner explains, create a microclimate in the proposed Tracy Hills area with the lowest annual rainfall in the Tracy region. The petitioner adds that these climatic elements combine to produce a microclimate with less rain, fog, dew, and frost than the surrounding areas.

Rainfall

As noted above, the proposed Tracy Hills viticultural area is located on the west side of the San Joaquin Valley area and, therefore, according to the petitioner, is in the rain shadow of Mt. Oso in the Diablo Range. This rain shadow creates an environment with less precipitation than the surrounding areas, the petitioner adds. Based on its proximity to the 3,347-foot sheltering Mt. Oso peak, the proposed Tracy Hills viticultural area has 8 to 9 inches of

annual rain, the petitioner explains, which is the lowest in the region. According to the provided San Joaquin County Soil Survey map, the average annual precipitation, in inches, in the surrounding regions of San Joaquin County is at least 10 inches. Also, at the higher mountain elevations, about 9 miles west of the proposed boundary line, the rainfall map shows about 18 inches, or twice the rainfall of the proposed Tracy Hills viticultural area. To the north, along the San Joaquin Valley floor, the precipitation increases correspond to the longer distances from the rain shadow, with Stockton at about 13 inches of rain and Lodi at 16 inches of rain annually, according to the provided rainfall map.

Temperature

The temperatures found in the proposed Tracy Hills viticultural area vary from the surrounding areas, according to the petitioner. A statistical table (compiled by Stan Grant of Progressive Viticulture, Turlock, California) shows the average annual heat accumulation at various weather stations in the greater Tracy region during the 1990s as measured in degree days. (Each degree that a day's mean temperature is above 50 degrees F, which is the minimum temperature required for grapevine growth, is counted as one degree day; see ''General Viticulture,'' Albert J. Winkler, University of California Press, 1975.) These 10-year averages reflect lower and upper threshold temperatures of 50 to 115 degrees F, respectively. All mileages are according to California State Automobile Association's Central California map of May 2001.

1990–1999 DEGREE DAY AVERAGES

Weather station	Degree days	County	Direction/ distance from the proposed Tracy Hills viticultural area
Tracy-Carbona	4,033	San Joaquin	On site.
Brentwood	3,776	Contra Costa	West 23 miles.
Manteca	3,726	San Joaquin	North 10 miles.
Modesto	4,446	Stanislaus	East 14 miles.
Newman	4,498	Stanislaus	South 22 miles.

Brentwood is closer to the cooling maritime influences of San Francisco Bay and the Carquinez Strait, according to the petitioner, while Manteca is directly in the path of the cooling marine winds blowing through the Altamont Pass. The proposed Tracy Hills viticultural area is located a short distance south of Altamont Pass, while Modesto is about 25 miles south of the pass. Newman, the warmest region, is 40 miles south of the pass and its cooling marine winds, the petitioner states.

Wind

The petitioner explains that the degree day measurement of heat accumulation referred to above does not indicate seasonal vine growth and development as accurately when fog, clouds, and a prevailing wind affect the proposed viticultural area. The significance of wind is noted in a 1943 USDA Soil Survey of the Tracy area:

> Aside from the soil and moisture conditions, which have the most important bearing on crops that can be grown in this area, another factor that has a definite influence is wind. The wind during certain seasons is very strong, blowing from the northwest along the western side of the San Joaquin Valley.

The constant wind of the Altamont Pass has a cooling effect on vineyards within the proposed Tracy Hills viticultural area through evaporation of moisture on grapevine leaves, according to the petitioner. The earth-warmed marine air and winds of the Livermore Valley blow west-to-east through the Pass, into the San Joaquin Valley, and then south, passing directly over the proposed viticultural area, the petitioner explains. Also, the down-slope winds from the Diablo Range have a cooling climatic influence on the area's agriculture.

Frost and Fog

The petitioner states that residents and workers in the proposed Tracy Hills viticultural area have observed certain distinctive climatic characteristics within the area. Frost is ''unknown,'' the petitioner explains, although it occurs beyond the proposed viticultural area boundary. Ground fog forms to the south of the proposed Tracy Hills viticultural area and gradually extends north, according to the petitioner. If the fog does invade the proposed area at all, the petitioner notes that it is usually short-lived.

Soil

As noted in the soil maps submitted with the petition, the soils in the proposed Tracy Hills viticultural area are recent alluvial deposits from the intermittent streams flowing down from the upper elevations of the Diablo Range to the San Joaquin Valley floor. The geologic fans and fan terraces found along the Corral Hollow, Hospital and Lonetree Creeks meld into one vast alluvial plain, according to the San Joaquin County Soil Survey.

The soils found on this alluvial plain are very deep, well-drained to moderately well-drained, and have water tables deeper than six feet. Silty and clay soils are found at the lower elevations of this alluvial plain, while at its higher elevations, soils are generally gravelly and the alluvial deposits are eroded with deep drainage cuts. The principal soils are listed in the table below.

SOIL TYPES IN PROPOSED TRACY HILLS VITICULTURAL AREA

Soil type	Location	Elevation (in feet)
Carbona clay loam	Uplifted, dissected terraces	500–130
Zacharias gravelly clay loam	Alluvial fans, low stream terraces	300–50
Stomar clay loam	Alluvial fans	300–40
El Solyo clay loam	Alluvial fans	300–60

SOIL TYPES IN PROPOSED TRACY HILLS VITICULTURAL AREA—Continued

Soil type	Location	Elevation (in feet)
Vernalis clay loam	Alluvial fans	300–25
Vernalis-Zacharias complex	Alluvial fans	250–25
Capay clay	Interfan basins	200–30
Capay clay, wet	Interfan basins	140–25

Beyond the boundary of the proposed Tracy Hills viticultural area, the soils and their origins differ, according to the petitioner. To the north are the low-elevation organic peat soils of the Sacramento-San Joaquin Delta region. To the east, and generally below the 100-foot elevation, are heavy clay soils with higher water tables created by irrigation and proximity to the San Joaquin River. To the south, the soils and terrain are similar to the proposed Tracy Hills viticultural area, with the proposed boundary line primarily defining the border between the alluvial fans of Hospital Creek, which is within the proposed viticultural area, and Ingram Creek, which is further to the south. To the west, and above the 500-foot elevation in the upper foothills of the Diablo Range, the soils are primarily gravelly, older alluvial deposits. Also to the west, the soils are rolling to very steep and situated on terrain of uplifted, dissected terraces and mountains, developed on bedrock.

Boundary Description

See the narrative boundary description of the petitioned-for viticultural area in the proposed regulatory text published at the end of this notice.

Maps

The petitioner provided the required maps, and we list them below in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If we establish this proposed viticultural area, its name, ''Tracy Hills,'' will be recognized as a name of viticultural significance. Consequently, wine bottlers using ''Tracy Hills'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's name as an appellation of origin. On the other hand, we do not believe that any single part of the proposed viticultural area name standing alone, such as ''Tracy,'' would have viticultural significance if the new viticultural area were to be established. Accordingly, the proposed part 9 regulatory text set forth in this document specifies only the full ''Tracy Hills'' name as a term of viticultural significance for purposes of part 4 of the TTB regulations.

For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the grapes used to make the wine must have been grown within the area represented by that name, and the wine must meet the other requirements of 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name as an appellation of origin and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Accordingly, if a new label or a previously approved label uses the name ''Tracy Hills'' for a wine that does not meet the 85 percent standard, the new label will not be approved, and the previously approved label will be subject to revocation, upon the effective date of the approval of the Tracy Hills viticultural area.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Public Participation

Comments Invited

We invite comments from interested members of the public on whether we should establish the proposed viticultural area. We are also interested in receiving comments on the sufficiency and accuracy of the name, climatic, boundary, and other required information submitted in support of the petition. In particular, we are concerned about the adequacy of the petition's name evidence. Accordingly, we are seeking information in this regard from persons familiar with the area as to whether the ''Tracy Hills'' name reasonably applies to the entire region encompassed within the boundary of the proposed viticultural area, and, if not, whether any suitable alternative names exist for the proposed area. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Tracy Hills viticultural area on brand labels that include the words ''Tracy Hills'' as discussed above under Impact on Current Wine Labels, we also are particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. We are also interested in receiving suggestions for ways to avoid any conflicts, for example by adopting a modified or different name for the viticultural area.

Although TTB believes that only the full name ''Tracy Hills'' should be considered to have viticultural significance upon establishment of the proposed viticultural area, we also invite comments from those who believe that ''Tracy'' standing alone would have viticultural significance. Comments in this regard should include documentation or other information supporting the conclusion that use of ''Tracy'' on a wine label could cause consumers and vintners to attribute to the wine in question the quality, reputation, or other characteristic of wine made from grapes grown in the proposed Tracy Hills viticultural area.

Submitting Comments

Please submit your comments by the closing date shown above in the notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we regard all comments as originals.

You may submit comments in one of five ways:

• *Mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.

• *Facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—

(1) Be on 8.5- by 11-inch paper;

(2) Contain a legible, written signature; and

(3) Be no more than five pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

• *E-mail:* You may e-mail comments to *nprm@ttb.gov*. Comments transmitted by electronic mail must—

(1) Contain your e-mail address;

(2) Reference this notice number on the subject line; and

(3) Be legible when printed on 8.5- by 11-inch paper.

• *Online Form:* We provide a comment form with the online copy of this notice on our Web site at *http://www.ttb.gov/alcohol/rules/index.htm.* Select the ''Send comments via e-mail'' link under this notice number.

• *Federal e-Rulemaking Portal:* To submit comments to us via the Federal e-rulemaking portal, visit *http://www.regulations.gov* and follow the instructions for submitting comments.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine, in light of all circumstances, whether to hold a public hearing.

Confidentiality

All submitted material is part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider confidential or inappropriate for public disclosure.

Public Disclosure

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Library at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact our librarian at the above address or by telephone at 202–927–2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and any comments we receive on this proposal on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Library. To access the online copy of this notice and the submitted comments, visit *http://www.ttb.gov/alcohol/rules/index.htm.* Select the ''View Comments'' link under this notice number to view the posted comments.

Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N.A. Sutton of the Regulations and Rulings Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend 27 CFR, chapter 1, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

2. Amend subpart C by adding § 9.____ to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.____ Tracy Hills

(a) *Tracy Hills.* The name of the viticultural area described in this section is ''Tracy Hills''. For purposes of part 4 of this chapter, ''Tracy Hills'' is a term of viticultural significance.

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Tracy Hills viticultural area are five United States Geological Survey 1:24,000 scale topographic maps. They are titled:

(1) Tracy, Calif., 1954, photorevised 1981;

(2) Vernalis, Calif., 1991;

(3) Solyo, Calif., 1953, photorevised 1971, photoinspected 1978;

(4) Lone Tree Creek, Calif., 1955, photorevised 1971; and

(5) Midway Calif., 1953, photorevised 1980.

(c) *Boundary.* The Tracy Hills viticultural area is located in southwestern San Joaquin County and northwestern Stanislaus County. The boundary of the Tracy Hills viticultural area is defined as follows—

(1) The point of beginning is on the Tracy map at the intersection of the Delta-Mendota Canal and Lammers Ferry Road, along the western boundary line of section 6, T3S/R5E. From that point, proceed 0.4 mile generally southeast along the Delta-Mendota Canal to its intersection with the Western Pacific railway line along the southern boundary line of section 6, T3S, R5E (Tracy map); then

(2) Proceed 5.6 miles straight east along the Western Pacific railway line and then along Linne Road to the intersection of Linne Road and Lehman Road, along the northern boundary line of section 12, T3S, R5E (Vernalis map); then

(3) Proceed 1.5 miles straight south and then east along Lehman Road to its intersection with Bird Road at the southeast corner of section 12, T3S, R5E (Vernalis map); then

(4) Proceed 1 mile straight south along Bird Road to its intersection with Durham Ferry Road at the southeast corner of section 13, T3S, R5E (Vernalis map); then

(5) Proceed 1.9 miles straight east along Durham Ferry Road to its intersection with State Highway 33 along the northern boundary line of section 20, T3S, R6E (Vernalis map); then

(6) Proceed 5.1 miles straight southeast along State Highway 33, passing the hamlet of Vernalis, to the highway's intersection with McCracken Road along the eastern boundary of section 2, T4S, R6E (Solyo map); then

(7) Proceed 3.4 miles straight south along McCracken Road to its intersection with Hamilton Road at the southeast corner of section 23, T4S, R6E (Solyo map); then

(8) Proceed 2.4 miles straight west along the southern boundary lines of sections 23, 22 and 21, T4S, R6E, crossing the Delta-Mendota Canal and the California Aqueduct, to the junction of the southern boundary of section 21, the 500-foot elevation line, and the western-most transmission line, (Solyo map); then

(9) Proceed 4.2 miles generally northwest along the meandering 500-foot elevation line to section 18, T4S, R6E, where the 500-foot elevation line crosses all of the transmission lines and

then continues northwest a short distance to the eastern-most transmission line in the northwest quadrant of section 18, T4S, R6E, (Solyo map); then

(10) Proceed 8.45 miles straight northwest along the eastern-most transmission line, crossing from the Solyo map, over the Lone Tree Creek map, to the Tracy map, and continue to the transmission line's intersection with the western boundary of section 19, T3S, R5W, about 0.7 mile north-northeast of Black Butte (Tracy map); then

(11) Proceed in a straight line 2 miles northwest to the line's intersection with the 500-foot elevation line, immediately north of an unimproved road, at about the mid-point of the western boundary line of section 12, T3S, R4E (Tracy map); then

(12) Proceed 0.65 mile straight north along with western boundaries of section 12 and section 3 to the section line's intersection with Interstate 580, section 3, T3S, R4E (Tracy map); then

(13) Proceed 0.8 mile straight northwest along Interstate 580 highway to its intersection with the Western Pacific railway in section 2, T3S, R4E (Midway map); then

(14) Proceed easterly 0.7 mile along the Western Pacific railway to its intersection with the eastern boundary line of section 2, T3S, R4E (Tracy map); and

(15) Proceed east for 1 mile in a straight line, returning to the point of beginning at the intersection of Delta-Mendota Canal and Lammers Ferry Road (Tracy map).

Signed: November 3, 2005.

John J. Manfreda,

Administrator.

[FR Doc. 05–23681 Filed 12–6–05; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

31 CFR Part 1

Privacy Act; Proposed Implementation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of the Treasury gives notice of a proposed amendment to this part to exempt a new Internal Revenue Service (IRS) system of records entitled ''IRS 50.222 Tax Exempt/Government Entities (TE/GE) Case Management Records'' from certain provisions of the Privacy Act.

DATES: Comments must be received no later than January 6, 2006. You may also submit comments through the Federal rulemaking portal at *http://www.regulations.gov* (follow the instructions for submitting comments).

ADDRESSES: Please submit comments to the Office of Governmental Liaison and Disclosure, 1111 Constitution Avenue, NW., Washington, DC 20224. Comments will be made available for inspection at the IRS Freedom of Information Reading Room (Room 1621), at the above address. The telephone number for the Reading Room is (202) 622–5164.

FOR FURTHER INFORMATION CONTACT: Telephonic inquiries should be directed to Marianne Davis, Program Analyst, Internal Revenue Service, Tax Exempt/Government Entities Division (TE/GE), at telephone number (949) 389–4304. Written inquiries should be directed to Robert Brenneman, TE/GE Reporting and Electronic Examination System (TREES) Project Manager, at Internal Revenue Service, TE/GE Business Systems Planning (SE:T:BSP), 1111 Constitution Avenue, NW., Attn: PE–6M4, Washington, DC 20224.

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system contains investigatory material compiled for law enforcement purposes. The IRS is hereby giving notice of a proposed rule to exempt ''IRS 50.222 Tax Exempt/Government Entities (TE/GE) Case Management Records'' from certain provisions of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2). The proposed exemption is from provisions 552a(c)(3), (d) (1), (2), (3) and (4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) because the system contains investigatory material compiled for law enforcement purposes. A proposed notice to establish the Privacy Act system of records will be published separately in the **Federal Register**.

The following are the reasons why this system of records maintained by the IRS is exempt pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act of 1974:

(1) 5 U.S.C. 552a(c)(3). These provisions of the Privacy Act provide for the release of the disclosure accounting required by 5 U.S.C. 552a(c)(1) and (2) to the individual named in the record at his/her request. The reasons for exempting this system of records from the foregoing provisions are:

(i) The release of disclosure accounting would put the tax exempt or government entity subject to investigation, or individuals connected with those entities, on notice that an investigation exists and that such person is the subject of that investigation.

(ii) Such release would provide the tax exempt or government entity subject to investigation, or individuals connected with those entities, with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to which disclosure was made. The release of such information to the individual covered by the system would provide the individual or entity subject to investigation with significant information concerning the nature of the investigation and could result in the altering or destruction of documentary evidence, the improper influencing of witnesses, and other activities that could impede or compromise the investigation. In the case of a delinquent account, such release might enable the subject of the investigation to dissipate assets before levy.

(iii) Release to the individual of the disclosure accounting would alert the individual as to which agencies were investigating the tax exempt or government entity subject to investigation, would provide information concerning the scope of the investigation, and could aid the individual in impeding or compromising investigations by those agencies.

(2) 5 U.S.C. 552a (d) (1), (2), (3) and (4), (e) (4) (G), (e) (4) (H), and (f). These provisions of the Privacy Act relate to an individual's right to be notified of: The existence of records pertaining to such individual; requirements for identifying an individual who requested access to records; the agency procedures relating to access to records; the content of the information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems.

The reasons for exempting this system of records from the foregoing provisions are as follows:

Notifying an individual (at the individual's request) of the existence of an investigative file pertaining to such individual or granting access to an investigative file pertaining to such individual could: Interfere with investigative and enforcement proceedings; deprive co-defendants of a right to a fair trial or an impartial adjudication; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by

such sources; or disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a (e) (1). This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The reasons for exempting this system of records from the foregoing provision are as follows:

(i) The IRS will limit the system to those records that are needed for compliance with the provisions of Title 26. However, an exemption from the foregoing is needed because, particularly in the early stages of an investigation, it is not possible to determine the relevance or necessity of specific information.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when first received may subsequently be determined to be irrelevant or unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established with certainty.

(4) 5 U.S.C. 552a (e) (4) (I). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. The reasons for exempting this system of records from this provision are as follows:

(i) Revealing categories of sources of information could disclose investigative techniques and procedures.

(ii) Revealing categories of sources of information could cause sources who supply information to investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality.

As required by Executive Order 12866, it has been determined that this proposed rule is not a significant regulatory action, and therefore, does not require a regulatory impact analysis.

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

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that these regulations will not significantly affect a substantial number of small entities. The proposed rule imposes no duties or obligations on small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1995, the Department of the Treasury has determined that this proposed rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1, subpart C of title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

2. Section 1.36 paragraph (g)(1)(viii) is amended by adding the following text to the table in numerical order.

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.

* * * * *

(g) * * *

(1) * * *

(viii) * * *

No.	Name of system
* * * * *	
IRS 50.222	Tax Exempt/Government Entities Case Management Records.
* * * * *	
* * * * *	

Dated: November 18, 2005.

Sandra L. Pack,

Assistant Secretary for Management and Chief Financial Officer.

[FR Doc. E5–7001 Filed 12–6–05; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06–OAR–2005–TX–0030; FRL–8006–1]

Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Sources and Modifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the Texas State Implementation Plan (SIP) which the Texas Commission on Environmental Quality (TCEQ) submitted to EPA on February 5, 2004. The adopted amendments revise minimum distance limitation permit requirements for operation of new and modified sources to allow storage of an inoperative concrete crusher within 440 yards of a residence, school, or place of worship; define how distance measurements should be taken and when they would be applicable to concrete crushers and other facilities; and allow concrete crushers to recycle broken concrete at temporary demolition sites within 440 yards of nearby buildings, unless the facility is located in a county with a population of 2.4 million or more, or in a county adjacent to such a county. The TCEQ also revised the existing distance limitation for hazardous waste management facilities to cross-reference duplicative language elsewhere in its regulations. This action is being taken under section 110 of the Federal Clean Air Act (the Act, or CAA).

DATES: Written comments must be received on or before January 6, 2006.

ADDRESSES: Comments may be mailed to Mr. David Neleigh, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the Addresses section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7212; fax number (214) 665–7263; e-mail address *spruiell.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule

based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: November 30, 2005.

Carl E. Edlund,

Acting Regional Administrator, Region 6.

[FR Doc. 05–23718 Filed 12–6–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R08–OAR–2005–CO–0004; FRL–8005–8]

Approval and Disapproval and Promulgation of Air Quality Implementation Plans; Colorado; Affirmative Defense Provisions for Startup and Shutdown; Common Provisions Regulation and Regulation No. 1

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove a State Implementation Plan (SIP) revision submitted by the State of Colorado. The revision establishes affirmative defense provisions for source owners and operators for excess emissions during periods of startup and shutdown. The affirmative defense provisions are contained in the State of Colorado's Common Provisions regulation. The intended effect of this action is to propose to approve those portions of the rule that are approvable and to propose to disapprove those portions of the rule that are inconsistent with the Clean Air Act. This action is being taken under section 110 of the Clean Air Act. In addition, EPA is announcing that it no longer considers the State of Colorado's May 27, 1998 submittal of revisions to Regulation No. 1 to be an active SIP submittal. Those revisions, which we proposed to disapprove on September 2, 1999 and October 7, 1999, would have provided exemptions from existing limitations on opacity and sulfur dioxide (SO_2) emissions for coal-fired electric utility boilers during periods of startup, shutdown, and upset. Since our proposed disapproval, the State of Colorado has removed or replaced the provisions in Regulation No. 1 that we proposed to disapprove, and has instead pursued adoption of the affirmative defense provisions in the State of Colorado's Common Provisions regulation that we are considering today.

DATES: Comments must be received on or before January 6, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. R08–OAR–2005–CO–0004, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Agency Web site: http://docket.epa.gov/rmepub/index.jsp.* Regional Materials in EDOCKET (RME), EPA's electronic public docket and comment system for regional actions, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- *E-mail: long.richard@epa.gov* and *ostrand.laurie@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** section if you are faxing comments).
- *Mail:* Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 999 18th Street, Suite 200, Denver, Colorado 80202–2466.
- *Hand Delivery:* Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. R08–OAR–2005–CO–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available at *http://docket.epa.gov/rmepub/index.jsp,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA's Regional Materials in EDOCKET and Federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET online or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the Regional Materials in EDOCKET index at *http://docket.epa.gov/rmepub/index.jsp.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in Regional Materials in EDOCKET or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202–2466, (303) 312–6437, *ostrand.laurie@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. General Information
II. Background of State Submittal
III. EPA Analysis of State Submittal
IV. Proposed Action
V. Statutory and Executive Order Reviews

Definitions

For the purpose of this document, we are giving meaning to certain words as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

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

(iv) The words *State* or *Colorado* mean the State of Colorado, unless the context indicates otherwise.

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through Regional Materials in EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. Background of State Submittal

On July 31, 2002, the State of Colorado submitted a SIP revision that added affirmative defense provisions for excess emissions during startup and shutdown. These affirmative defense provisions are contained in the Common Provisions Regulation at section II.J and were adopted by the Colorado Air Quality Control Commission (AQCC) on August 16, 2001.

Previously, on September 2, 1999 (64 FR 48127) and October 7, 1999 (64 FR 54601), EPA proposed to disapprove a May 27, 1998 SIP submittal from the State of Colorado. The May 27, 1998 SIP submittal consisted of revisions to Colorado Regulation No. 1 to provide exemptions from the existing limitations on opacity and sulfur dioxide (SO_2) emissions for coal-fired electric utility boilers during periods of startup, shutdown, and upset. These revisions included changes to sections II.A.1, II.A.4, and VI.B.2 of Regulation No. 1, and the addition of section II.A.10 and VI.B.4.a(iv) to Regulation No. 1. The Colorado AQCC adopted the revisions on December 23, 1996. For most sources they became effective at the state level on March 2, 1997.[1]

On July 31, 2002, the State of Colorado submitted additional revisions to Colorado Regulation No. 1; these were adopted by the Colorado AQCC on August 16, 2001. Among other things, the July 2002 submittal removed from Regulation No. 1 the revisions and additions that EPA proposed to disapprove in September and October 1999. The July 2002 submittal deleted Regulation No. 1 sections II.A.10 and VI.B.4.a(iv), and the revisions to sections II.A.1, II.A.4, and VI.B.2 that the Governor submitted on May 27, 1998. The July 2002 submittal also made other revisions to Regulation No. 1.

Because the State of Colorado has removed from its regulations the provisions that we proposed to disapprove in September and October 1999, we no longer consider the May 27, 1998 Regulation No. 1 submittal to be an active submittal, and at this point, do not intend to finalize our proposed disapprovals. We have not acted on the July 31, 2002 Regulation No. 1 submittal, but will do so in the future.

We mention these changes to Regulation No. 1 at this time because of the link between the Regulation No. 1 changes and the affirmative defense provisions in the Common Provisions regulation. The August 16, 2001 Statement of Basis, Specific Authority, and Purpose for Revisions to Regulation No. 1 (that was later submitted on July 31, 2002) indicates that ''as an alternative approach, the Commission has proposed adoption of Affirmative Defense Provisions to be added to the Common Provisions Regulation to recognize the issues related to periods of excess emissions during startup and shutdown conditions of coal-fired utility boilers and other sources.''

III. EPA Analysis of State Submittal

EPA's interpretations of the Act regarding excess emissions during malfunctions, startup and shutdown are contained in, among other documents, a September 20, 1999 memorandum titled ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown,'' from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator for Air and Radiation.[2] That memorandum indicates that because excess emissions might aggravate air quality so as to prevent attainment and maintenance of the national ambient air quality standards (NAAQS) or jeopardize the prevention of significant deterioration (PSD) increments, all periods of excess emissions are considered violations of the applicable emission limitation. However, the memorandum recognizes that in certain circumstances states and EPA have enforcement discretion to refrain from taking enforcement action for excess emissions. In addition, the memorandum also indicates that states can include in their SIPs provisions that would, in the context of an enforcement action for excess emissions, excuse a source from penalties (but not injunctive relief) if the source can demonstrate that it meets certain

[1] However, for coal-fired electric utility boilers located within the Denver Metro PM–10 nonattainment area, the AQCC specified that the provisions would not become state effective until EPA issued a final rule approving them.

[2] Earlier expressions of EPA's interpretations regarding excess emissions during malfunctions, startup, and shutdown are contained in two memoranda, one dated September 28, 1982, the other February 15, 1983, both titled ''Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions'' and signed by Kathleen M. Bennett. However, the September 1999 memorandum directly addresses the creation of affirmative defenses in SIPs and, therefore, is most relevant to this action.

objective criteria (an ''affirmative defense'').[3] Finally, the memorandum indicates that EPA does not intend to approve SIP revisions that would recognize a state director's decision to bar EPA's or citizens' ability to enforce applicable requirements.

We have evaluated Colorado's affirmative defense provisions for startup and shutdown and find that, except for one paragraph, they are consistent with our interpretations under the Act regarding the types of affirmative defense provisions we can approve in SIPs. The Affirmative Defense provisions in the Common Provisions Regulation, sections II.J.1 through II.J.4 are consistent with the provisions for startup and shutdown we suggested in our September 20, 1999 memorandum. Thus, these provisions will provide sources with appropriate incentives to comply with their emissions limitations and help ensure protection of the NAAQS and increments and compliance with other Act requirements.

However, we cannot approve the provisions in section II.J.5 of the Common Provisions regulation. Section II.J.5 reads as follows:

> II.J.5. Affirmative Defense Determination: In making any determination whether a source established an affirmative defense, the Division shall consider the information within the notification required in paragraph 2 of this section and any other information the division deems necessary, which may include, but is not limited to, physical inspection of the facility and review of documentation pertaining to the maintenance and operation of process and air pollution control equipment.

Under this language, the Division could make a determination outside the context of an enforcement action, or at any time during an enforcement action, that a source has established the affirmative defense. If we were to approve section II.J.5, a court might conclude that we had ceded the authority to the Division to make this determination, not just for the State, but on behalf of EPA and citizens as well. Consequently, a court might also view the Division's determination that a source had established the affirmative defense as barring an EPA or citizen action for penalties.

As we stated in the September 1999 memoranda, we do not intend to approve SIP language that would allow a state's decision to constrain our or citizens' enforcement discretion. To do so would be inconsistent with the regulatory scheme established in Title I of the Act, which allows independent EPA and citizen enforcement of violations, regardless of a state's decisions regarding those violations and any potential defenses.[4]

IV. Proposed Action

We are proposing to approve sections II.J.1 through II.J.4 of the Common Provisions Regulation submitted on July 31, 2002 for the reasons expressed above. We are proposing to disapprove section II.J.5 of the Common Provisions Regulation submitted on July 31, 2002 because this section is inconsistent with the Clean Air Act.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *'' 44 U.S.C. 3502(3)(A). Because this proposed rule does not impose an information collection burden, the Paperwork Reduction Act does not apply.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of 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. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals and disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve or disapprove requirements that the State is already imposing. Therefore, because the Federal SIP approval/disapproval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to partially approve and partially disapprove pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875

[3] EPA's September 20, 1999 memorandum indicates that the term *affirmative defense* means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding. See footnote 4 of the attachment to the memorandum.

[4] Section II.J.5 may be confusing the concept of affirmative defense with the concept of enforcement discretion. By definition, an affirmative defense is a defense that may be raised in the context of an enforcement proceeding before an independent trier of fact. Before pursuing an enforcement action, the state might evaluate the likelihood that an owner/operator could prove the elements of the affirmative defense, but this would go to the state's exercise of enforcement discretion. While the state might decide not to pursue an enforcement action based on such an evaluation, if EPA or citizens were to pursue enforcement action, an independent trier of fact might reach a conclusion different from the state's, i.e., that the owner/operator had not proved the elements of the affirmative defense.

(Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely proposes to partially approve and partially disapprove state rules implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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. This action does not involve or impose any requirements that affect Indian Tribes. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 28, 2005.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. 05–23715 Filed 12–6–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R08–OAR–2005–CO–0003; FRL–8005–6]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to New Source Review Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve those revisions adopted by Colorado on April 16, 2004 to Regulation No. 3 (Stationary Source Permitting and Air Pollutant Emission Notice Requirements) that incorporate EPA's December 31, 2002 NSR Reforms. Colorado submitted the request for approval of these rule revisions into the State Implementation Plan (SIP) on July 11, 2005 and supplemented its request on October 25, 2005. At this time, EPA is proposing to approve only the portions of Colorado's revisions to Regulation Number 3 that relate to the prevention of significant deterioration (PSD) and non-attainment new source review (NSR) construction permit programs of the State of Colorado. Other revisions, renumberings, additions, or deletions to Regulation No. 3 made by Colorado as part of the April 16, 2004 final rulemaking will be acted on by EPA in a separate action. Colorado has a Federally approved New Source Review (NSR) program for new and modified sources impacting attainment and non-attainment areas in the State.

On December 31, 2002, EPA published revisions to the federal Prevention of Significant Deterioration (PSD) and non-attainment NSR regulations. These revisions are commonly referred to as ''NSR Reform'' regulations and became effective nationally in areas not covered by a SIP on March 3, 2003. These regulatory

revisions include provisions for baseline emissions determinations, actual-to-future actual methodology, plantwide applicability limits (PALs), clean units, and pollution control projects (PCPs). On November 7, 2003, EPA published a reconsideration of the NSR Reform regulations that clarified two provisions in the regulations. On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit issued its ruling on challenges to the December 2002 NSR Reform revisions. Although the Court upheld most of EPA's rules, it vacated both the Clean Unit and the Pollution Control Project provisions and remanded back to EPA the ''reasonable possibility'' standard for when a source must keep certain project related records.

Colorado is seeking approval, at this time, for its regulations to implement the NSR Reform provisions that have not been vacated or remanded by the June 24, 2005, court decision.

DATES: Comments must be received on or before January 6, 2006.

ADDRESSES: Submit comments, identified by Regional Material in EDocket (RME) ID No. R08-OAR–2005-CO–0003 by one of the following methods:

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

Agency Web site: http://docket.epa.gov/rmepub. Regional RME, EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

E-mail: daly.carl@epa.gov.

Fax: (303)312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

Mail: You may send written comments to: Richard R. Long, Director, Air and Radiation Program, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202.

Hand delivery: Deliver your comments to: Richard R. Long, Director, Air and Radiation Program, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, 3rd floor, Denver, Colorado 80202. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:55 p.m. excluding Federal holidays.

Instructions: Direct your comments to RME ID No. R08-OAR–2005-CO–0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available at *http://docket.epa.gov/rmepub*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET online or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 8, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202. We recommend that you telephone Carl Daly at (303) 312–6416 before visiting the Region 8 office. This Facility is open from 8 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carl Daly, Air and Radiation Program, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202, (303) 312–6416, *daly.carl@epa.gov.*

SUPPLEMENTARY INFORMATION: For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials Act or CAA mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words EPA, we, us or our mean or refer to the United States Environmental Protection Agency.

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

(iv) The words State or Colorado mean the State of Colorado, unless the context indicates otherwise.

This supplementary information section is arranged as follows:

I. General Information
A. Does this action apply to me?
B. How can I get copies of this document and other related information?
C. What should I consider as I prepare my comments for EPA?
D. How and to whom do I submit comments?
II. What Is Being Addressed in This Document?
III. What Are the Changes That EPA Is Approving?
IV. What Action Is EPA Taking Today?
V. Statutory and Executive Order Reviews

I. General Information

A. Does this action apply to me?

This action affects major stationary sources in Colorado that are subject to or potentially subject to the PSD or nonattainment NSR construction permit program.

B. How can I get copies of this document and other related information?

1. The Regional Office has established an electronic public rulemaking file available for inspection at RME under ID No. R08–OAR–2005–CO–0003, and a hard copy file which is available for inspection at the Regional Office. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include CBI or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air Programs Branch, Air

and Radiation Program, EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:55 p.m. excluding Federal holidays.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the regulations.gov Web site located at *http://www.regulations.gov* where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and that are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office and as part of the electronic public rulemaking file (EDocket), as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

C. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through Regional Materials in EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

D. How and to whom do I submit comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text ''Public comment on proposed rulemaking Region 8 Air Docket R08–OAR–2005–CO–0003'' in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. Submit comments to the e-mail or street address given in the **ADDRESSES** section of this notice.

II. What Is Being Addressed in This Document?

We are proposing to approve portions of Colorado's revisions to the Stationary Source Permitting and Air Pollutant Emission Notice Requirements (Regulation No. 3), submitted by Colorado on July 11, 2005 and October 25, 2005, that relate to the Prevention of Significant Deterioration (PSD) and non-attainment New Source Review (NSR) construction permit programs of the State of Colorado. These revisions, among other revisions, to Regulation No. 3 were adopted by the Colorado Air Quality Control Commission on April 16, 2004. Regulation No. 3 includes the PSD and non-attainment NSR construction permit programs of the State of Colorado. On February 3, 1983, EPA determined that Colorado's State Implementation Plan (SIP) satisfied all requirements of Part D of the Clean Air Act for regulating stationary sources in non-attainment areas (48 FR 29071). Colorado's Regulations for a Prevention of Significant Deterioration (PSD) program for attainment areas were Federally approved (with some exceptions) and made a part of the SIP on September 2, 1986 (51 FR 31125). Finally, Colorado adopted a merged NSR/operating permit program that was approved by EPA on January 21, 1997 (62 FR 2910).

On December 31, 2002, EPA published revisions to the federal PSD and non-attainment NSR regulations in 40 CFR parts 51 and 52 (67 FR 80186). These revisions are commonly referred to as ''NSR Reform'' regulations and became effective nationally in areas not covered by a SIP on March 3, 2003. These regulatory revisions include provisions for baseline emissions determinations, actual-to-future actual methodology, plantwide applicability limits (PALs), clean units, and pollution control projects (PCPs). As stated in the rulemaking, State and local permitting agencies must adopt and submit revisions to their part 51 permitting programs implementing the minimum program elements of that rulemaking no later than January 2, 2006 (67 FR 80240). With the July 11, 2005 submittal, Colorado requested approval of program revisions into the State Implementation Plan (SIP) that satisfy this requirement.

On November 7, 2003, EPA published a reconsideration of the NSR Reform regulations that clarified two provisions in the regulations by including a definition of ''replacement unit'' and by clarifying that the plantwide applicability limitation (PAL) baseline calculation procedures for newly constructed units do not apply to modified units. On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit issued its ruling on challenges to the December 2002 NSR Reform revisions *State of New York et al.* v. *EPA*, 413 F.3d 3 (D.C. Cir. 2005). Although the Court upheld most of EPA's rules, it vacated both the Clean Unit and the Pollution Control Project provisions and remanded back to EPA the recordkeeping provision that required a stationary source to keep records of projects when there was a ''reasonable possibility'' that the project could result in a significant emissions increase.

Colorado's PSD and NSR program revisions were published in the Air Quality Control Commission Regulation

No. 3 (5 CCR 1001–5) on June 30, 2004 and are noted as Revision 4/16/2004. In the revised regulation Colorado noted that NSR Reform revisions will become effective in Colorado when the EPA approves that language for incorporation into the State Implementation Plan. This is noted in the Style Guide to Regulation No. 3, as ''italicized text will become effective when the U.S. EPA approves that language for incorporation into the state implementation plan.'' In addition, Colorado noted that provisions superceded by the NSR Reforms will be effective in Colorado only up to when EPA approves the new NSR Reform language into the State Implementation Plan. This is noted in the Style Guide to Regulation No. 3, as ''underlined text will be effective until the U.S. EPA approves the italicized text for incorporation into the state implementation plan.'' In the transmittal letter for the July 11, 2005 submission Colorado requested that EPA not take action, at this time, on the clean unit and PCP provisions of the state rule and on the term ''reasonable possibility'' in provisions D.V.A.7.c. and D.VI.B.5. of the state rule. In a September 28, 2005 letter to EPA, Colorado provided a revised list of provisions that Colorado requested EPA, at this time, not take action on. Colorado supplemented its July 11, 2005 request in an October 25, 2005 submission that provided two correct April 16, 2004 versions of Regulation No. 3. All of these documents are available for review as part of the Docket for this action.

III. What Are the Changes That EPA Is Approving?

EPA is proposing to approve those revisions adopted by Colorado on April 16, 2004 to Regulation No. 3 (Stationary Source Permitting and Air Pollutant Emission Notice Requirements) that incorporate EPA's December 30, 2002 NSR Reforms (with the exceptions noted in the table below). EPA is also proposing to approve revisions Colorado made to Regulation No. 3 prior to the April 16, 2004 final rulemaking that incorporate the revisions EPA made to the Federal NSR rules on July 21, 1992 (with the exceptions noted in the table below). These revisions are referred to as the WEPCO rule (for the Wisconsin Electric Power Company court ruling) and added definitions and provisions that have been incorporated into the April 16, 2004 version of Regulation No. 3.

In addition to incorporating the NSR Reforms into the April 16, 2004 Regulation No. 3 revision, Colorado also restructured Regulation No. 3, including adding a new Part D titled *Concerning Major Stationary Source New Source Review and Prevention of Significant Deterioration*. The new Part D contains most of the NSR/PSD definitions, provisions, and sections that were revised or newly created by the NSR Reform rule. In addition, numerous Regulation No. 3 Part A and Part B NSR/PSD definitions, provisions, and sections not revised by the NSR Reform rule, but already approved into the SIP, have been moved into the new Part D. EPA is proposing to approve the revisions to Regulation No. 3 creating the new Part D with the exceptions noted in the table below.

The revisions adopted by Colorado on April 16, 2004 have structured Regulation No. 3 as follows: Part A now contains general provisions applicable to reporting and permitting, Part B addresses construction permits; Part C (not a part of the SIP) includes the operating permit program; and Part D deals with the Nonattainment New Source Review and Prevention of Significant Deterioration programs for major stationary sources. Minor sources will only be subject to Parts A and B; major sources (as defined for the Operating Permit program) are governed by Parts A, B and C. Major stationary sources must comply with Parts A, B, C and D. In particular, this reorganization separated the major stationary source NSR provisions from the construction permit requirements applicable to all sources.

Part A Changes. EPA is proposing to approve changes Colorado made to Part A where the NSR Reform rule added or changed specific language used in this Part (as specified in the table below). In addition, EPA is proposing to approve changes Colorado made in Part A that moved the provisions applying to major NSR to Part D (as specified in the table below). EPA is not taking action, at this time, on any other revisions, renumberings, additions, or deletions to Part A made by Colorado as part of the April 16, 2004 final rulemaking action. These other changes will be acted on by EPA in a separate action.

Changes to Part B. EPA is proposing to approve only the NSR Reform rule conforming changes Colorado made in Part B, which moved the provisions applying to major NSR to Part D (as specified in the table below). At this time, EPA is not taking action on any other revisions, renumberings, additions, or deletions to Part B made by Colorado as part of the April 16, 2004 final rulemaking action. These other changes will be acted on by EPA in a separate action.

Part D Changes. Colorado created Regulation No. 3 Part D in order to make Colorado's air quality program consistent with the EPA NSR Reform rules. The references to NSR requirements in Part D include both the nonattainment NSR and PSD programs. Based on Colorado's request, EPA is not taking action, at this time, on provisions related to clean units, pollution control projects, and the term ''reasonable possibility'' as it appears in D–V.A.7.c. and D–VI.B.5. EPA is proposing to approve the new Part D except for the specific provisions noted in the table below.

The following table specifies provisions of Regulation No. 3 that Colorado revised/renumbered or newly added in order to incorporate EPA's NSR Reform and WEPCO rules and to create a separate NSR/PSD major stationary source part (Part D). The table also notes whether the provision is being proposed by EPA to be incorporated into the Colorado SIP.

Provision location in Colorado's current SIP Reg. 3 (N/A = not in current Colorado SIP)	Provision location in Colorado's 4/16/2004 Reg. 3 Revision	Provision description	EPA proposing to incorporate revision or addition into the SIP	Equivalent provision in 40 CFR 51.165 and 40 CFR 51.166	Comment (if applicable see footnote)
A–I.B.1	D–II.A.I	Actual emissions definition	Yes	51.166(b)(21), 51.165(a)(1)(xii)	Note the reference in this definition to "I.B.1.a" should be to "II.A.1.a." and Colorado will correct this reference in a future revision of Regulation No. 3. EPA is proposing approval for this definition. See footnote 1.
A–I.B.7	D–II.A.3	Air Quality Related Value definition	Yes	N/A	EPA is proposing approval for this definition. See footnote 2.
A–I.B.8	A–I.B.7	Allowable Emissions definition	Yes	51.166(b)(16), 51.165(a)(1)(xi)	Colorado added "enforceable as a practical matter" and moved "future compliance date" phrase to this definition. EPA is proposing approval for this definition. See footnotes 1 and 2.
A–I.B.10	D–II.A.5	Baseline Area definition	Yes	51.166(b)(15)	EPA is proposing approval for this definition. See footnote 2.
A–I.B.11	D–II.A.6	Baseline Concentration definition	Yes	51.166(b)(13)	EPA is proposing approval for this definition. See footnote 2.
A–I.B.12	D–II.A.8	Best Available Control Technology definition.	Yes	51.166(b)(12), 51.165(a)(1)(xl)	EPA is proposing approval for this definition. See footnote 2.
A–I.B.15.	D–II.A.12.	Complete definition (for PSD/NSR purposes).	Yes	51.166(b)(22)	EPA is proposing approval for this definition. The reference in II.A.12.a.(vii) of this definition to "III.G.4. of Part B" is not in the current codified SIP. See footnote 2.
A–I.B.21	D–II.A.16	Federal Land Manager definition	Yes	51.166(b)(24), 51.165(a)(1)(xlii)	EPA is proposing approval for this definition. See footnote 2.
A–I.B.31	D–II.A.19	Innovative Control Technology definition	Yes	51.166(b)(19)	EPA is proposing approval for this definition. See footnote 2.
A–I.B.32	D–II.A.21	Lowest Achievable Emission Rate definition.	Yes	51.166(b)(52), 51.165(a)(1)(xiii)	EPA is proposing approval for this definition. See footnotes 1 and 2.
A–I.B.33	D–II.A.24	Major Source Baseline Date definition	Yes	51.166(b)(14)(i)	EPA is proposing approval for this definition. See footnote 2.
A–I.B.34	D–II.A.26	Minor Source Baseline Date definition	Yes	51.166(b)(14)(ii)	EPA is proposing approval for this definition. See footnote 2.
A–I.B.35.b	D–II.A.23 (except II.A.23.d(iii), (viii), (x), (xi), and (e)—see below).	Major Modification definition	Yes, except as noted below.	51.166(b)(2), 51.165(a)(1)(v)	EPA is proposing approval for all of D–II.23. except sections D–II.A.23.d.(viii), (x), and (xi). Note that the provision in II.A.23.e that references "section II.A.2" should reference "II.A.31" and Colorado will correct this reference in a future revision of Regulation 3. See footnotes 1 and 2.
N/A	D–II.A.23.d.(iii)	Use of an alternative fuel at a steam generating unit (part of Major Modification definition).	Yes	51.166(b)(2)(iii)(d), 51.165(a)(1)(v)(C)(4)(iv).	EPA is proposing approval of this definition. See footnote 1.

N/A	D–II.A.23.d(viii)	Addition replacement or use of a PCP * * * (part of Major Modification definition).	No	51.166(b)(2)(iii)(h), 51.165(a)(1)(v)(C)(8)	EPA is not taking action on this part of the definition at this time at the request of Colorado.
N/A	D–II.23.d(x)	The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering (part of Major Modification definition).	No, as noted	51.166(b)(2)(j)	EPA is not taking action, at this time, on this part of the definition. See footnote 3.
N/A	D–II.A.23.d(xi)	The reactivation of a very clean coal fired electric utility steam generating unit. (part of Major Modification definition).	No, as noted	51.166(b)(2)(k)	EPA is not taking action, at this time, on this part of the definition. See footnote 3.
N/A	D–II.A.23.e	This definition shall not apply * * * for a PAL (part of Major Modification definition).	Yes	51.166(b)(2)(iv), 51.165(a)(1)(v)(D)	EPA is proposing approval for this definition Note that the reference in this definition should be to II.A.31 not II.A.2., and Colorado will correct this reference in a future revision of Regulation 3. See footnote 1.
A–1.B.36	D–II.A.27. (except II.A.27.c.(iv) and II.A.g.(v)).	Net Emissions Increase definition	Yes	51.166(b)(3), 51.165(a)(1)(vi)	Colorado has added additional language at II.A.27.c.(iii), and II.A.27.g.(i). EPA is proposing approval for this definition. Note that provision II.A.27.a.(i) references "I.A.4." However, there is no I.A.4. and this reference will be deleted by Colorado. See footnotes 1 & 2.
N/A	D–II.A.27.c(iv)	Net emission increase at a clean unit (part of Net Emissions Increase definition).	No	51.166(b)(3)(ii)(c), 51.165(a)(1)(vi)(C)(3)	EPA is not taking action on this part of the definition at this time at the request of Colorado.
N/A	D–II.A.27.g(v)	Net emissions increase at a clean unit and pollution control project (part of Net Emissions Increase definition).	No	51.166(b)(3)(vi)(d), 51.165(a)(1)(vi)(E)(5)	EPA is not taking action on this part of the definition at this time at the request of Colorado.
A–I.B.44	A–I.B.35	Potential to Emit definition	Yes	51.166(b)(4), 51.165(a)(1)(iii)	EPA is proposing approval for this definition. See footnote 2.
A–I.B.55	D–II.A.43	Secondary Emissions definition	Yes	51.166(b)(18), 51.165(a)(1)(viii)	EPA is proposing approval for this definition. See footnote 1.
A–I.B.57	D–II.A.44	Significant definition	Yes	51.166(b)(23), 51.165(a)(1)(x)	EPA is proposing approval for this definition. See footnote 1.
A–I.B. 58. Major Stationary Source.	D–II.A.25	Major Stationary Source definition (introductory).	Yes, except as noted below.	51.166(b)(1)(i), 51.165(a)(1)(iv)	EPA is proposing approval for this definition except for section D–II.A.25.b. See footnote 2.
A–I.B.58.a	D–II.A.25.b	For the purpose of determining whether a source in a nonattainment area is subject. (part of Major Stationary Source definition).	No, as noted	51.165(a)(1)(iv)(A)(1)	EPA is not taking action, at this time, on this part of the definition. Provision A–I.B.58.a. in the current codified SIP remains in effect as part of the definition of Major Stationary Source. See footnote 4.
A–I.B.58.b	D–II.A.25.a	For the purpose of determining whether a source in an attainment or unclassifiable area (part of Major Stationary Source definition).	Yes	51.166(b)(1)(i)(a)	EPA is proposing approval for this definition. See footnote 2.
A–I.B.58.c	D–II.A.25.c	Major stationary source includes any physical change that would occur at a stationary source (part of Major Stationary Source definition).	Yes	51.166(b)(1)(i)(c), 51.165(a)(1)(iv)(A)(2)	EPA is proposing approval for this definition. See footnote 2.

Provision location in Colorado's current SIP Reg. 3 (N/A = not in current Colorado SIP)	Provision location in Colorado's 4/16/2004 Reg. 3 Revision	Provision description	EPA proposing to incorporate revision or addition into the SIP	Equivalent provision in 40 CFR 51.165 and 40 CFR 51.166	Comment (if applicable see footnote)
A–I.B.58.d	D–II.A.25.d	A major stationary source that is major for volatile organic compounds shall be considered major (part of Major Stationary Source definition).	Yes	51.166(b)(1)(ii), 51.165(as)(1)(iv)(B)	EPA is proposing approval for this definition. See footnote 2.
A–I.B.58.f	D–II.A.25.e	The fugitive emissions of a stationery source shall not be included (part of Major Stationary Source definition).	Yes	51.166(b)(1)(iii), 51.165(a)(1)(iv)(C)	EPA is proposing approval for this definition. See footnote 2.
A–I.B.58.e	D–II.A.25.f	Emissions caused by indirect air pollution sources (part of Major Stationery Source definition).	Yes	N/A	EPA is proposing approval for this definition. The reference in this definition to "I.B.22. of Part A" is at A–I.B.58. in the current codified SIP. See footnote 2.
A–I.B.58.g	D–II.A.25.g	A major stationary source in the Denver Metro PM10 (part of Major Stationary Source definition).	Yes		EPA is proposing approval for this definition. See footnote 2.
N/A	D–III.	Permit Review Procedures	Yes		EPA is proposing approval for this section. See footnote 2.
N/A	D–III.A	Major Stationary Sources must apply for CP or OP.	Yes		EPA is proposing approval for this section.
B–IV.B.5	D–III.B	Process PSD applications w/in 12 months	Yes		EPA is proposing approval for this section. See footnote 2.
N/A	D–IV	Public Comment Requirements	Yes	51.166(q)	EPA is propoosing approval for this section. See footnote 2.
N/A	D–IV.A	Public Notice	Yes	51.166(q)	Copied from Part B, IV.C.4. of current codified SIP. EPA is proposing approval for this section. The reference in D–IV.A. to "III.C.3. of Part B" is at B–IV.C.3 in the current codified SIP. See footnote 2.
B–IV.C.4.–from "For sources subject to the provisions of section IV.D.3." to "The newspaper notice".	D–IV.A.1	Public notice of NSR and PSD permit applications.	Yes	51.166(g)(ii) and (iv)	EPA is proposing approval for this section See footnote 2.
B–IV.C.4.f	D–IV.A.2	Additionally, for permit applications * * * (request comment on).	Yes	51.166(a)(iii)	EPA is proposing approval for this section. See footnote 2.
B–IV.C.5	D–IV.A.3	Within 15 days after prepare PA	Yes	N/A	EPA is proposing approval for this section. See footnote 2.
B–IV.C.6	D–IV.A.4	Hearing request for innovative control	Yes	N/A	EAP is proposing approval for this section. See footnote 2.
B–IV.C.7	D–IV.A.5	Hearing request transmitted to commission.	Yes	N/A	EPA is proposing approval for this section. See footnote 2.
B–IV.C.8	D–IV.A.6	Commission shall hold public comment hearing.	Yes	51.166(q)(v)	EPA is proposing approval for this section. See footnote 2.
B–IV.C.9	D–IV.A.7	15 days after division makes final decision on application.	Yes	51.166(q)(viii)	EPA is proposing approval for this section. See footnote 2.

B–IV.D.2	D–V	Requirements Applicable to Non-attainment Areas (Introductory).	Yes	N/A	EPA is proposing approval for this section. See footnote 2.
B–IV.D.2.a	D–V.A	Major Stationary Sources	Yes	51.165, Appx. S.IV.A	EPA is proposing approval for this section. The reference in D–V.A. to ''III.D.1. of Part B'' is at B–IV.D.1. in the current codified SIP. See footnote 2.
B–IV.D.2.a(i) through (iii)	D–V.A.1. through 3	Major Stationary Sources	Yes	51.165, Appx. S.IV.A Condiitons 1–4	EPA is proposing approval for this section. See footnote 2.
B–IV.D.2.a.(iii)(C) 2nd par	D–V.A.3.d	With respect to offsets from outside non-attainment area.	Yes	51.165, Appx. S.IV.D	EPA is proposing approval for this section. See footnote 2.
B–IV.D.2.a.(iv)	D–V.A.4	The permit application shall include an analysis of alternative sites * * *.	Yes	51.165, Appx. S.IV.D	EPA is proposing approval for this section. See footnote 2.
B–IV.D.2.a.(v)	D–V.A.5	Offsets for which emission reduction credit is taken * * *.	Yes	51.165, Appx. S.V.A	EPA is proposing approval for this section. See footnote 2.
B–IV.D.2.a(vi)	D–V.A.6	The applicant will demonstrate that emissions from the proposed source will not adversely impact visibility * * *.	Yes	N/A	EPA is proposing approval for this section. See footnote 2.
B–IV.D.2.b	D–V.A.7	Applicability of Certain Nonattainment Area Requirements.	Yes	N/A	EPA is proposing approval for this section. See footnote 2.
B–IV.D.2.b.(i)	D–V.A.7.a	Any major stationary source in a non-attainment area * * *.	Yes	N/A	EPA is proposing approval for this section. See footnote 2.
B–IV.D.2.b(ii)	D–V.A.7.b	The requirements of section V.A. shall apply at such time that any stationary source * * *.	Yes	51.165(a)(5)(ii)	EPA is proposing approval for this section. See footnote 2.
N/A	D–V.A.7.c	The following provisions apply to projects at existing emissions units * * * (''Reasonable possibility'' provisions in non-attainment areas) (part of Applicability of Certain Nonattainment Area Requirements).	Yes, except as noted in comment section.	51.165(a)(6)	EPA is not taking action on the terms ''clean unit'' or ''reasonable possiblity'' used in this provision at this time at the request of Colorado See footnote 1 and 5.
N/A	D–V.A.7.d	Documents available for review upon request (part of Applicability of Certain Nonattainment Area Requirements).	Yes	51.165(a)(7)	EPA is proposing approval for this provision. See footnote 1.
B–IV.D.2.c (and sub-sections).	D–V.A.8	Exemptions from Certain Nonattainment Area Requirements.	Yes	51.165, Appx. S.IV.B	EPA is proposing approval for this section. See footnote 2.
B–IV.D.3	D–VI	Requirements Applicable to Attainment Areas (Introductory).	Yes	N/A	Colorado has deleted unnecessary introductory language from this provision. EPA is proposing approval for this provision. See footnote 2.
B–IV.D.3.a. (and sub-sections not listed below).	D–VI.A	Major Stationary Sources and Major Modifications.	Yes	51.166(j)	EPA is proposing approval for this section. The reference in D–VI.A. to ''III.D.1. of Part B'' is at B–IV.D.1. in the current codified SIP. See footnote 2.
B–IV.D.3.a(i)(C)	D–VI.A.1.c	For phased construction * * *.	Yes	51.166(j)(4)	EPA is proposing approval for this provision. See footnote 1 and 2.
B–IV.D.3.a.(iii)(D)	D–VI.A.3.d	In general, the continuous air monitoring data.	Yes	51.166(m)(1)(iv)	EPA is proposing approval for this provision. See footnotes 1 and 2.
B–IV.D.3.a.(iii)(D)	D–VI.A.4	Post-construction monitoring	Yes	51.166(m)(2)	EPA is proposing approval for this provision.

Provision location in Colorado's current SIP Reg. 3 (N/A = not in current Colorado SIP)	Provision location in Colorado's 4/16/2004 Reg. 3 Revision	Provision description	EPA proposing to incorporate revision or addition into the SIP	Equivalent provision in 40 CFR 51.165 and 40 CFR 51.166	Comment (if applicable see footnote)
					Colorado has revised this provision to make post construction monitoring at the director's discretion as allowed by 51.166(m)(2). See footnotes 1 and 2.
B–IV.D.3.b	D–VI.B	Applicability of Certain PSD Requirements	Yes	N/A	EPA is proposing approval for this provision. See footnote 2.
B–IV.D.3.b.(i)	D–VI.B.1	The requirements of section VI.A. do not apply.	Yes	51.166(i)(1) and (2)	EPA is proposing approval for this provision. See footnote 2.
B–IV.D.3.b.(ii)	D–VI.B.2	The requirements contained in sections VI.A.2 through VI.A.4.	Yes	51.166(i)(3) and 4	EPA is proposing approval for this provision. See footnote 2.
B–IV.D.3.b(iii)	D–VI.B.3. (including D–VI.B.3.b., c., and d.).	The division may exempt a proposed major stationary source or major modification from the requirements of sections VI.A.3. through VI.A.5. of this Part, with respect to monitoring for a particular pollutant if: * * *.	Yes	51.166(i)(5)	Colorado has reworded D–VI.B.3. and deleted unnecessary language. EPA is proposing approval for this provision. See footnote 2.
B–IV.D.3.b.(iii)(A)(1)–(12)	D–VI.B.3.a.(i)–(ix)	deleted Mercury, Beryllium, Vinyl chloride	Yes	51.166(i)(5)(i)	EPA is proposing approval for this provision. See footnotes 1 & 2.
B–IV.D.3.b.(iv)	D–VI.B.4	The requirements of this Part D shall apply * * *.	Yes	51.166(i)(6)	EPA is proposing approval for this provision. See footnote 2.
N/A	D–VI.B.5	The following provisions apply to projects at existing emissions units * * * ("Reasonable possibly" provisions PSD). (Part of Applicability of Certain PSD Requirements).	Yes, except as noted in comment section.	51.166(r)(6)	EPA is proposing approval for this section with the exception that EPA is not taking action on the terms "clean unit" or "reasonable possibility" used in this provision, at this time, at the request of Colorado. See footnote 1 and 5.
N/A	D–VI.B.6	documents available for review upon request. (part of Applicability of Certain PSD Requirements).	Yes	51.166(r)(7)	EPA is proposing approval for this provision. See footnote 1.
B–IV.D.3.b(v)	D–VI.B.7	A stationary source or modification may apply.	Yes	51.166(i)(9)	EPA is proposing approval for this provision. See footnote 2.
B–IV.D.3.c	D–VI.C	Notice to EPA	Yes	51.166(p)(1)	EPA is proposing approval for this provision. See footnote 2.
B–IV.D.3.d	D–VI.D	Major Stationary Sources in attainment areas affecting nonattainment area.	Yes	51.165(b)	EPA is proposing approval for this section. The reference in D–VI.D. to "III.D.I. of Part B" is at B–IV.D.1 in the current codified SIP. See footnote 2.
B–IV.D.4	D–VII	Negligibly Reactive VOCs	Yes	51.100(s)	EPA is proposing approval for this provision. See footnote 2.
B–V	D–VIII	Area Classifications	Yes, with the exception of D–VIII.B.	51.166(e)	EPA is proposing approval for this provisions with the exception of D–VIII.B. See footnote 2.

N/A	D–VIII.B	All other areas of Colorado, (part of Area Classifications).	No	N/A	This provision is not in the currently codified SIP. EPA is not proposing approval as part of this action. See FR Notice of 3/25/98 (14357).
B–VI	D–IX	Redesignation	Yes	51.166(e)	EPA is proposing approval for this provision. See footnote 2.
B–VII	D–X	Air Quality Limitations	Yes, with the exception of D–X.A.5.	51.166(c)	EPA is proposing approval for this provision with the exception of D–X.A.5. See footnote 2.
N/A	D–X.A.5	Increment Consumption Restriction (part of Air Quality Limitations).	No	N/A	This provision is not in the currently codified SIP. EPA is not proposing approval as part of this action. See FR Notice of 3/25/98 (14357).
B–VIII	D–XI	Exclusions from Increment Consumption	Yes	51.166(f)	EPA is proposing approval for this provision. See footnote 2.
B–IX	D–XII	Innovative Control Technology	Yes	51.166(s)	EPA is proposing approval for this provision. See footnote 2.
B–X	D–XIII	Federal Class I Areas	Yes	51.166(p)	EPA is proposing approval for this section. The reference in D–XIII.C. to "III.B. of Part B" is at B–IV.b. in the current codified SIP. See footnote 2.
B–XI	D–XIV	Visibility	No	N/A	EPA is not taking action on this section. This section will be acted on by EPA as a separate action.
N/A	A–I.B.13	CEMS definition	Yes	51.166(b)(43), 51.165(a)(1)(xxxiv)	EPA is proposing approval for this provision. See footnote 1.
N/A	A–I.B.14	CERMS definition	Yes	51.166(b)(46), 51.165(a)(1)(xxxiv)	EPA is proposing approval for this provision. See footnote 1.
N/A	A–I.B.15	CPMS definition	Yes	51.166(b)(45), 51.165(a)(1)(xxxiv)	EPA is proposing approval for this provision. See footnote 1.
N/A	A–I.B.33	Pollution Prevention definition	Yes	51.166(b)(38), 51.165(a)(1)(xxvi)	EPA is proposing approval for this provision. See footnote 1.
N/A	A–I.B.36	PEMS definition	Yes	51.166(b)(44), 51.165(a)(1)(xxxii)	EPA is proposing approval for this provision. See footnote 1.
N/A	D–I.A	General Applicability (Introductory)	Yes	51.166(a)(7), (iv)(a) and (b), 51.165(a)(2)(iii) (A) and (B).	EPA is proposing approval for this definition. See footnote 1.
N/A	D–I.B. (except 1.b.3. and second sentence of 1.B.4.).	Applicability Tests	Yes	51.166(a)(7)(iv)(c), (d), and (f), 51.165(a)(2)(ii)(C), (D), and (F).	EPA is proposing approval for this definition with the exception of I.B.3. and the second sentence of I.B.4.
N/A	D–I.B.3	Emissions tests at clean units (part of Applicability Tests).	No	51.166(a)(7)(iv)(e), 51.165(a)(2)(ii)(E)	EPA is not taking action on this provision at this time at the request of Colorado. The reference in D–I.B.5. to "I.B.26. of Part A" is at A–I.B.35.c. in the current codified SIP. See footnote 1.
N/A	D–I.B.4. Second sentence.	For example, for a project involves both an existing unit and a clean unit.	No	51.166(a)(7)(iv)(f) second sentence, 51.165(a)(2)(ii)(F) second sentence.	EPA is not taking action on this part of provision D–I.B.4 at this time at the request of Colorado.
N/A	D–I.C	For any major statioN/Ary source requesting, or operating under, a Plantwide Applicability Limitation.	Yes	51.166(a)(7)(v), 51.165(a)(2)(iii)	EPA is proposing approval for this provision. See footnote 1.
N/A	D–I.D	An owner or operator undertaking a Pollution Control Project.	No	51.166(a)(7)(vi), 51.165(a)(2)(iv)	EPA is not taking action on this provision at this time at the request of Colorado.

Provision location in Colorado's current SIP Reg. 3 (N/A = not in current Colorado SIP)	Provision location in Colorado's 4/16/2004 Reg. 3 Revision	Provision description	EPA proposing to incorporate revision or addition into the SIP	Equivalent provision in 40 CFR 51.165 and 40 CFR 51.166	Comment (if applicable see footnote)
N/A	D–II.A.2	Actuals PAL Definition	Yes	51.166(w)(2)(i) 51.165(f)(2)(i)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.4	Baseline Actual Emissions definition	Yes	51.166(b)(47), 51.165(a)(1)(xxxv)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.7	Begin Actual Construction definition	Yes	51.166(b)(II), 51.165(a)(1)(xv)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.9	Clean Coal Technology definition	Yes	51.166(b)(33), 51.165(a)(1)(xxiii)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–I.II.A.10	Clean Coal Technology Demonstration Project definition.	Yes	51.166(b)(34), 51.165(a)(1)(xxiv)	EPA is proposing approval for this definition See footnote 1.
N/A	D–II.A.11	Clean Unit definition	No	51.166(b)(41), 51.165(a)(1)(xxix)	EPA is not taking action on this definition at this time at the request of Colorado.
N/A	D–II.A.13	Construction definition	Yes	51.166(b)(8), 51.165(a)(1)(xxviii)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.14	Emissions Unit definition (for PSD/NSR purposes).		51.166(b)(7), 51.165(a)(1)(xvii)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.15	Electric Utility Steam Generating Unit definition.	Yes	51.166(b)(30), 51.165(a)(1)(xx)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.17	High Terrain definition	Yes	51.166(b)(25)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.18	Hydrocarbon Combustion Flare definition		51.166(b)(31)(iv), 51.165(a)(1)(xx)(D)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.20	Low Terrain definition	Yes	51.166(b)(26)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.22	Major Emissions Unit definition	Yes	51.166(w)(2)(iv), 51.165(f)(2)(iv)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.28	Nonattainment New Source Review definition.	Yes	51.165(a)(1)(xxx)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.29	PAL Effective Date definition	Yes	51.166(e)(2)(iv), 51.165(f)(2)(vi)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.30	PAL Effective Period definition	Yes	51.166(e)(2)(vii), 51.165(f)(2)(vii)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.31	PAL Major Modification definition	Yes	51.166(w)(2)(viii), 51.165(f)(2)(viii)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.32	PAL Permit definition	Yes	51.166(w)(2)(ix), 51.165(f)(2)(ix)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.33	PAL Pollutant definition	Yes	51.166(w)(2)(x), 51.165(f)(2)(x)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.34	Plantwide Applicability Limitation (PAL) definition.	Yes	51.166(w)(2)(v), 51.165(f)(2)(v)	EPA is proposing approval for this definition. See footnote 1.

N/A	D–II.A.35	Pollutant Control Project definition	No	51.166(b)(31), 51.165(a)(1)(xxv)	EPA is not taking action on this definition at this time at the request of Colorado.
N/A	D–II.A.36	Prevention of Significant Deterioration Permit definition.	Yes	51.166(b)(42), 51.165(a)(1)(xli)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.37	Project definition	Yes	51.166(b)(51), 51.165(a)(1)(xxix)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.38	Projected Actual Emissions definition	Yes	51.166(b)(40), 51.165(a)(1)(xxviii)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.39	Reactivation of Very Clean Coal-Fired EUSGU definition.	Yes	51.166(b)(37)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.40	Regulated NSR Pollutant definition	Yes	51.166(b)(49), 51.165(a)(1)(xxxvii)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.41	Replacement Unit definition	Yes	51.166(b)(32), 51.165(a)(1)(xxi)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.42	Repowering definition	Yes	51.166(b)(36)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.45	Significant Emissions Increase definition	Yes	51.166(b)((39), 51.165(a)(1)(xxvii)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.46	Significant Emissions Unit definition	Yes	51.166(w)(2)(xi), 51.165(f)(2)(xi)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.47	Small Emissions Unit definition	Yes	51.166(w)(2)(iii), 51.165(a)(1)(iii)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–II.A.48	Temporary Clean Coal Demonstration Project definition.	Yes	51.166(b)(35), 51.165(a)(1)(XXII)	EPA is proposing approval for this definition. See footnote 1.
N/A	D–XV	Clean Units	No	51.166(t) and (u), 51.165(c) and (d)	EPA is not taking action on this section, at this time, at the request of Colorado.
N/A	D–XVI	Pollution Control Projects	No	51.166(v), 51.165(e)	EPA is not taking action on this section, at this time, at the request of Colorado.
N/A	D–XVII	Plantwide Applicability Limitations	Yes	51.166(v), 51.165(f)	EPA is proposing approval for this section. The references in XVII.N.1.g and XVII.N.2.d of this section to "I.B.38. of Part A" are at A–I.B.53 in the current codified SIP. Colorado has revised D–SVII.I.2. (application deadline) to 12 months prior to expiration instead of 6 months. Colorado has revised XVII.N.1. (Semi-Annual Report) to require submission of QA/QC data as requested, not as part of the semi annual report specified in 51.166(w)(14)(i)(c). See footnote 1.

Footnote 1: We are proposing to approve this new rule in Regulation No. 3 because the rule is identical or consistent with the Federal New Source Review regulations found at 40 CFR 51.165 and 51.166 and contain no changes to the language that would effect the meaning of the rule.

Footnote 2: We are proposing to approve this change of an existing Regulation No. 3 rule because the rule has only been renumbered, contains nonsubstantive changes to the rule that do not effect the meaning of the rule and/or has been modified to move a definition that has already been approved into the SIP to a specific rule section in which the definition applies. This renumbered rule and all subsections within this rule supersede and replace the prior numbered rule and subsections in Colorado's federally approved SIP.

Footnote 3: Colorado has marked this part of the definition of Major Modification as underlined, meaning that the State intends it will only be effective until EPA approves the NSR Reform revisions for incorporation into the SIP. Colorado has since clarified that they intended that this provision remain as part of the definition of Major Modification as it applies to PSD sources located in attainment areas only, consistent with 40 CFR 51.166(b)(2)(j). If Colorado revises Regulation No. 3 to indicate this clarification prior to EPA taking final action, EPA proposes to approve this addition to the definition of Major Modification into the SIP.

Footnote 4: Colorado's SIP submittal deletes the following language in D–II.A.25.b from what is in the current codified SIP definition of Major Stationary Source (at A–I.B.58.a.):

In the Denver Metro PM10 nonattainment area, sulfur dioxide and nitrogen oxides shall be treated as PM10 precursors, and any source which is major for these precursors is subject to the nonattainment new source review provisions. Additionally, a source causing or contributing to a violation of a NAAQS for any pollutant regulated under Section 110 of the Federal Act shall be considered major when it has the potential to emit 100 tons per year or more of that pollutant. The source will be considered to cause or contribute to a violation when the source exceeds the significance levels in the table under Section IV.D.3.d(ii), Part B. Such source is subject to the requirements of IV.D.3.

Colorado's deletion of the first sentence that refers to the Denver Metro PM10 nonattainment area could be proposed for approval by EPA since the Denver Metro area is now in attainment for PM–10. However, EPA is not proposing to approve D–II.A.25.b into the SIP at this time because of the deletion of the remaining language in the second and third sentences. Colorado has not provided a justification for the deletion of the second and third sentences. These sentences appear to provide a link between Colorado's use of the phrase ''significantly affect ambient air quality'', as used in D–VI.D.1. of Regulation No. 3, and the phrase ''cause or contribute to a violation of any NAAQS'', as used in 40 CFR 51.165(b)(1). If Colorado revises Regulation No. 3 to add this deleted language back into the definition of Major Stationary Source prior to EPA taking final action, EPA proposes to approve this part of the definition of Major Stationary Source into the SIP. Otherwise the currently codified SIP language that is part of the definition of Major Stationary Source at A–I.B.58.a. will remain in the SIP.

Footnote 5: EPA has discussed with the Colorado Department of Public Health and Environment (CDPHE) on how it intends to implement provisions D–V.A.7.c. and D–VI.B.5. without the terms ''reasonable possibility'' included as part of these provisions. CDPHE's intent is that Colorado will implement the rule consistently with EPA's policy and guidance. Additionally, CDPHE provided a letter to EPA dated Nov 28, 2005 that stated their intent is to also ''request that the Commission make any revisions to Regulation No. 3 necessary to incorporate and implement federal program revisions should it be necessary for EPA to take further action on the remand of the Code of Federal Regulations, Title 40, sections 51.165(a)(6) and 51.166(r)(6).'' Therefore, EPA proposes to approve Colorado's rule without the terms ''reasonable possibility'' since Colorado will be implementing this rule provision in a manner consistent with EPA.

IV. What Action Is EPA Taking Today?

EPA is proposing to approve portions of Colorado's revisions to Regulation No. 3, submitted by Colorado on July 11, 2005 and October 25, 2005, that relate to the PSD and NSR construction permits program. These revisions meet the minimum program requirements of the December 31, 2002, EPA NSR Reform rulemaking. EPA will take action at a later date on the remaining revisions made by Colorado to Regulation No. 3 as adopted on April 16, 2004 by the Colorado Air Quality Control Commission. This future action will allow EPA to consider the complete Regulation No. 3 restructuring and other previously submitted SIP revision requests for Regulation No. 3.

V. Statutory and Executive Order Reviews

Executive Order 12866; Regulatory Planning and Review

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.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' 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).

Regulatory Flexibility Act

This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175 Consultation and Coordination With Indian Tribal Governments

This proposed 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 (*59 FR 22951*, November 9, 2000).

Executive Order 13132 Federalism

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 action merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13045 Protection of Children From Environmental Health and Safety Risks

This proposed 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.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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.

Paperwork Reduction Act

This proposed 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 28, 2005.

Max H. Dodson,

Acting Regional Administrator, Region 8.

[FR Doc. 05–23712 Filed 12–6–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2005–0240; FRL–7737–5]

Pesticides; Revisions to Tolerance Exemptions for Polymers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to remove the molecular weight limitations from the tolerance exemption expression for certain polymeric substances codified in 40 CFR 180.960. These exemptions from the requirement of a tolerance were established based on the polymer's meeting the criteria established by the Agency in 40 CFR 723.250, which define a low risk polymer. The Agency is acting on its own initiative.

DATES: Comments must be received on or before February 6, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number OPP–2005–0240, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *Agency Website*: EDOCKET, EPA's electronic public and comment system was replaced on November 25, 2005, by an enhanced federal-wide electronic docket management and comment system located at *http://www.regulations.gov/*. Follow the on-line instructions.
- *E-mail*: Comments may be sent by e-mail to: *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0240.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,

Washington, DC 20460–0001, Attention: Docket ID Number OPP–2005–0240.

• *Hand delivery*: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0240. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number OPP–2005–0240. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.html.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6304; fax number: (703) 305–0599; e-mail address: *boyle.kathryn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111)
• Animal production (NAICS code 112)
• Food manufacturing (NAICS code 311)
• Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

C. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for preparing your comments. When submitting comments, remember to:

i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What is the Agency's Authority for Taking this Action?

The rule proposed here would be issued pursuant to section 408(e) of the Federal Food, Drug, and Comestic Act (FFDCA), as amended by FQPA (21 U.S.C. 346a(e)). Section 408 of FFDCA authorizes the establishment of tolerances, exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or tolerance exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of FFDCA. If food containing pesticide residues is found to be

adulterated, the food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342 (a)).

B. What Action is the Agency Taking?

In the **Federal Register** of May 24, 2002, (67 FR 36525) (FRL–6834–2), EPA issued a direct final rule to add a new section to part 180, subpart D. This section now lists the pesticide chemicals that are polymers subject to exemptions from tolerance requirements, based upon the criteria in 40 CFR 723.250 that identify a low-risk polymer. Under the Toxic Substances Control Act (TSCA), polymers meeting the criteria of 40 CFR 723.250 are exempt from certain of the premanufacture notice requirements. The Office of Pesticide Programs has used these same criteria to create a stream-lined process for establishing a tolerance exemption for a polymeric substance meeting these criteria. In essence, a manufacturer by filing a petition for an exemption from the requirement of a tolerance (which includes the notice of filing) with the Agency's Office of Pesticide Programs is verifying their exemption under section 5(a)(1)(A) of TSCA. In a similar manner, a manufacturer who petitions the Agency for tolerance exemption status by stating that their polymer is described by the chemical nomenclature of a polymer exempted under 40 CFR 180.960 is verifying their exemption under 5(a)(1)(A) of TSCA.

Many of the polymers that were transferred from other sections of the CFR to this new section contained limitations on the molecular weight, usually expressed in a manner similar to the following, ''minimum number average molecular weight (in amu),'' as part of their nomenclature. At the time that these exemptions were established (pre-May 2002) including such a limitation assured that polymeric substances that were described by the chemical nomenclature but were of lower molecular weight were not considered to be exempt from the requirement of a tolerance. At the time of the transfer to 40 CFR 180.960, this nomenclature was maintained.

The molecular weight criteria that define a low risk polymer are specified in 40 CFR 723.250(e), and are not limited to the particular molecular weights currently specified in 40 CFR 180.960. In promulgating 40 CFR 180.960, EPA incorporated the criteria of 40 CFR 723.250(e) as a requirement for all polymer exemptions. Because 40 CFR 180.960 through its incorporation of 40 CFR 723.250(e) now imposes a minimum molecular weight to assure safety, chemical-specific limitations are not needed in 40 CFR 180.960, and EPA proposes to modify the tolerance exemptions accordingly.

III. Statutory and Executive Order Reviews

This proposed rule removes the chemical-specific molecular weight limitations codified in the tolerance exemption expressions in 40 CFR 180.960. Since removal of these chemical-specific molecular weight limitations does not impose any new requirements, it is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule is not subject to review under Executive Order 12866, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Under the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this proposed action will not have significant negative economic impact on a substantial number of small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This proposed rule will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

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

Dated: November 18, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. Section 180.960 is revised to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

Residues resulting from the use of the following substances, that meet the definition of a polymer and the criteria specified for defining a low-risk polymer in 40 CFR 723.250 (which includes the requirement for a number average molecular weight greater than or equal to 1000 amu), as an inert ingredient in a pesticide chemical formulation, including antimicrobial pesticide chemical formulations, are exempted from the requirement of a tolerance under FFDCA section 408, if such use is in accordance with good agricultural or manufacturing practices.

Polymer	CAS No.
Acetic acid ethenyl ester, polymer with ethenol and (alpha)-2-propenyl-(omega)-hydroxypoly(oxy-1,2-ethanediyl)	137091–12–4
Acrylic acid, polymerized, and its ethyl and methyl esters	None
Acrylic acid-sodium acrylate-sodium-2-methylpropanesulfonate copolymer	97953–25–8
Acrylic acid-stearyl methacrylate copolymer	27756–15–6
Acrylic acid, styrene, alpha-methyl styrene copolymer, ammonium salt	89678–90–0
Acrylic acid terpolymer, partial sodium salt	151006–66–5
Acrylic polymers composed of one or more of the following monomers: Acrylic acid, methyl acrylate, ethyl acrylate, butyl acrylate, hydroxyethyl acrylate, hydroxypropyl acrylate, hydroxybutyl acrylate, carboxyethyl acrylate, methacrylic acid, methyl methacrylate, ethyl methacrylate, butyl methacrylate, isobutyl methacrylate, hydroxyethyl methacrylate, hydroxypropyl methacrylate, hydroxybutyl methacrylate, lauryl methacrylate, and stearyl methacrylate; with none and/or one or more of the following monomers: Acrylamide, N-methyl acrylamide, N,N-dimethyl acrylamide, N-octylacrylamide, maleic anhydride, maleic acid, monoethyl maleate, diethyl maleate, monooctyl maleate, dioctyl maleate; and their corresponding sodium, potassium, ammonium, isopropylamine, triethylamine, monoethanolamine, and/or triethanolamine salts	None
Acrylonitrile-butadiene copolymer conforming to 21 CFR 180.22	9003–18–3
Acrylonitrile-styrene-hydroxypropyl methacrylate copolymer	None
Alpha-alkyl C12-C15)-ω- hydroxypoly(oxypropylene)poly(oxyethylene)copolymers (where the poly(oxypropylene) content is 3-60 moles and the poly(oxyethylene) content is 5-80 moles)	68551–13–3
Alkyl (C12-C20) methacrylate-methacrylic acid copolymer	None
1,3 Benzene dicarboxylic acid, 5-sulfo-,1,3-dimethyl ester, sodium salt, polymer with 1,3-benzene dicarboxylic acid, 1,4-benzene dicarboxylic acid, dimethyl 1,4-benzene dicarboxylate and 1,2-ethanediol	212842–88–1
3,5-Bis(6-isocyanatohexyl)-2H-1,3,5-oxadiazine-2,4,6-(3H,5H)-trione, polymer with diethylenetriamine	87823–33–4
Butadiene-styrene copolymer	None
1,4-Butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer	9018–04–6
Butene, homopolymer	9003–29–6
2-Butenedioic acid (Z)-, polymer with ethenol and ethenyl acetate, sodium salt	139871–83–3
Butyl acrylate-vinyl acetate-acrylic acid copolymer	65405–40–5
α-Butyl-omega-hydroxypoly(oxypropylene) block polymer with poly(oxyethylene)	None
Castor oil, polyoxyethylated; the poly(oxyethylene) content averages 5-54 moles	None
Chlorinated polyethylene	64754–90–1
Cross-linked nylon-type polymer formed by the reaction of a mixture of sebacoyl chloride and polymethylene polyphenylisocycanate with a mixture of ethylenediamine and diethylenetriamine	None
Cross-linked polyurea-type encapsulating polymer	None
Dimethylpolysiloxane	63148–62–9
Dimethyl silicone polymer with silica	67762–90–7
Docosyl methacrylate-acrylic acid copolymer, or docosyl methacrylate-octadecyl methacrylate-acrylic acid copolymer	None
1,12-Dodecanediol dimethacrylate polymer	None

Polymer	CAS No.
1, 2-Ethanediamine, polymer with methyl oxirane and oxirane	26316–40–5
Ethylene glycol dimethyacrylate-lauryl methacrylate copolymer	None
Ethylene glycol dimethacrylate polymer	None
Formaldehyde, polymer with α-[bis(1-phenylethyl)phenyl]- -hydroxypoly(oxy-1,2-e thanediyl)	157291–93–5
Fumaric acid-isophthalic acid-styrene-ethylene/propylene glycol copolymer	None
Hexadecyl acrylate-acrylic acid copolymer, hexadecyl acrylate-butyl acrylate-acrylic acid copolymer, or hexadecyl acrylate-dodecyl acrylate-acrylic acid copolymer	None
Hexamethyl disilizane, reaction product with silica	68909–20–6
1,6-Hexanediol dimethyacrylate polymer	None
α-Hydro-omega-hydroxy-poly(oxyethylene) C8 alkyl ether citrates, poly(oxyethylene) content is 4-12 moles	330977–00–9
α-Hydro-omega-hydroxy-poly(oxyethylene) C10-C16-alkyl ether citrates, poly(oxyethylene) content is 4-12 moles	330985–58–5
α-Hydro-omega-hydroxy-poly(oxyethylene) C16-C18-alkyl ether citrates, poly(oxyethylene) content is 4-12 moles	330985–61–0
α-Hydro-omega-hydroxypoly(oxyethylene)	None
α-Hydro-omega-hydroxypoly(oxyethylene)poly (oxypropylene) poly(oxyethylene) block copolymer; the minimum poly(oxypropylene) content is 27 moles	None
α-Hydro-omega-hydroxypoly(oxypropylene)	None
12-Hydroxystearic acid-polyethylene glycol copolymer	70142–34–6
Isodecyl alcohol ethoxylated (2-8 moles) polymer with chloromethyl oxirane	None
Lauryl methacrylate-1,6-hexanediol dimethacrylate copolymer	None
Maleic acid-butadiene copolymer	None
Maleic acid monobutyl ester-vinyl methyl ether copolymer	25119–68–0
Maleic acid monoethyl ester-vinyl methyl ether copolymer	2508706–3
Maleic acid monoisopropyl ester-vinyl methyl ether copolymer	31307–95–6
Maleic anhydride-diisobutylene copolymer, sodium salt	37199–81–8
Maleic anhydride-methylstyrene copolymer sodium salt	60092–15–1
Maleic anhydride-methyl vinyl ether, copolymer	None
Methacrylic acid-methyl methacrylate-polyethylene glycol methyl ether methacrylate copolymer	100934–04–1
Methacrylic copolymer	63150–03–8
Methyl methacrylate-methacrylic acid-monomethoxypolyethylene glycol methacrylate copolymer	119724–54–8
Methyl methacrylate-2-sulfoethyl methacrylate-dimethylaminoethylmethacrylate-glycidyl methacrylate-styrene-2-ethylhexyl acrylate graft copolymer	None
Methyl vinyl ether-maleic acid copolymer	25153–40–6
Methyl vinyl ether-maleic acid copolymer, calcium sodium salt	62386–95–2
Monophosphate ester of the block copolymer alpha-hydro-omega-hydroxypoly(oxyethylene) poly(oxypropylene) poly(oxyethylene); the poly(oxypropylene) content averages 37-41 moles	None
α-(p-Nonylphenyl-omega-hydroxypoly(oxypropylene) block polymer with poly(oxyethylene); polyoxypropylene content of 10-60 moles; polyoxyethylene content of 10-80 moles	None
α-(p-Nonylphenyl)poly(oxypropylene) block polymer with poly(oxyethylene); poly oxyethylene content 30 to 90 moles	None
Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate	58128–22–6
α-cis-9-Octadecenyl-omega-hydroxypoly(oxyethylene); the octadecenyl group is derived from oleyl alcohol and the poly(oxyethylene) content averages 20 moles	None

Polymer	CAS No.
Octadecyl acrylate-acrylic acid copolymer, octadecyl acrylate-dodecyl acrylate-acrylic acid copolymer, octadecyl methacrylate-butyl acrylate-acrylic acid copolymer, octadecyl methacrylate-hexyl acrylate-acrylic acid copolymer, octadecyl methacrylate-dodecyl acrylate-acrylic acid copolymer, or octadecyl methacrylate-dodecyl methacrylate-acrylic acid copolymer	None
Oleic acid diester of alpha-hydro-omega-hydroxypoly(oxyethylene); the poly(oxyethylene)	None
Oxirane, methyl-, polymer with oxirane, mono [2-(2-butoxyethoxy) ethyl] ether	85637–75–8
Polyamide polymer derived from sebacic acid, vegetable oil acids with or without dimerization, terephthalic acid and/or ethylenediamine	None
Polyethylene glycol-polyisobutenyl anhydride-tall oil fatty acid copolymer	68650–28–2
Polyethylene, oxidized	None
Polymethylene polyphenylisocyanate, polymer with ethylene diamine, diethylene triamine and sebacoyl chloride, cross-linked	None
Polyoxyethylated primary amine (C14-C18); the fatty amine is derived from an animal source and contains 3% water; the poly(oxyethylene) content averages 20 moles	None
Polyoxyethylated sorbitol fatty acid esters; the polyoxyethylated sorbitol solution containing 15% water is reacted with fatty acids limited to C12, C14, C16, and C18, containing minor amounts of associated fatty acids; the poly(oxyethylene) content averages 30 moles.	None
Polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20-50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C8 through C22 with minor amounts of associated fatty acids	None
Poly(oxyethylene/oxypropylene) monoalkyl (C6-C10) ether sodium fumarate adduct	102900–02–7
Polyoxymethylene copolymer	None
Poly(oxypropylene) block polymer with poly(oxyethylene)	None
Poly(phenylhexylurea), cross-linked	None
Polypropylene	9003–07–0
Polystyrene	9003–53–6
Polytetrafluoroethylene	9002–84–0
Polyvinyl acetate, copolymer with maleic anhydride, partially hydrolyzed, sodium salt	None
Polyvinylpyrrolidone butylated polymer	26160–96–3
Polyvinyl acetate	None
Polyvinyl acetate--polyvinyl alcohol copolymer	25213–24–5
Polyvinyl alcohol	9002–89–5
Polyvinyl chloride	None
Polyvinyl chloride	9002–86–2
Poly(vinylpyrrolidone)	9003–39–8
Poly(vinylpyrrolidone-1-eicosene)	28211–18–9
Poly(vinylpyrrolidone-1-hexadecene)	63231–81–2
2-Propene-1-sulfonic acid sodium salt, polymer with ethenol and ethenyl acetate,	None
2-Propenoic acid, polymer with 2-propenamide, sodium salt	25085–02–3
2-Propenoic acid, sodium salt, polymer with 2-propenamide	25987–30–8
Silane, dichloromethyl-reaction product with silica	68611–44–9
Sodium polyflavinoidsulfonate, consisting chiefly of the copolymer of catechin and leucocyanidin	None
Stearyl methacrylate-1,6-hexanediol dimethacrylate copolymer	None

Polymer	CAS No.
Styrene, copolymers with acrylic acid and/or methacrylic acid, with none and/or one or more of the following monomers: Acrylamidopropyl methyl sulfonic acid, methallyl sulfonic acid, 3-sulfopropyl acrylate, 3-sulfopropyl methacrylate, hydroxypropyl methacrylate, hydroxypropyl acrylate, hydroxyethyl methacrylate, and/or hydroxyethyl acrylate; and its sodium, potassium, ammonium, monoethanolamine, and triethanolamine salts	None
Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer	30795–23–4
Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer	None
Styrene-maleic anhydride copolymer	None
Styrene-maleic anhydride copolymer, ester derivative	None
Tetradecyl acrylate-acrylic acid copolymer	None
Tetraethoxysilane, polymer with hexamethyldisiloxane	104133–09–7
α-[p-(1,1,3,3-Tetramethylbutyl)phenyl] poly(oxypropylene) block polymer with poly(oxyethylene); the poly(oxypropylene) content averages 25 moles, the poly(oxyethylene) content averages 40 moles	None
α-[2,4,6-Tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene) poly(oxypropylene) copolymer, the poly(oxypropylene) content averages 2-8 moles, the poly(oxyethylene) content averages 16-30 moles	None
Urea-formaldehyde copolymer	9011–05–6
Vinyl acetate-allyl acetate-monomethyl maleate copolymer	None
Vinyl acetate-ethylene copolymer	24937–78–8
Vinyl acetate polymer with none and/or one or more of the following monomers: Ethylene, propylene, N-methyl acrylamide, acrylamide, monoethyl maleate, diethyl maleate, monooctyl maleate, dioctyl maleate, maleic anhydride, maleic acid, octyl acrylate, butyl acrylate, ethyl acrylate, methyl acrylate, acrylic acid, octyl methacrylate, butyl methacrylate, ethyl methacrylate, methyl methacrylate, methacrylic acid, carboxyethyl acrylate, and diallyl phthalate; and their corresponding sodium, potassium, ammonium, isopropylamine, triethylamine, monoethanolamine and/or triethanolamine salts	None
Vinyl acetate-vinyl alcohol-alkyl lactone copolymer	None
Vinyl alcohol-disodium itaconate copolymer	None
Vinyl alcohol-vinyl acetate copolymer, benzaldehyde-o-sodium sulfonate condensate	None
Vinyl alcohol-vinyl acetate-monomethyl maleate, sodium salt-maleic acid, disodium salt-gamma-butyrolactone acetic acid, sodium salt copolymer	None
Vinyl chloride-vinyl acetate copolymers	None
Vinyl pyrrolidone-acrylic acid copolymer	28062–44–4
Vinyl pyrrolidone-dimethylaminoethylmethacrylate copolymer	30581–59–0
Vinyl pyrrolidone-styrene copolymer	25086–29–7

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 05–312; FCC 05–192]

Digital Television Distributed Transmission System Technologies; Notice of Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes rules that will permit television broadcast licensees to use a distributed transmission system (''DTS'') in lieu of a single-transmitter to operate their television broadcast stations. The proposed rules will apply with respect to existing authorized facilities and to use of DTS after establishment of the new DTV Table of Allotments, which may afford stations the opportunity to apply to maximize their service areas after the end of our current freeze on the filing of most applications.

DATES: Comments for this proceeding are due on or before February 6, 2006; reply comments are due on or before March 7, 2006.

ADDRESSES: You may submit comments, identified by MB Docket No. 05–312, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Federal Communications Commission's Web site: *http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov*

or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Evan Baranoff, *Evan.Baranoff@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking (NPRM),* FCC 05–192, adopted on November 3, 2005, and released on November 4, 2005. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington DC, 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

This *NPRM* has been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and contains modified information collection requirements. These modified requirements of FCC Forms 301 and 302–DTV will be published in a separate **Federal Register** notice.

Summary of the Notice of Proposed Rulemaking

I. Introduction

1. In the *Second DTV Periodic Report and Order,* we approved in principle the use of distributed transmission system (DTS) technologies but deferred to a separate proceeding the development of rules for DTS operation and the examination of several policy issues related to its use. (*See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television,* 69 FR 59500, October 4, 2004, (*Second DTV Periodic Report and Order*)). With this Notice of Proposed Rulemaking (*NPRM*), we now examine the issues related to the use of DTS and propose rules for future DTS operation. The rules we propose will apply with respect to existing authorized facilities and to use of DTS after establishment of the new DTV Table of Allotments, which may afford stations the opportunity to apply to maximize their service areas after our current freeze on the filing of most applications. In addition, we issue a Clarification Order, which is published elsewhere in this issue of the **Federal Register**, to clarify the interim rules established in the *Second DTV Periodic Report and Order,* which will continue to be available for stations that wish to apply to use DTS technology during the pendency of this rulemaking proceeding.

II. Background

2. In the *Second DTV Periodic NPRM* in MB Docket No. 03–15, we sought comment on whether we should permit DTV stations to use DTS technologies. (*See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television,* MB Docket No. 03–15, 68 FR 7737, February 18, 2003, (*Second DTV Periodic NPRM*).). A DTV distributed transmission system would employ multiple synchronized transmitters spread around a station's service area. Each transmitter would broadcast the station's DTV signal on the same channel, relying on the performance of ''adaptive equalizer'' circuitry in DTV receivers to cancel or combine the multiple signals plus any reflected signals to produce a single signal. Such distributed transmitters could be considered to be similar to analog TV booster stations, a secondary, low power service used to fill in unserved areas in the parent station's coverage area, but DTV technology has the ability to enable this type of operation in a much more efficient manner. For analog TV boosters, in contrast to DTV DTS operation, significant self-interference will occur unless there is substantial terrain blocking the arrival of multiple signals into the same area (for example, interference will occur if one signal arrives from the primary analog station directly and a second signal arrives from a booster station).

3. We received 18 comments in the *Second DTV Periodic Report and Order* relating to the use of DTS, with the parties generally supporting use of this technology. We agreed with the generally supportive comments that DTS technology offers potential benefits to the public and noted the encouraging, though limited, reports of the technology tested thus far. Accordingly, in the *Second DTV Periodic Report and Order* we approved in principle the use of DTS technology, set forth interim guidelines, and committed to undertake a rulemaking proceeding to adopt rules for DTS operations. We now initiate that rulemaking to propose rules for future DTS operation, seek further comment on DTS operations and clarify certain aspects of the interim rules established in the *Second DTV Periodic Report and Order.*

III. Notice Of Proposed Rulemaking

4. In this *NPRM,* we consider the comments received in the *Second DTV Periodic* proceeding and propose rules for future DTS operation. Specifically, we propose to permit DTV station licensees and permittees to use DTS technologies where feasible in place of a single transmitter to provide service as authorized. Requests for DTS operation and any associated issues may be addressed under our interim policy until this rulemaking is completed and we have implemented the necessary revisions to our processing software. Requests for DTS operation that would involve an extension of authorized coverage will not be accepted until the freeze is lifted. For purposes of this discussion, we anticipate that most stations would focus on DTS operations that would be employed after we lift our current freeze on the filing of most applications, which was imposed until we complete the new DTV Table of Allotments. The *Second DTV Periodic Report and Order* imposed this freeze to limit expansion of coverage that would interfere with maintaining a stable database throughout the channel election and allotment process.

A. Comments Received in the Second DTV Periodic Review

5. The rules and policies we propose in this *NPRM* are premised, in part, on the comments submitted in response to the *Second DTV Periodic NPRM.* Although not affording an adequate basis on which to adopt final rules, the record in the *Second DTV Periodic* proceeding suggests many potential benefits of DTS, such as uniform signal levels throughout a licensee's service area, the ability to operate at reduced power to achieve the same coverage, a reduced likelihood of causing interference to neighboring licensees, an ability to overcome terrain limitations, and more reliable indoor reception. Merrill Weiss Group (MWG), the principal proponent of DTS, cited DTS' potential for improving spectrum efficiency by enabling increased levels

of service while maintaining or reducing the levels of interference. MWG has patent interests in the technology contained in the Transmitter Synchronization Standard recently approved by the ATSC. MWG has committed to the ATSC to license its technology under reasonable terms and conditions without unfair discrimination to all parties that demonstrate financial resources to meet their obligations. MWG also indicated that urban area service can be improved by DTS transmitting antennas being closer to receivers so that higher signal levels are made available from multiple directions, which can enable reception with set-top antennas instead of roof-mounted antennas. MWG claimed that DTS will often use shorter towers that may avoid zoning problems and that they can be located to overcome obstacles of rough terrain in some markets and urban canyons in others. Finally, MWG suggested that DTS transmitters can help make a staged rollout of maximized service possible. In joint comments, the Association for Maximum Service Television (MSTV) and the National Association of Broadcasters (NAB) supported quick Commission action to allow DTS.

6. Others specifically supported MWG, including Axcera, a manufacturer of transmitters and related equipment, WPSX/Penn State Public Broadcasting (WPSX/Penn State), which has an experimental authorization to test distributed transmission technology, and Tribune Broadcasting Company (Tribune) and Golden Orange Broadcasting (Golden Orange), TV licensees that face specific situations where they may want to use DTS technology. Others, such as transmission equipment manufacturer Harris Corporation (Harris) and Siete Grande Television, Inc. (Siete Grande), which operates four analog channel 7 transmitters covering different parts of Puerto Rico, also supported allowing DTS. Ronald Brey (Brey), a TV consumer, and Thomas C. Smith (Smith), a TV broadcast technician, each expressed concern that not enough is known about the performance of DTS technology and that increased interference could be caused.

7. As noted in the *Second DTV Periodic Report and Order,* the record did not provide information on the practical operation of DTS technology. Consequently, we seek additional comment here on the use of DTS technologies, as well as on the asserted benefits of this technology. Specifically, we seek comment on how DTS operation will serve the public interest and on how such operation will advance the DTV transition. We also seek comment on the impact of allowing the use of DTS technologies. How will DTS work with all DTV receivers, including small or inexpensive digital televisions and the digital-to-analog converters many viewers will have for their analog-only televisions? Will consumers, cable headends and satellite local receive facilities need additional equipment to ensure reliable and high quality reception as compared with the equipment associated with reception of a single transmitter station's signal? Will DTS operation impact the service provided by traditional single-transmitter stations? What, if any, is the burden on local communities in permitting DTS operation? Will DTS operation require the erection of multiple telecommunications towers rather than collocation on existing towers? How will the timing of the build-out of digital service be affected by DTS? How will DTS affect the costs experienced by licensees? How will DTS technology impact small business broadcasters?

B. Regulatory Status

8. In the *Second DTV Periodic NPRM,* we asked whether DTS facilities should have primary or secondary regulatory status. We propose to afford primary regulatory status to the multiple transmitters used in DTS within the areas that such DTS transmitters are authorized to serve. The record in MB Docket 03–15 supports the grant of primary status to DTS transmitters used to serve a DTV station's authorized service area. MWG, among others, urges that primary status should be afforded to achieve at least the same maximized coverage that a DTV station would be able to achieve from a single transmitter and that DTS stations should not be required to protect secondary low power TV and TV translator stations within whatever allowable coverage area the Commission establishes.

9. Based on the comments received thus far, we believe DTS would facilitate the digital transition, and we agree with commenters that primary status within a licensee's service area is essential to obtain the benefits of spectrum efficiency offered by DTS techniques. The anticipated benefits include reaching populations that would not otherwise be served by conventional means. A station would be able to design its arrangement of DTS transmitters so that it reaches populated areas that have been obstructed by terrain or buildings from prior direct reception of its signal. It could also provide a potentially viable alternative to stations whose single-tower proposals may have been stymied by tower height and placement limits associated with aeronautical safety or local zoning concerns. DTS techniques are expected to enable increased levels of service while at the same time maintaining or reducing the levels of interference. DTS offers an opportunity to licensees to provide better service within their coverage area, while minimizing the preclusive impact on existing and future surrounding stations.

10. Primary status for DTS transmitters is needed to protect this increased service. Without primary status, stations would be encouraged to use the less efficient conventional means (*i.e.*, increased power) to expand their service or would not enhance their service at all. If we require a station to give up primary status to any significant portion of its potential service population in order to implement DTS, we believe that few, if any stations would opt for this technology. In granting primary status, we propose to license such DTS transmitters under 47 CFR part 73 of the rules. We seek comment on the anticipated benefits of DTS and our tentative conclusion to provide primary status within a licensee's service area, as described below. We intend to use application filing and processing procedures similar to the current procedures. We seek comment on these rules and procedures.

C. Location and Service Area

11. Licensees that opt to use DTS in lieu of the traditional single transmitter should be allowed to apply for facilities to serve an area generally comparable to the area they could cover with a single transmitter. We believe we should balance the primary coverage rights between stations choosing to employ DTS and those choosing not to do so. In general, we do not believe that stations employing DTS technology should be afforded dramatically expanded primary coverage rights. Such special treatment is not necessary to implement DTS service. Accordingly, we propose to limit the area that a station can serve from its DTS operation to the equivalent of the area it could serve using a single-transmitter.

12. MWG offered two alternative approaches to this issue in its comments in MB Docket 03–15. One approach would allow DTS transmitters and the service they provide to be located anywhere within the designated market area (DMA) in which the station is located. This ''DMA approach'' would allow broadcasters to expand their DTS service to cover their DMA limited only by the requirement that they do not cause unacceptable interference to

another licensee. The other approach offered by MWG would allow DTS transmitters to be located within a station's ''theoretically maximized DTV service contour.'' MWG describes the ''theoretically maximized DTV service contour'' as being based at the station's DTV allotment reference coordinates, with the coverage contour extended to correspond to the coverage that would be achieved if the station were authorized at the maximum effective radiated power and antenna height specified in the Commission rules. In addition, MWG suggests that a station with an authorization at a transmitter location different from the DTV allotment reference coordinates should be allowed to locate its DTS transmitters within the combination of the authorized coverage contour and the ''theoretically maximized DTV service contour.'' This ''maximized DTV contour'' approach would also allow a DTS transmitter to extend service. In MWG's proposal, if a station is allowed a DTS transmitter site that is 60 miles from its reference site, the service from that DTS transmitter could extend to a distance 50 percent farther, (90 miles for this example) from the allotment reference point. (*See* 47 CFR 73.215(b)(2)(i): ''For vacant allotments, contours are based on the presumed use, at the allotment's reference point, of the maximum ERP that could be authorized for the station class of the allotment, and antenna HAAT in the directions of concern that would result from a non-directional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the station class of the allotment.''). In support of both of its proffered alternatives that would permit greater primary coverage, MWG contends that station service contours are less important in DTV than in analog TV, being used only to define the area where interference analysis is conducted. MWG claims that using any currently specified contour would be entirely too limiting in the placement and service of DTS transmitters, noting that maximization of service is a DTV objective. MWG argues that, at the very least, DTV facilities should be able to be maximized to the same extent whether a single transmitter or DTS is used.

13. Other commenters in MB Docket 03–15 support various aspects of MWG suggested approaches. Tribune agrees with the alternative suggested by MWG that primary DTS transmitters should be allowed within a theoretically maximized DTV service contour. For restrictions on both DTS transmitter location and coverage, Golden Orange supports MWG's ''DMA contour'' approach where the DMA extends beyond a station's predicted Grade B service area.

14. Other commenters propose a less expansive approach. Harris recommends that DTS transmitters be located within their station's DTV service contour and not extend service outside that contour. Axcera suggests that DTS transmitters be allowed to serve beyond a station's authorized coverage area as long as the station does not increase the interference contour from a real or theoretical single transmitter system that would otherwise be permitted. Siete Grande suggests limits like the analog operation it is authorized in Puerto Rico where each transmitter's proposed Grade B service contour is contained within the licensed main station predicted Grade B coverage contour.

15. We are troubled by the implications of allowing significantly greater coverage for DTS than the coverage that can be achieved by a traditional single-transmitter station. We do not believe it is appropriate to expand significantly the coverage rights of some stations by allowing DTS operation anywhere within a station's DMA. Many DMAs cover extensive areas and the DMA approach could allow some stations to provide service into communities 100 or more miles away from their current station location. Such service could be inconsistent with our traditional focus on localism. If stations were allowed to extend their service areas through DTS operations, those extended services could conflict with exclusive territories based on contractual arrangements. Such expansion, particularly throughout a geographically large DMA, would subvert our current licensing rules by allowing a station to obtain the rights to serve a new community where a new station might otherwise be licensed. (*See* 47 CFR 73.623(h).) Disallowing such expansion is consistent with the statutory requirement to award new licenses through competitive bidding (auctions), as appropriate. (*See* 47 U.S.C. 309(j).) Such expansions may also reduce the availability of channels for new stations and thereby similarly reduce opportunities for new stations in a manner inconsistent with our TV channel allotment and licensing policies. We thus tentatively reject MWG's DMA approach.

16. Similarly, we do not believe it is appropriate to allow stations with DTS operations to extend coverage by an additional 50 percent beyond the distance that a station would be allowed to cover if it operated from a single transmitter. Instead of either MWG approach, we believe the service areas of DTS and single-transmitter licensees should be treated as comparably as feasible. Consistent with this principle, we propose a ''table of distances'' below that we believe is comparable to a theoretically maximized DTV service contour. To the extent that MWG's suggested approaches seek an expansion of service areas beyond what would be permitted under our rules, we tentatively reject them. We seek comment on these tentative conclusions.

17. Accordingly, we propose to permit stations to utilize DTS to provide service over the same area that they are authorized to serve with a single transmitter. To that end, and to afford stations an opportunity to provide service using DTS over an area comparable to the area they would be authorized to serve using a single transmitter, we propose to require DTS coverage to be confined within a circle from a station's reference coordinates based on the DTV service field strengths specified in 47 CFR 73.622(e) of our rules and the maximum power and antenna height restrictions specified in 47 CFR 73.622(f). Also, zones are defined in 47 CFR 73.609. Zone 1 is generally the more heavily populated states in the northeast U.S. (extending west to the Mississippi River and south to include Norfolk and Richmond, VA, while excluding northern sections of Wisconsin, Michigan, New York, Vermont, New Hampshire and Maine). This approach is based on a set of distances from stations' reference points that reflect DTV stations' potential maximized facilities, generally allowing stations using DTS to achieve the coverage that would be achieved if the station were authorized at the maximum effective radiated power and antenna height specified in the Commission's rules. (*See* 47 CFR 73.622). We believe using this limited set of distances instead of individual calculation of the theoretically maximized DTV service contours as suggested by MWG will simplify determinations of allowable DTS coverage areas and will offer equal treatment of similarly situated stations. The approaches for DTS that we are considering and offering for comment are intended for use with respect to currently authorized facilities that licensees have certified in the channel election process and for future facilities changes that may be authorized after the freeze is lifted and new applications are filed. No station is automatically entitled to use the areas described by the parameters set forth in this chart to

provide DTS. Rather, DTS stations, like single-transmitter stations, can apply to use these areas to request authorization to maximize after the freeze is lifted. The circles described by the chart are the maximum DTS stations can apply for, and are derived from the maximum height and power that a single-transmitter station is and would be able to apply for.

18. We propose the following table of distances. As explained below, the distances represent circles within which all DTS station coverage contours must be contained. In the vast majority of cases, the appropriate circle will equal or exceed a station's currently authorized coverage contour, including the contour within which the station certified it will provide service at the end of the transition. The rule proposed will provide for those exceptional situations in which this is not the case.

Channel	Zone (see 47 CFR 73.609)	F(50,90) field strength	ERP at HAAT	Distance
2–6	1	28 dBu	10 kW at 305 m	108 km. (67 mi.).
2–6	2 and 3	28 dBu	10 kW at 610 m	128 km. (80 mi.).
7–13	1	36 dBu	30 kW at 305 m	101 km. (63 mi.).
7–13	2 and 3	36 dBu	30 kW at 610 m	123 km. (77 mi.).
14–69	1, 2 and 3	41 dBu	1000 kW at 365 m	103 km. (64 mi.).

We propose to use a reference point for each DTV station that is based on its certification in the post-transition DTV channel election process that was detailed in the *Second DTV Periodic Report and Order*. We seek comment on whether a different reference point should be used, for example based on a station's initial DTV allotment or the allotment established in its individual DTV channel change rule making. We note that some stations may desire a different reference point and request comment on what process could be used to change reference points without circumventing the limits created by the proposed distance table. We seek comment on these proposals and conclusions.

19. In parts of the country where the terrain is uniform, the proposed ''table of distances'' illustrates the area that a station could serve if it operated a single-transmitter at maximum power and height allowed by our current rules. Reliance on this table can facilitate licensees' use of DTS by eliminating the need for a two-step process: First calculating the antenna height necessary to match the maximum allowed average antenna height and power for a single transmitter and then calculating the distances to the service contour in every direction based on the antenna height above the terrain in that direction. Because most stations are not in areas where variations in the terrain result in significant variations in the coverage dependent on which direction from the transmitter is being considered, the table shows the distance most stations could serve if they operated a single-transmitter at maximum power and height allowed by our current rules.

20. We also propose to use the table of distances in areas in which irregular terrain is an issue. In such locations, single-transmitter stations' maximum service areas are distorted from a circular coverage contour to varying degrees. Coverage contours of stations using non-directional transmitting antennas will be circular except where the surrounding terrain has a different average height in different directions. For example, if the average terrain to the North is 500 feet above mean sea level and the average terrain to the South is 1000 feet above mean sea level, the coverage contour will extend further to the north than it does to the south. Where coverage does not reach as far due to terrain in one direction, a station would have a correspondingly larger coverage distance in other directions. In these cases, stations' single-transmitters may be authorized to serve people outside of the circular coverage contour because the average terrain calculation has allowed the station to be authorized for a larger coverage contour in one direction (one that would not have been reached if there was no terrain issue). In these circumstances, stations would be authorized to provide DTV service within their authorized coverage area. We seek comment on this.

21. We seek comment on the usefulness of this Table and the validity of the underlying assumptions. We also seek comment on the effect of such assumptions on the scope and range of the service area and populations to be served by stations that use DTS. Would this inadvertently result in significantly expanded areas of service beyond what our current maximization rules contemplate? Or would the result be more effective service over the typical potential area? We seek comment on alternative ways to determine the service areas appropriate for DTS operation, as well as alternate methods to determine or limit incidental expansion of service areas.

22. Finally, as we noted in the Interim Rules adopted in the *Second DTV Periodic Report and Order*, we are concerned that DTS operators not use DTS technology to favor some populations within their service area over others, a practice sometimes referred to as ''cherry-picking.'' We propose to maintain the protections against cherry-picking that we adopted in the Interim Rules and continue to require that licensees using DTS technology provide, at a minimum, essentially the same level of service they would using their single-transmitter facilities. We recognize that some difference in coverage between conventional and DTS operations may be unavoidable, but we intend to keep this concern and public service obligation in mind when we review applications to use DTS technology. We seek comment on how best to account for these differences while maintaining that DTS systems comply with the requirement to serve essentially the same population as conventional systems. At a minimum, we propose that we would deny any application to construct DTS facilities that would result in loss of service to the population currently served within the licensee's service contour. We note that, under our interim policy, we now consider this issue on a case-by-case basis to determine if the DTS operator would serve ''essentially all of its replication coverage area,'' which would include all viewers within the station's replicated service area who are predicted to be served by the station's current analog transmitter. We expect that these viewers would be predicted to receive the minimally necessary signal strength (based on the FCC curves F(50,90) propagation model) from at least one DTS transmitter. We seek comment on this approach, but also ask whether a more objective standard can be used to prevent cherry-picking while allowing for differences in technologies.

D. Power, Antenna Height and Emission Mask

23. We received several comments in MB Docket 03–15 concerning power, antenna height and other operational standards of DTS transmitters. MWG suggested that for these parameters, the existing rules for DTV stations can be applied to distributed transmitters with little or no modification. MWG described distributed transmitters as being inherently limited by the need to meet interference requirements with respect to neighboring stations. Thus, MWG concluded there was no reason to impose different limits on the maximum power and antenna height for each distributed transmitter than the limits specified in 47 CFR 73.622(f)(5) for single transmitter DTV stations. MWG also stated that the relative powers of distributed transmitters in a network must be carefully chosen to optimize the service the network provides and should not be unnecessarily constrained. MWG also argued there is no reason to impose different emission mask requirements on distributed transmitters than those imposed on single DTV transmitters. Siete Grande suggested that each distributed transmitter should meet the requirements that apply to single main transmitters, including maximum operating power and compliance with radio frequency exposure guidelines and other environmental rules. WPXS/Penn State supports the positions and proposed rules submitted by MWG.

24. For each distributed transmitter in a DTS system, we propose to apply the existing Part 73 DTV effective radiated power, antenna height and emission mask rules applicable to single-transmitter DTV stations. Specifically, we believe there will be no adverse impact on other stations if we require that each transmitter in a DTS system conform to the maximum power and emission mask requirements applicable to single-transmitter DTV stations. This approach should offer DTS stations flexibility in designing their system to maximize DTV service while limiting their potential interference in light of the service area limitations and interference protection requirements proposed in this *NPRM*.

E. Licensing Issues

25. We propose that DTS transmitters will not be separately licensed, but will be part of a linked group that will be covered by one construction permit and license. Unless otherwise indicated, we propose to apply the current requirements and processes for DTV stations, or, where appropriate, analog TV stations. For example, the normal CP expiration dates will apply. (*See* 47 CFR 73.624(d) and 73.3598.) We seek comment on this approach and on how to provide licensees and permittees with flexibility to serve viewers as quickly as possible but without the risk of commencing service in one area while delaying service to another area containing fewer or less affluent viewers (*i.e.*, cherry-picking). Under our proposal, licensees will request authority to construct DTS facilities by filing a single application that includes either a main transmitter and one or more additional transmitters that will collectively use the DTS technology, or two or more smaller DTS transmitters. For example: 47 CFR 73.1690(b) requires a construction permit be granted before a new tower structure is built for broadcast purposes, or a station's geographic coordinates are changed or effective radiated power is increased; 47 CFR 73.3533 requires that a Form 301 be used by commercial broadcast stations seeking a construction permit and Form 340 be used by noncommercial educational broadcast stations; 47 CFR 73.3572 describes the processing of TV broadcast station applications; and 47 CFR 73.3598 specifies the period of construction (but 47 CFR 73.624(d) specifies DTV build-out dates). A licensee may add to its DTS network of transmitters using a minor change application for a construction permit to change a licensed DTV facility, or for a modified construction permit to change a DTV facility authorized by a construction permit. Such applications will be processed in accordance with our processing rules and guidelines. However, at least one of a licensee's DTS transmitters must provide coverage of the station's community of license in accordance with 47 CFR 73.625 of our rules. We request specific comment on whether service in the principal community can be relied upon if it is provided from multiple transmitters (where the interaction between the signals from the different transmitters may make reception difficult or impossible in some part of the overlapping coverage areas). We seek comment on our proposals. We also seek comment on whether additional or different restrictions would be appropriate for DTS transmitters.

F. Interference Protection

26. We received several comments in MB Docket No. 03–15 concerning the standards needed to protect DTS operations from interference and the standards needed to protect other stations from interference from DTS transmitters. MWG suggested that distributed transmitters should be subject to the same interference calculations as for single-transmitter stations, except that, first, the service provided by a DTS operation would include each location predicted to be served by at least one of the DTS transmitters, and second, the interference effect on each protected station should be the accumulated effect of all of the distributed transmitters in the network. MWG contends that this approach is necessary to avoid double counting of the interference caused or received. MWG argued that the single-transmitter standards for *de minimis* interference should apply to the overall service and interference. MWG noted that allotment of adjacent channels in the same area can preclude DTS use, especially in the case of analog TV stations within four channels above or below the intended DTS channel. MWG asserted that the Commission's interference analysis software can be extended to account for DTS stations without requiring a major overhaul of the program. MWG said the distributed transmitters would have to be linked in the Commission database so the software could consider the service and interference effects of all the transmitters of a DTS station as a single composite service area or interference source. Finally, MWG suggested that for purposes of analyzing interference from its neighbors, internal interference between DTS transmitters in a single system should be ignored.

27. We seek comment on these issues. In particular, we seek comment on whether to calculate interference based on each DTS transmitter individually, as proposed by MWG, or based more conservatively on the combined signals of all the DTS transmitters. In either case, the cumulative population predicted to lose service due to interference from all DTS transmitters would be used to determine compliance with the same *de minimis* interference standard as used for single-transmitter stations. We do not believe that there is a significant difference between the two approaches, but seek comment on this point.

28. We seek comment concerning ongoing experimental operations that might help us develop a more appropriate mechanism for considering the interference caused or received by a DTS operation. We note that the timing of introducing regular DTS service will depend on completing this rule making and making necessary modifications to our application processing software. As we approach the end of the transition, the key interference considerations will

become DTV to DTV, which relieves concerns expressed by MWG that potential interference to adjacent channel NTSC stations may make DTS unusable in some areas.

G. Technical Standards

29. We received several comments in MB Docket 03–15 concerning the technical standards to be used for the synchronization of multiple DTV transmitters. At the time of those comments, the Advanced Television Systems Committee (ATSC) was developing a new standard for such synchronization. (*See* ATSC A/110A, Synchronization Standard for Distributed Transmission (July 19, 2005). ATSC standards are available at *www.atsc.org/standards.html*). According to an ATSC press release, ''The new standard defines the mechanisms for synchronization of transmitters emitting 8–VSB signals in accordance with the ATSC DTV Standard (A/53C). It also provides for adjustment of transmitter timing and other characteristics through additional information carried within the specified packet structure.'' ATSC indicated that transmissions pursuant to the then candidate standard comply fully with the ATSC A/53 standard that the Commission has mandated for DTV stations, so use of the then candidate standard would not require Commission action. MWG also stated that the technical standard for distributed transmitters should be the same as for single transmitters and that it was unnecessary to add additional technical requirements unrelated to providing interference protection to neighboring stations. MWG suggested that the internal workings of DTS should follow the standard that was then in the ATSC approval process, and would not require Commission rules. MWG further indicated that the Commission should limit its restrictions on DTS operation so that necessary adjustments can be made without the need for amending Commission rules or modifying station authorizations.

30. We note that ATSC has approved standard A/110A, titled ''Synchronization Standard for Distributed Transmission.'' As consistently suggested by comments, at this early stage in the introduction of this technology, we do not believe it is necessary or appropriate to propose to mandate compliance with this, or any other, synchronization standard. Operation that is consistent with the current standard or other future appropriate technologies will likely minimize the internal interference that a station effectively would be causing to itself. However ATSC standard A/110A, § 1.2 of the Commission's rules advised that ''* * *, while Distributed Transmission holds the potential to greatly improve the coverage and service areas of DTV transmission, it also holds the potential to cause interference within the network that some receivers, particularly early designs, may not be able to handle. Consequently, Distributed Transmission Networks must be carefully designed to minimize the burden placed on the adaptive equalizers in such legacy receivers while maximizing the improvement in signals delivered to the public. The impact on any specific receiver will depend upon the receiver's location, the use of directional antennas, and other factors related to the design of the receiver.'' At the same time, the interference effect on other stations would not be affected by the synchronization or lack of synchronization of the DTS transmitters in accordance with the standard. It is clearly in the DTS station's self-interest to minimize its internal interference. We encourage stations that are using DTS technology to provide us with data on the performance of the technology and the extent to which internal interference is minimized.

31. We note that stations must comply with the ATSC standards for digital television. We do not intend to require compliance with a particular synchronization standard, provided that the synchronization technology used is effective and otherwise consistent with our rules (47 CFR 73.682(d); ATSC A/53B, Standard: Digital Television Standard, Revision B with Amendments 1 and 2 (May 19, 2003)). We propose to avoid requiring licensees to use a particular synchronization approach that would necessarily require use of a patented technology. We note that MWG has patent interests in the technology contained in the Synchronization Standard for Distributed Transmission document that has been approved by the ATSC. What is the likely effect of such patents on potential users of DTS technology? Would such patent interests adversely affect licensees' use of the proposed DTS service? Does the Commission need to take steps to ensure that licenses to MWG's technology and any other patented technology that might be developed to implement DTS are offered on a reasonable and nondiscriminatory basis? Are there other means of using DTS that would not necessitate obtaining a license for patented technology or equipment?

H. Class A, Low Power, Translator and Booster Television Stations

32. In the proceeding that established the Class A television service, the Commission required certain proposals for new or modified DTV service to protect Class A and digital Class A TV service (*e.g.*, application proposals for DTV service maximization filed after May 1, 2000) (*Establishment of a Class A Television Service*, 65 FR 29985–01, paragraph 72 (May 10, 2000), *on recon*, 66 FR 21681, May 1, 2001 and 47 CFR 73.623(c)(5)). Full-service licensees wishing to use DTS technology must protect Class A stations to the same extent as stations using a single transmitter.

33. We propose to permit Class A TV licensees to use DTS technologies to operate a single frequency network of a group of commonly owned digital Class A stations that carry common locally produced programming within the market area served by the station group. The market area for locally produced programming of a digital Class A station is the area within the station's predicted DTV noise-limited contour, as defined in § 73.622(e) of the Commission's rules, based on the station's authorized facilities (*Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations,* 69 FR 69325, November 29, 2004 (*Digital LPTV Report and Order)*). With respect to a group of commonly owned stations, digital Class A stations whose predicted noise-limited contours are physically contiguous to each other comprise the market area for locally produced programming (47 CFR 73.6000(2)). In conventional arrangements of commonly owned stations, the individual stations generally operate on different TV channels in order to avoid interference to reception. Use of a common channel in a Class A station group using DTS technology would promote spectrum efficiency and might also provide an alternative for licensees whose stations face channel displacement. Under this proposal, in most respects, the operation of the Class A stations in such DTS networks would be the same as their operation as stand-alone digital stations (*e.g.*, protected service area and permitted effective radiated power). As a significant difference, these stations would be interconnected and operate on a common TV channel. Thus, these stations would be authorized with the same ''primary'' regulatory status

accorded stand-alone digital Class A stations. We seek comment on this proposal.

34. More generally, we seek comment on whether to permit a Class A or LPTV licensee or permittee to use DTS technology to operate single frequency networks within the protected contour of its authorized station. We note that the service area of a Class A or LPTV station is typically much smaller than that of a DTV broadcast station and, thus, Class A and low power licensees may have less need for distributed stations. Yet, there may be situations in which licensees could benefit from use of DTS technology (*e.g.*, the ability to overcome terrain limitations or for purposes of interference avoidance).

35. To the extent, if any, that we were to permit use of DTS technology in the Class A and LPTV services, we seek comment on appropriate rules to govern the authorization and operation of such service. How should we determine permissible transmitter locations in such DTS systems and protected service areas? For example, we envision that the protected area of a DTS network of a group of commonly owned Class A stations would be the combined area of the protected signal contours of the stations comprising the group. Should we apply the power and emission limits that now govern digital LPTV and Class A stations? We would be inclined to use the general approach for interference analysis that we would adopt for DTS in the DTV service (i.e., interference predictions based on individual transmitters or aggregation of the transmitters in the system), using the desired-to-undesired (''D/U'') signal strength ratios and other prediction criteria applicable to digital Class A and LPTV stations (*e.g.*, 47 CFR 73.6010, 73.6016, 73.6017, 73.6018, 73.6019 and 73.6022).

36. We also seek comment on the impact of our DTS proposals on the need for low power digital booster stations. Will DTS transmitters, as MWG suggests, reduce the need for such stations, or is there a purpose for both types of stations (*e.g.*, due to differences in the costs and technical complexity of digital boosters and DTS stations)? In the digital LPTV proceeding, we declined to establish a digital TV booster station class. We concurred with commenters that ''we should resolve issues regarding distributed transmission systems before further considering whether to authorize on-channel digital boosters.'' (*See Digital LPTV Report and Order*, 69 FR 69325, November 29, 2004). In so doing, we noted our expectation that such stations would be primarily used by full-service broadcasters to serve terrain-shadowed portions of their service areas, in the manner of analog boosters. To what extent does our allowance in the digital LPTV proceeding for on-channel digital TV translators reduce the need for digital boosters? The regulation of on-channel digital translator stations differs in several respects from that of analog booster stations. Unlike on-channel digital translators, analog boosters are licensed only to TV broadcast licensees and permittees, must be located inside the station's protected contour (analog Grade B contour), and the predicted service contour of the booster may not extend beyond that of the signal being retransmitted. Applications for analog booster stations may be filed at any time; applications for on-channel digital TV translators must be filed under the procedures for new digital stations in the LPTV service.

37. In addition, MWG suggests that DTS technology can effectively replace networks of translators using the primary station channel and a single additional channel as part of the translator license. An example of such a two-channel scenario would start with a station transmitting from a main tower site on its original channel, providing adequate reception to a distance of about 30 miles. Communities at the edge of that service range would receive a stronger, more reliable signal from transmitters located near those communities using the additional channel that would not have an interference interaction with the original channel. Communities 40 miles from the main tower site might be at the edge of service from the transmitters using the additional channel, but could be served by more transmitters using the original channel with less chance of interference. In such cases, MWG urges that the operation on the additional (relay) channel should also be treated as primary. We do not believe that use of the ''single additional channel,'' as suggested by MWG, is an essential component of DTS service, and we reject the suggestion that it be afforded primary status as inconsistent with our desire to avoid favoring DTS stations over non-DTS stations, but we note that for either category of DTV station, we would permit use of an ''additional channel'' for a DTV translator with secondary regulatory status.

IV. Procedural Matters

A. Initial Regulatory Flexibility Act Analysis

38. As required by the Regulatory Flexibility Act of 1980, as amended (RFA) the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) concerning the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (*NPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided in Section V.D. of the *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

B. Need for and Objectives of the Proposed Rules

39. The *NPRM* proposes rules that will permit television broadcast licensees to use a distributed transmission system (DTS) in lieu of a single-transmitter to operate their television broadcast stations. The proposed rules will apply with respect to existing authorized facilities and to use of DTS after establishment of the new DTV Table of Allotments, which may afford stations the opportunity to apply to maximize their service areas after the end of our current freeze on the filing of most applications. (A DTV distributed transmission system would employ multiple synchronized transmitters spread around a station's service area. Each transmitter would broadcast the station's DTV signal on the same channel, relying on the performance of ''adaptive equalizer'' circuitry in DTV receivers to cancel or combine the multiple signals plus any reflected signals to produce a single signal.)

C. Legal Basis

40. The authority for the action proposed in this rulemaking is contained in sections 1, 4(i) and (j), 5(c)(1), 7, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 of the Communications Act of 1934, 47 U.S.C. 151, 154(i) and (j), 155(c)(1), 157, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337.

D. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

a. Entities Directly Affected By Proposed Rules. 41. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same

meaning as the terms ''small business,'' small organization,'' and ''small government jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

42. The proposed rules contained in this *NPRM* will permit television broadcast licensees to use a distributed transmission system (DTS) in lieu of a single-transmitter to operate their television broadcast stations. We believe television broadcast licensees will be directly affected by the proposed rules, if adopted. We do not believe any other types of entities will be directly affected by the proposed rules, but request comment on this tentative conclusion. Therefore, in this IRFA, we invite comment on the impact of the proposed rules on small television broadcast stations. A description of such small entities, as well as an estimate of the number of such small entities, is provided below.

43. *Television Broadcasting.* The proposed rules and policies could apply to television broadcast licensees, and potential licensees of television service. The SBA defines a television broadcast station as a small business if such station has no more than $12 million in annual receipts. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' (This category description continues, ''These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studios, from an affiliated network, or from external sources.'' Separate census categories pertain to businesses primarily engaged in producing programming.) According to Commission staff review of the BIA Publications, Inc. Master Access Television Analyzer Database (BIA) on October 18, 2005, about 873 of the 1,307 commercial television stations (or about 67 percent) have revenues of $12 million or less and thus qualify as small entities under the SBA definition. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

44. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

45. *Class A TV, LPTV, and TV translator stations.* The proposed rules and policies could also apply to licensees of Class A TV stations, low power television (LPTV) stations, and TV translator stations, as well as to potential licensees in these television services. The same SBA definition that applies to television broadcast licensees would apply to these stations. The SBA defines a television broadcast station as a small business if such station has no more than $12 million in annual receipts.

46. Currently, there are approximately 598 licensed Class A stations, 2,098 licensed LPTV stations, 4,491 licensed TV translators and 11 TV booster stations. Given the nature of these services, we will presume that all of these licensees qualify as small entities under the SBA definition. We note, however, that under the SBA's definition, revenue of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. Our estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from non-LPTV affiliated companies. We do not have data on revenues of TV translator or TV booster stations, but virtually all of these entities are also likely to have revenues of less than $12 million and thus may be categorized as small, except to the extent that revenues of affiliated non-translator or booster entities should be considered.

b. Entities Believed To Be Not Directly Affected By Proposed Rules. 47. Because the rules proposed in this *NPRM* pertain only to the technology employed in broadcasting, we do not believe the rules will directly affect program distribution and, therefore, we do not believe that our proposed rules will directly affect cable operators or multichannel video programming distributors (MVPDs), such as Direct Broadcast Satellite (DBS) providers, private cable operators (PCOs), also known as satellite master antenna television (SMATV) systems, home satellite dish (HSD) services, multipoint distribution services (MDS)/ multichannel multipoint distribution service (MMDS), Instructional Television Fixed Service (ITFS), local multipoint distribution service (LMDS) and open video systems (OVS). Nevertheless, we seek comment on this tentative conclusion and, although such comment is not required by the RFA, we invite comment from any small cable operators or small MVPDs who believe they might be directly affected by our proposed rules contained in the Notice.

48. *Cable and Other Program Distribution.* Cable system operators fall within the SBA-recognized definition of Cable and Other Program Distribution, which includes all such companies generating $12.5 million or less in revenue annually. According to the Census Bureau data for 1997, there were a total of 1,311 firms that operated for the entire year in the category of Cable and Other Program Distribution. Of this total, 1,180 firms had annual receipts of under $10 million and an additional 52 firms had receipts of $10 million or more, but less than $25 million. (U.S. Census Bureau, 1997. Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1997 Economic Census, Subject Series—Establishment and Firm Size, Information Sector 51, Table 4 at 50 (2000). The amount of $10 million was used to estimate the number of small business firms because the relevant Census categories stopped at $9,999,999 and began at $10,000,000. No category for $12.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.) In addition, limited preliminary census data for 2002 indicates that the total number of Cable and Other Program Distribution entities increased approximately 46 percent between 1997 and 2002. (*See* U.S. Census Bureau, 2002 Economic Census, Industry Series: ''Information,'' Table 2, Comparative Statistics for the United States (1997 NAICS Basis): 2002 and

1997, NAICS code 513220 (issued Nov. 2004). The preliminary data indicate that the number of total ''establishments'' increased from 4,185 to 6,118. In this context, the number of establishments is a less helpful indicator of small business prevalence than is the number of ''firms,'' because the latter number takes into account the concept of common ownership or control. The more helpful 2002 census data on firms, including employment and receipts numbers, will be issued in late 2005.) The Commission estimates that the majority of providers in this category of Cable and Other Program Distribution are small businesses.

49. *Cable System Operators (Rate Regulation Standard).* The Commission has developed, with SBA's approval, its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. (*See* 47 CFR 76.901(e). The Commission developed this definition based on its determinations that a small cable system operator is one with annual revenues of $100 million or less. For ''regulatory simplicity,'' the Commission established the company size standard in terms of subscribers, rather than dollars; in the cable context, $100 million in annual regulated revenues equates to approximately 400,000 subscribers.) We last estimated that there were 1,439 cable operators that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve more than 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators that may be affected by the proposals contained in this *NPRM.*

50. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for a ''small cable operator,'' which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 67.7 million subscribers in the United States. Therefore, an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we estimate that the number of cable operators serving 677,000 subscribers or less totals approximately 1,450. The Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore is unable at this time to estimate more accurately the number of cable system operators that would qualify as small cable operators under the size standard contained in the Communications Act.

51. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of Cable and Other Program Distribution. This definition provides that a small entity is one with $12.5 million or less in annual receipts. Currently, only four operators hold licenses to provide DBS service, which requires a great investment of capital for operation. All four currently offer subscription services. Two of these four DBS operators, DirecTV and EchoStar Communications Corporation (EchoStar), report annual revenues that are in excess of the threshold for a small business. A third operator, Rainbow DBS, is a subsidiary of Cablevision's Rainbow Network, which also reports annual revenues in excess of $12.5 million, and thus does not qualify as a small business. DirecTV is the largest DBS operator and the second largest MVPD, serving an estimated 13.04 million subscribers nationwide. EchoStar, which provides service under the brand name Dish Network, is the second largest DBS operator and the fourth largest MVPD, serving an estimated 10.12 million subscribers nationwide. Rainbow DBS, which provides service under the brand name VOOM, reported an estimated 25,000 subscribers. The fourth DBS operator, Dominion Video Satellite, Inc. (Dominion), offers religious (Christian) programming and does not report its annual receipts. Dominion, which provides service under the brand name Sky Angel, does not publicly disclose its subscribership numbers on an annualized basis. The Commission does not know of any source which provides this information and, thus, we have no way of confirming whether Dominion qualifies as a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS licensee. Nevertheless, given the absence of specific data on this point, we acknowledge the possibility that there are entrants in this field that may not yet have generated $12.5 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

52. Private Cable Operators (PCOs) also known as Satellite Master Antenna Television (SMATV) Systems. PCOs, also known as SMATV systems or private communication operators, are video distribution facilities that use closed transmission paths without using any public right-of-way. PCOs acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. The SBA definition of small entities for Cable and Other Program Distribution Services includes PCOs and, thus, small entities are defined as all such companies generating $12.5 million or less in annual receipts. Currently, there are approximately 135 members in the Independent Multi-Family Communications Council (IMCC), the trade association that represents PCOs. Individual PCOs often serve approximately 3,000–4,000 subscribers, but the larger operations serve as many as 15,000–55,000 subscribers. In total, PCOs currently serve approximately 1.1 million subscribers. Because these operators are not rate regulated, they are not required to file financial data with the Commission. Furthermore, we are not aware of any privately published financial information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten PCOs, we believe that a substantial number of PCO qualify as small entities.

53. *Home Satellite Dish (HSD) Service.* Because HSD provides subscription services, HSD falls within the SBA-recognized definition of Cable and Other Program Distribution, which includes all such companies generating $12.5 million or less in revenue annually. HSD or the large dish segment of the satellite industry is the original satellite-to-home service offered to consumers, and involves the home reception of signals transmitted by satellites operating generally in the C-band frequency. Unlike DBS, which uses small dishes, HSD antennas are between four and eight feet in diameter and can receive a wide range of unscrambled (free) programming and scrambled programming purchased from

program packagers that are licensed to facilitate subscribers' receipt of video programming. There are approximately 30 satellites operating in the C-band, which carry over 500 channels of programming combined; approximately 350 channels are available free of charge and 150 are scrambled and require a subscription. HSD is difficult to quantify in terms of annual revenue. HSD owners have access to program channels placed on C-band satellites by programmers for receipt and distribution by MVPDs. Commission data shows that, between June 2003 and June 2004, HSD subscribership fell from 502,191 subscribers to 335,766 subscribers, a decline of more than 33 percent. The Commission has no information regarding the annual revenue of the four C-Band distributors.

54. *Wireless Cable Systems.* Wireless cable systems use the Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS) frequencies in the 2 GHz band to transmit video programming and provide broadband services to subscribers. Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. As previously noted, the SBA definition of small entities for Cable and Other Program Distribution, which includes such companies generating $12.5 million in annual receipts, appears applicable to MDS, ITFS and LMDS. In addition, the Commission has defined small MDS and LMDS entities in the context of Commission license auctions.

55. In the 1996 MDS auction, the Commission defined a small business as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. In the MDS auction, 67 bidders won 493 licenses. Of the 67 auction winners, 61 claimed status as a small business. At this time, the Commission estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than $40 million and are thus considered small entities. MDS licensees and wireless cable operators that did not participate in the MDS auction must rely on the SBA definition of small entities for Cable and Other Program Distribution. Information available to us indicates that there are approximately 850 of these licensees and operators that do not generate revenue in excess of $12.5 million annually. Therefore, we estimate that there are approximately 850 small MDS providers as defined by the SBA and the Commission's auction rules.

56. While SBA approval for a Commission-defined small business size standard applicable to ITFS is pending, educational institutions are included in this analysis as small entities. There are currently 2,032 ITFS licensees, and all but 100 of these licenses are held by educational institutions. Thus, the Commission estimates that at least 1,932 ITFS licensees are small businesses.

57. In the 1998 and 1999 LMDS auctions, the Commission defined a small business as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. The Commission has held two LMDS auctions: Auction 17 and Auction 23. Auction No. 17, the first LMDS auction, began on February 18, 1998, and closed on March 25, 1998. (104 bidders won 864 licenses.) Auction No. 23, the LMDS re-auction, began on April 27, 1999, and closed on May 12, 1999. (40 bidders won 161 licenses.) Moreover, the Commission added an additional classification for a ''very small business,'' which was defined as an entity that had annual average gross revenues of less than $15 million in the previous three calendar years. These definitions of ''small business'' and ''very small business'' in the context of the LMDS auctions have been approved by the SBA. In the first LMDS auction, 104 bidders won 864 licenses. Of the 104 auction winners, 93 claimed status as small or very small businesses. In the LMDS re-auction, 40 bidders won 161 licenses. Based on this information, we believe that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

58. *Open Video Systems (OVS).* The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA-recognized definition of Cable and Other Program Distribution Services, which provides that a small entity is one with $ 12.5 million or less in annual receipts. The Commission has certified 25 OVS operators with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises, even though OVS is one of four statutorily-recognized options for local exchange carriers (LECs) to offer video programming services. As of June 2003, BSPs served approximately 1.4 million subscribers, representing 1.49 percent of all MVPD households. Among BSPs, however, those operating under the OVS framework are in the minority, with approximately eight percent operating with an OVS certification. Serving approximately 460,000 of these subscribers, Affiliates of Residential Communications Network, Inc. (RCN) is currently the largest BSP and 11th largest MVPD. (WideOpenWest is the second largest BSP and 15th largest MVPD, with cable systems serving about 288,000 subscribers as of September 2003. The third largest BSP is Knology, which currently serves approximately 174,957 subscribers as of June 2004.) RCN received approval to operate OVS systems in New York City, Boston, Washington, DC, and other areas. The Commission does not have financial information regarding the entities authorized to provide OVS, some of which may not yet be operational. We thus believe that at least some of the OVS operators may qualify as small entities.

E. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

59. The *NPRM* proposes rules that will permit television broadcast licensees to use DTS in lieu of a single-transmitter to operate their television broadcast stations. Use of DTS is at the option of the broadcast licensee. The *NPRM* would not impose any mandatory reporting, recordkeeping and other compliance requirements, unless the licensee chooses to use DTS. The proposed rule changes that we believe will directly affect reporting, recordkeeping and other compliance requirements are described below.

60. The *NPRM* proposes that DTS transmitters will not be separately licensed, but will be part of a linked group that will be covered by one construction permit and license. Unless otherwise indicated, the *NPRM* proposes to apply the current requirements and processes for DTV stations, or, where appropriate, analog TV stations. The Commission intends to use application filing and processing procedures similar to the current procedures for DTV licensing. Under the proposal, licensees will request authority to construct DTS facilities by filing a single application that includes either a main transmitter and one or more additional transmitters that will collectively use the DTS technology, or two or more smaller DTS transmitters. A

licensee may add to its DTS network of transmitters using a minor change application for a construction permit to change a licensed DTV facility, or for a modified construction permit to change a DTV facility authorized by a construction permit. Such applications will be processed in accordance with the Commission's current processing rules and guidelines. However, at least one of a licensee's DTS transmitters must provide coverage of the station's community of license in accordance with § 73.625 of our rules.

F. Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

61. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

62. The use of DTS is not mandatory. Only television broadcast licensees who chose to use DTS will be impacted by the proposed rules. Therefore, with respect to the issue of the impact of the proposed rules on smaller entities, we believe small business broadcasters will benefit from the opportunities offered by DTS. The record in the Second DTV Periodic proceeding suggests many potential benefits of DTS to smaller as well as larger entities, such as uniform signal levels throughout a licensee's service area, the ability to operate at reduced power to achieve the same coverage, a reduced likelihood of causing interference to neighboring licensees, an ability to overcome terrain limitations, and more reliable indoor reception. Nevertheless, in the Notice, comment is sought concerning the impact of DTS technology on small business broadcasters.

G. Federal Rules Which Duplicate, Overlap, or Conflict With the Commission's Proposals

63. None.

H. Report to Congress

64. The Commission will send a copy of the *NPRM*, including this IRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Notice and IRFA (or summaries thereof) will also be published in the **Federal Register**.

I. Initial Paperwork Reduction Act of 1995 Analysis

65. This *NPRM* has been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and contains modified information collection requirements. These modified requirements of FCC Forms 301 and 302-DTV will be published in a separate **Federal Register** notice.

66. Further Information. For additional information concerning the PRA proposed information collection requirements contained in this *NPRM*, contact Cathy Williams at 202–418–2918, or via the Internet to Cathy.Williams@fcc.gov.

J. Ex Parte Rules

67. *Permit-But-Disclose.* This proceeding will be treated as a ''permit-but-disclose'' proceeding subject to the ''permit-but-disclose'' requirements under § 1.1206(b) of the Commission's rules. *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules.

K. Filing Requirements

68. *Comments and Replies.* Pursuant to 47 CFR 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

69. *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the website for submitting comments. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

70. *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

71. *Availability of Documents.* Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available

electronically in ASCII, Word 97, and/or Adobe Acrobat.

72. *Accessibility Information.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: *http://www.fcc.gov.*

73. *Additional Information.* For additional information on this proceeding, contact Evan Baranoff, *Evan.Baranoff@fcc.gov*, or Eloise Gore, *Eloise.Gore@fcc.gov*, of the Media Bureau, Policy Division, (202) 418–2120.

V. Ordering Clauses

74. Accordingly, *It Is Ordered* that pursuant to sections 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 of the Communications Act of 1934, 47 U.S.C. 151, 154(i) and (j), 157, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 that Notice is herby given of the proposals and tentative conclusions described in this Notice of Proposed Rulemaking.

75. *It is further ordered* that the Reference Information Center, Consumer Information Bureau, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 73

Digital television, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

2. Section 73.626 is added to subpart E to read as follows:

§ 73.626 DTV Distributed Transmission Systems.

(a) A DTV station may be authorized to operate multiple transmitters to provide service consistent with the requirements of this section and other rules applicable to DTV stations. A station must comply with the following DTV rules, except when such compliance is inconsistent with an explicit requirement in this section:

(1) § 73.622 Digital television table of allotments.

(2) § 73.623 DTV applications and changes to DTV allotments.

(3) § 73.624 Digital television broadcast stations.

(4) § 73.625 DTV coverage of principal community and antenna system.

(5) Paragraph (d) of § 73.682 TV transmission standards.

(b) An application proposing use of a distributed transmission system (DTS) will not be accepted for filing if it proposes coverage by any of the proposed transmitters of areas farther from the station's DTS reference point than the distance in the following table for the station's proposed channel and zone, except where coverage of such areas by the applicant's conventional (non-DTS) DTV facility already is authorized.

Channel	Zone	F(50,90) field strength	Distance
2–6	1	28 dBu	108 km. (67 mi.).
2–6	2 and 3	28 dBu	128 km. (80 mi.).
7–13	1	36 dBu	101 km. (63 mi.).
7–13	2 and 3	36 dBu	123 km. (77 mi.).
14–69	1, 2 and 3	41 dBu	103 km. (64 mi.).

(1) DTV station zones are defined in § 73.609 of this subpart.

(2) The coverage for each DTS transmitter is determined based on the F(50,90) field strength given in the table, calculated in accordance with § 73.625(b) of this subpart.

(3) Each station's DTS reference point is the location of the facility it specified in its certification in the DTV channel election process, pursuant to the procedures established in the *Second DTV Periodic Report and Order*, 69 FR 59500, October 4, 2004. These reference points were published in Public Notice, DA 04–3922. For stations initially authorized subsequent to that certification process, the reference point is the location established in its individual rule making to add the DTV channel allotment, or the location specified in its initial construction permit for a new DTV station, if it was not established in an individual rule making to add the DTV channel allotment.

(c) An application proposing use of DTS will not be accepted for filing if the combined coverage from all of the transmitters fails to provide predicted service to all population predicted to receive service from the authorized conventional (non-DTS) DTV facility of the station.

(d) An application proposing use of DTS will not be accepted for filing if the coverage from at least one proposed transmitter does not provide principal community coverage as required in § 73.625(a) of this subpart.

(e) An application proposing use of DTS will not be accepted for filing if the proposed transmitters would cause interference to another station in excess of the criteria specified in § 73.623(c), (e), (f) and (g) of this subpart.

* * * * *

3. Section 73.6023 is added to subpart J to read as follows:

§ 73.6023 Distributed transmission systems.

Station licensees may operate a commonly owned group of digital Class A stations with contiguous predicted DTV noise-limited contours (see § 73.622(e) of this part) on a common television channel in a distributed transmission system.

* * * * *

[FR Doc. 05–23658 Filed 12–6–05; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU58

Endangered and Threatened Wildlife and Plants, Notice of Reinstatement of the 1993 Proposed Rule to List the Flat-Tailed Horned Lizard as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reinstatement of proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reinstatement of the November 29, 1993, proposed rule to list the flat-tailed horned lizard (*Phrynosoma mcallii*) as a threatened species under the Endangered Species Act of 1973, as amended (Act). On November 17, 2005, the U.S. District Court for the District of Arizona vacated the January 3, 2003, withdrawal of the proposed rule to list the flat-tailed horned lizard, reinstated the 1993 proposed rule, and remanded the matter to us for further consideration in accordance with its August 30, 2005, and November 17, 2005, orders. The District Court ordered us to submit for publication in the **Federal Register**, as soon as practicable, a notice advising the public that the January 3, 2003, withdrawal has been vacated and that the 1993 proposed rule is reinstated, and to submit for publication in the **Federal Register** a new final listing decision on the proposed rule to list the flat-tailed horned lizard by April 30, 2006. Consequently, we are hereby providing notice that the 1993 proposed rule to list the flat-tailed horned lizard is reinstated, and that we will complete a final listing decision for the flat-tailed horned lizard by April 30, 2006.

ADDRESSES: The complete file for this notice is available for inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, California 92011.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, at the above address, by telephone at 760/431–9440, or by facsimile at 760/431–9624.

SUPPLEMENTARY INFORMATION:

Background

The flat-tailed horned lizard (*Phrynosoma mcallii*) is a small, cryptically colored, phrynosomatid lizard that reaches a maximum adult body length (excluding the tail) of approximately 87 millimeters (3.4 inches). The lizard has a flattened body, short tail, and dagger-like head spines like other horned lizards. It is distinguished from other horned lizards in its range by a dark vertebral stripe, two slender elongated occipital spines, and the absence of external ear openings. The dorsal surface of the flat-tailed horned lizard is pale gray to light rusty brown. The ventral side is white and unmarked, with the exception of a prominent umbilical scar.

The flat-tailed horned lizard is endemic (restricted) to the Sonoran Desert in southern California, Arizona and northwestern Mexico. The species is documented from the Coachella Valley in Riverside County, California; the Imperial and Borrego Valleys in Imperial and eastern San Diego Counties, California; south of the Gila River and west of the Gila and Butler Mountains in Yuma County, Arizona; east of the Sierra de Juarez in the Laguna Salada and Yreka Basins in northeastern Baja California Norte, Mexico; and north and west of Bahia de San Jorge to the delta of the Colorado River in northwestern Sonora, Mexico (Grismer 2002; Rodriguez 2002). The flat-tailed horned lizard occurs at elevations up to 800 meters (2600 feet) above sea level, but most populations are below 300 meters (980 feet) elevation.

On November 29, 1993, we published a proposed rule to list the flat-tailed horned lizard as a threatened species pursuant to the Act (58 FR 62624). On July 15, 1997, we issued a final decision to withdraw the 1993 proposed rule (62 FR 37852). Defenders of Wildlife and other groups challenged the 1997 withdrawal decision. On June 16, 1999, the District Court for the Southern District of California granted summary judgment in our favor upholding our decision not to list the flat-tailed horned lizard. However, on July 31, 2001, the Ninth Circuit Court of Appeals reversed the lower court's ruling and directed the District Court to remand the matter to us for further consideration in accordance with the legal standards outlined in its opinion (*Defenders of Wildlife* v. *Norton,* 258 F.3d 1136). On October 24, 2001, the District Court for the Southern District of California remanded the 1997 withdrawal decision. Consistent with the District Court's remand order, we published a withdrawal of the proposed rule to list the flat-tailed horned lizard on January 3, 2003 (68 FR 331). The Tucson Herpetological Society and other groups challenged this withdrawal decision in the United States District Court for the District of Arizona.

On August 30, 2005, the District Court for the District of Arizona issued an order granting plaintiffs' motion for summary judgment ''on the ground that the Secretary's withdrawal of the proposed rule violated the Endangered Species Act and the Ninth Circuit's remand order by failing to evaluate the lizard's lost habitat and whether that habitat was a significant portion of the range.'' The court upheld all other aspects of the January 3, 2003, withdrawal decision. On November 17, 2005, the District Court issued a subsequent order, consistent with its August 30, 2005, order, vacating the 2003 withdrawal and remanding the matter to us for further consideration. The District Court reinstated the 1993 proposed rule to list the flat-tailed horned lizard as a threatened species for the duration of the remand, and ordered us to submit for publication in the **Federal Register**, as soon as practicable, a notice advising the public that the January 3, 2003, withdrawal has been vacated and that the 1993 proposed rule is reinstated. The District Court further ordered us to make a new listing decision by April 30, 2006, stating that, ''on remand the agency need only address the matters on which the court's August 30, 2005 Order * * * found the January 3, 2003 Withdrawal unlawful, which may summarily be identified as whether the lizard's lost historical habitat renders the species in danger of extinction in a significant portion of its range.''

For additional background information and previous Federal actions related to the listing determinations for the flat-tailed horned lizard, please refer to the January 3, 2003, **Federal Register** notice (68 FR 331).

Author

The primary author of this notice is the Carlsbad Fish and Wildlife Office (*see* **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: November 30, 2005.

Marshall Jones,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 05–23692 Filed 12–6–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 112905C]

RIN 0648-AT98

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Notice of Availability of Amendment 19 to the Pacific Coast Goundfish Fishery Management Plan

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: Amendment 19 to the Pacific Coast Groundfish Fishery Management Plan (FMP) has been developed by NMFS and the Pacific Fishery Management Council (Council) to comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by amending the Pacific Coast Groundfish Fishery Management Plan (FMP) to describe and identify essential fish habitat (EFH) for the fishery, designate Habitat Areas of Particular Concern, minimize to the extent practicable the adverse effects of fishing on EFH, and identify other actions to encourage the conservation and enhancement of EFH.

DATES: Comments on Amendment 19 must be received on or before February 6, 2006.

ADDRESSES: You may submit comments on the amendment identified by I.D. 112905C by any of the following methods:

- E-mail: *GroundfishEFH-FMP.nwr@noaa.gov*. Include I.D. 112905C in the subject line of the message.
- Federal e-Rulemaking portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Send comments to D. Robert Lohn, Administrator, Northwest Region, National Marine Fisheries Service, Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070.
- Fax: (206) 526–6736.

Copies of Amendment 19 or supporting documents are available from Maryann Nickerson, (206) 526–4490.

FOR FURTHER INFORMATION CONTACT: Stephen Copps (Northwest Region, NMFS), phone: 206–526–6187.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires each Regional Fishery Management Council to submit any amendment to an FMP to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment to an FMP, immediately publish notification in the Federal Register that the amendment is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, disapprove, or partially approve Amendment 19.

Section 303(a)(7) of the Magnuson-Stevens Act requires Fishery Management Councils to include in FMPs the description and identification of EFH for the fishery, and minimization to the extent practicable the adverse effects of fishing on EFH. Amendment 19 is supported by a final environmental impact statement (FEIS) that evaluates a comprehensive strategy to conserve and enhance EFH, including its identification and the implementation of measures to minimize adverse impacts to EFH from fishing, to the extent practicable.

Preparation of the EIS and Amendment 19 stem from a 2000 court order in *American Oceans Campaign et. al.* v. *Daley*, Civil Action 99-982 (GK) (D.D.C. September 14, 2000), which required NMFS and the Council to prepare an EIS to evaluate the effects of fishing on EFH and identify measures to minimize those impacts to the extent practicable. NMFS published a draft EIS for public comment on February 11, 2005. The public comment period on the draft ended on May 11, 2005. The Council identified a final preferred alternative at their June 13-17, 2005, meeting in Foster City, CA. NMFS must approve any FMP amendment and implementing regulations it deems necessary by May 6, 2006.

Specific Request for Additional Comments and Information

A coastwide prohibition on bottom trawling in all areas within the exclusive economic zone (EEZ) that are deeper than 700 fm is also included in the proposed amendment. NMFS is specifically seeking comment on this aspect of the amendment as well as the gear restrictions described above because they would apply in areas deeper than 3500 m (11482.9 ft), and, therefore, would be outside EFH. Management measures to minimize adverse impacts on EFH could apply in the EEZ in areas not described as EFH, if there is a link between the fishing activity and adverse effects on EFH. Additionally, management measures could be based on the Council's discretionary authority under sections (303(b)(2) and (b)(12) of the Magnuson-Stevens Act to protect habitat outside EFH if there is a basis for these measures. NMFS will consider public comments and information received on the proposed rule which has been submitted for Secretarial review and approval and on the proposed Amendment 19 to determine if the measures should be applied in areas outside EFH (deeper than 3500 m (11482.9 ft). NMFS expects to publish the proposed regulation to implement Amendment 19 in the near future.

Public comments on Amendment 19 must be received by February 6, 2006, to be considered by NMFS in the decision to approve, disapprove, or partially approve Amendment 19.

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. 05–23735 Filed 12–6–05; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 70, No. 234

Wednesday, December 7, 2005

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 1, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Pamela_Beverly_OIRA_Submission@OMB.EOP.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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

Agricultural Marketing Service

Title: Regulations for Inspection of Eggs.

OMB Control Number: 0581–0113.

Summary of Collection: Congress enacted the Egg Products Inspection Act (21 U.S.C. 1031–1056) (EPIA) to provide a mandatory inspection program to assure egg products are processed under sanitary conditions, are wholesome, unadulterated, and properly labeled; to control the disposition of dirty and checked shell eggs; to control unwholesome, adulterated, and inedible egg products and shell eggs that are unfit for human consumption; and to control the movement and disposition of imported shell eggs and egg products that are unwholesome and inedible. Regulations developed under 7 CFR Part 57 provide the requirements and guidelines for the Department and industry needed to obtain compliance. The Agricultural Marketing Service (AMS) will collect information using several forms. Forms used to collect information provide the method for measuring workload, record of compliance and non compliance and a basis to monitor the utilization of funds.

Need and Use of the Information: AMS will use the information to assure compliance with the Act and regulations, to take administrative and regulatory action and to develop and revise cooperative agreements with the States, which conduct surveillance inspections of shell egg handlers and processors. If the information is not collected, AMS would not be able to control the processing, movement, and disposition of restricted shell eggs and egg products and take regulatory action in case of noncompliance.

Description of Respondents: Business or other for-profit; Federal Government; State, local or tribal government.

Number of Respondents: 934.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly.

Total Burden Hours: 1,659.

Agricultural Marketing Service

Title: Regulations Governing the Inspection and Grading of Manufactured or Processed Dairy Products—Recordkeeping.

OMB Control Number: 0581–0110.

Summary of Collection: The Agricultural Marketing Act of 1946 directs the Department to develop programs that will provide and enable the marketing of agricultural products. One of these programs is the USDA voluntary inspection and grading program for dairy products where these dairy products are graded according to U.S. grade standards by a USDA grader. The dairy products so graded may be identified with the USDA grade mark. Dairy processors, buyers, retailers, institutional users, and consumers have requested that such a program be developed to assure the uniform quality of dairy products purchased. In order for any service program to perform satisfactorily, there must be written guides and rules, which in this case are regulations for the provider and user.

Need and Use of the Information: The Agricultural Marketing Service will collect information to ensure that the dairy inspection program products are produced under sanitary conditions and buyers are purchasing a quality product. The information collected through recordkeeping is routinely reviewed and evaluated during the inspection of the dairy plant facilities for USDA approval. Without laboratory testing results required by recordkeeping, the inspectors would not be able to evaluate the quality of dairy products.

Description of Respondents: Business or other for-profit.

Number of Respondents: 487.

Frequency of Responses: Recordkeeping.

Total Burden Hours: 1,388.

Agricultural Marketing Service

Title: Farmers Market Questionnaire.

OMB Control Number: 0581–0169.

Summary of Collection: The Transportation and Marketing (T&M) Program, Agricultural Marketing Service (AMS) conducts research to find better designs, development techniques, and operating methods for modern farmers markets under the Agency's Wholesale and Alternative Markets Program. Recommendations are made available to local decision-makers interested in constructing modern farmers markets to serve area producers and consumers. Individual studies are conducted in close cooperation with local interested parties. The information will be collected using form TM–6 ''Farmers' Market Questionnaire.''

Need and Use of the Information: Conventional wisdom states that the number and size of farmers markets has grown over the last several years. Research has not been done to prove that point. The form submitted for approval will serve as a survey instrument to obtain a clearer picture of existing farmers market structure to provide a basis for the future design of modern direct marketing facilities and will provide a measure of growth over the last 4 years. T&M researchers will survey by mail, with telephone follow-up, the managers of farmers markets identified in the 2000 National Farmers Market Directory. In addition, provision will be made for e-mail reporting. These markets represent a varied range of sizes, geographical locations, types, ownership, and structure. These markets will provide a valid overview of farmers markets in the United States. Information such as the size of markets, operating times and days, retail and wholesale sales, management structure, and rules and regulations governing the markets are all important questions that need to be answered in the design of a new market. The information developed by this survey will support better designs, development techniques, and operating methods for modern farmers markets and outline improvements that can be applied to revitalize existing markets.

Description of Respondents: Not-for-profit institutions, Federal Government, State, local or tribal government.

Number of Respondents: 3,700.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 586.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E5–6965 Filed 12–6–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 1, 2005.

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

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

Animal Plant and Health Inspection Service

Title: Johne's Disease in Domestic Animals; Interstate Movement, 9 CFR part 80.

OMB Control Number: 0579–0148.

Summary of Collection: Title 21 U.S.C. authorizes sections 111, 114, 114a, 114–1, 115, 120, 121, 125, 126, 134a, 134c, 134f, and 134g. These authorities permit the Secretary to prevent, control and eliminate domestic diseases such as Johne's disease, as well as to take actions to prevent and to manage exotic diseases such as foot-and-mouth, classical swine fever, and other foreign diseases. Johne's disease affects cattle, sheep, goats, and other ruminants. It is an incurable and contagious disease that results in progressive wasting and eventual death. The disease is nearly always introduced into a healthy herd by an infected animal that is not showing symptoms of the disease. Moving Johne's-positive livestock interstate for slaughter or for other purposes and doing so without increasing the risk of disease spread requires the use of an owner-shipper statement, official eartags, and State participation in the program.

Need and Use of the Information: APHIS will collect information that includes: (1) The number of animals to be moved, (2) the species of the animals, (3) the point of origin and destination, and (4) the consignor and consignee. Without the information APHIS would be unable to ensure that Johne's disease is not spread to healthy animal populations throughout the United States.

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

Number of Respondents: 250.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 50.

Animal Plant and Health Inspection Service

Title: Brucellosis Program Cooperative Agreements—Title 9, CFR Parts 50, 51, 53, 54, 76, and 78.

OMB Control Number: 0579–0047.

Summary of Collection: Brucellosis is a contagious animal disease that causes loss of young through spontaneous abortion or birth of weak offspring, reduced milk production, and infertility. It is mainly a disease of cattle, bison and swine. There is no economically feasible treatment for brucellosis in livestock. Veterinary Services, a division with USDA's Animal and Plant Health Inspection Service (APHIS), is responsible for administering regulations intended to prevent the dissemination of animal diseases, such as brucellosis, within the United States. These regulations are found in Part 78 of Title 9, Code of Federal Regulations. The continued presence of brucellosis in a herd seriously threatens the health of other animals. APHIS will collect information using various forms.

Need and Use of the Information: APHIS will use the information collected from the forms to continue to search for other infected herds, maintain identification of livestock, monitor deficiencies in identification of animals for movement, and monitor program deficiencies in suspicious and infected herds. This information will be used to determine brucellosis area status and aids herd owners by speeding up the detection and elimination of serious disease conditions in their herds. Without the data, APHIS' Brucellosis Eradication Program would be severely crippled.

Description of Respondents: Farms; State, Local or Tribal Government.

Number of Respondents: 7,382.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 17,681.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E5–6966 Filed 12–6–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: This notice announces a public comment period on the information collection requests (ICRs) associated with the interpretation of statutory and regulatory provisions administered by Federal Crop Insurance Corporation (FCIC).

DATES: Written comments on this notice will be accepted until close of business February 6, 2006.

ADDRESSES: Interested persons are invited to submit written comments to William J. Murphy, Deputy Administrator Insurance Services Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 1400 Independence Ave. SW., Stop 0805, Washington, DC 20250–0805. Comments titled ''Information Collection OMB 0563–0055'' may be sent via the Internet to: *William.Murphy@rma.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Heyward Baker, Director, Risk Management Services Division, Federal Crop Insurance Corporation, at the above address, telephone (202) 624–0737.

SUPPLEMENTARY INFORMATION:

Title: General Administrative Regulations; Interpretations of Statutory and Regulatory Provisions.

OMB Number: 0563–0055.

Expiration Date of Approval: March 31, 2006.

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

Abstract: FCIC is proposing to renew the currently approved information collection, OMB Number 0563–0055. It is currently up for renewal and extension for three years. FCIC is conducting a thorough review of information collections associated with providing an interpretation of statutory and regulatory provisions under this collection. The information collection requirements for this renewal package are necessary for FCIC to provide an interpretation of statutory and regulatory provisions upon request. This data is used to administer the provisions of 7 CFR part 400, subpart X in accordance with the Federal Crop Insurance Act, as amended.

We are asking the Office of Management and Budget (OMB) to extend its approval of our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public concerning this information collection activity. These comments will help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents/Affected Entities: Parties affected by the information collection requirements included in this Notice are any applicant for crop insurance, a producer with a valid crop insurance policy, or a private insurance company with a reinsurance agreement with FCIC or their agents, loss adjusters, employees or contractors.

Estimated annual number of respondents: 45.

Estimated annual number of responses per respondent: 3.5.

Estimated annual number of responses: 156.

Estimated total annual burden hours on respondents: 78.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed in Washington, DC, on November 30, 2005.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E5–6985 Filed 12–6–05; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comment, (4) Discussion of the Modoc Speaker Last Meeting, (5) Subcommittee Reports, (6) Chairman's Perspective, (7) General Discussion, (8) County Update, (9) Next Agenda.

DATES: The meeting will be held on December 8, 2005 from 9 a.m. and end at approximately 12 p.m.

ADDRESSES: The meeting will be held at the Lincoln Street School, Conference Room A, 1135 Lincoln Street, Red Bluff, CA. Individuals wishing to speak or propose agenda items must send their names and proposals to Jim Giachino, DFO, 825 N. Humboldt Ave., Willows, CA 95988.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, P.O. Box 164, Elk Creek, CA 95939. (530) 968–5329; E-mail *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by December 4, 2005 will have the opportunity to address the committee at those sessions.

Dated: November 28, 2005.

James F. Giachino,

Designated Federal Official.

[FR Doc. 05–23704 Filed 12–6–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Risk Management Agency

Notice of Intent To Seek Approval To Conduct an Information Collection

AGENCY: Risk Management Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Risk Management Agency to request approval for the collection of information in support of the agency's mission under section 522(d) of the Federal Crop Insurance Act to develop and implement risk management tools for producers of agricultural commodities through partnership agreements.

DATES: Written comments on this notice will be accepted until close of business February 6, 2006.

ADDRESSES: Interested persons are invited to submit written comments to Virginia Guzman, United States Department of Agriculture (USDA), Research and Evaluation Division, Federal Crop Insurance Corporation, Risk Management Agency, 6501 Beacon Drive, Mail Stop 813, Kansas City, MO 64133. Written comments may also be submitted electronically to: *RMARED—PRA@rm.fcic.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Virginia Guzman or David Fulk, at the Kansas City, MO address listed above, telephone (816) 926–6343.

SUPPLEMENTARY INFORMATION:

Title: Organic Price Project.

OMB Number: 0563–NEW.

Type of Request: New Information Collection.

Abstract: The Risk Management Agency intends to collect price information on selected organic commodities from major regional distributors of organic products in support of a partnership agreement with the Rodale Institute to develop an organic price reporting system. Prices will be collected once each week by various means including e-mail, telephone, fax, and from Web sites in whatever form is customarily used by the distributor to post prices. The price information that is collected will be posted on an existing Web site maintained by the Rodale Institute to assist organic producers and allied interests in price discovery. We are asking the Office of Management and Budget (OMB) to approve this information collection activity for 3 years.

The purpose of this notice is to solicit comments from the public concerning the information collection activities. These comments will help us:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, or other collection technologies, e.g. permitting electronic submission of responses.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 1 minute per response for a total annual burden of 53 hours.

Respondents/Affected Entities: Individuals and businesses involved in the production of organic crops: academia, including individuals or representatives of universities and colleges who are involved in research and issues of American agriculture and risk management.

Estimated annual number of respondents: 60.

Estimated annual number of responses: 3,120 or 52 per respondent.

Estimated total annual burden on respondents: 53 hours.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed in Washington, DC, on November 30, 2005.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E5–6987 Filed 12–6–05; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–428–839
A–489–814
A–570–902

Initiation of Antidumping Duty Investigations: Carbon and Certain Alloy Steel Wire Rod from Germany, Turkey, and the People's Republic of China

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

EFFECTIVE DATE: December 7, 2005.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold (Germany), John Drury (Turkey), or Matthew Renkey (People's Republic of China), AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1121, (202) 482–0195 and (202) 482–2312, respectively.

SUPPLEMENTARY INFORMATION:

INITIATION OF INVESTIGATIONS

The Petitions

On November 10, 2005, the Department of Commerce (''the Department'') received Petitions (''the Petitions'') concerning imports of carbon and certain alloy steel wire rod (''CASWR'') from Germany (''German Petition''), Turkey (''Turkish Petition''), and the People's Republic of China (''PRC'')(''PRC Petition'') filed in proper form by Connecticut Steel Corp., Gerdau Ameristeel U.S. Inc., Keystone Consolidated Industries, Inc., ISG Georgetown, Inc. (Mittal Steel U.S.A. Georgetown), and Rocky Mountain Steel Mills (''Petitioners'') on behalf of the domestic industry producing CASWR. The period of investigation (''POI'') for Germany and Turkey is October 1, 2004, through September 30, 2005. The POI for the PRC is April 1, 2005, through September 30, 2005.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (''the Act''), Petitioners alleged that imports of CASWR from Germany, Turkey and the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring and threaten to injure an industry in the United States.

Scope of Investigations

The merchandise subject to this scope is certain hot–rolled products of carbon steel and alloy steel, in coils, of

approximately circular cross section, 4.75 mm or more, but less than 19.00 mm, in solid cross–sectional diameter. Specifically excluded are steel products possessing the above–noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (''HTSUS'') definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars. Also excluded are free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope. The products under review are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3092, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, and 7227.90.6050 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Comments on Scope of Investigations

During our review of the Petitions, we discussed the scope with Petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 calendar days of publication of this initiation notice. Comments should be addressed to Import Administration's Central Records Unit in Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230 - Attention: Robert James. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with interested parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed by or on behalf of the domestic industry. In order to determine whether a petition has been filed by or on behalf of the industry, the Department, pursuant to section 732(c)(4)(A) of the Act, determines whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether the domestic industry has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), *citing Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. *See Germany Initiation Checklist, Turkey Initiation Checklist*, and *PRC Initiation Checklist* at Attachment II (Industry Support). Based on our analysis of the information submitted in the Petitions we have determined there is a single domestic like product, carbon and certain alloy steel wire rod, and we have analyzed industry support in terms of that domestic like product.

Our review of the data provided in the Petitions, Supplements to the Petitions, dated November 18, 2005, and November 22, 2005, and other information readily available to the Department indicates that Petitioners have established industry support representing at least 25 percent of the total production of the domestic like product; and more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the Petitions, requiring no further action by the Department pursuant to section 732(c)(4)(D) of the Act. In addition, the Department received no opposition to the Petitions from domestic producers of the like product. Therefore, the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) of the Act are met. Furthermore, the domestic producers who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions. Thus, the requirements of section 732(c)(4)(A)(ii) of the Act also are met. Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See Germany Initiation Checklist, Turkey Initiation Checklist*, and *PRC Initiation Checklist* at Attachment II (Industry Support).

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(E) and (F) of the Act and have demonstrated sufficient industry support with respect to the antidumping investigations that it is requesting the Department initiate. *See Germany*

Initiation Checklist, Turkey Initiation Checklist, and *PRC Initiation Checklist* at Attachment II (Industry Support).

U.S. Price and Normal Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate these investigations on Germany, Turkey, and the PRC. The sources of data for the deductions and adjustments relating to the U.S. price, home–market price (Germany and Turkey), constructed value (Germany and Turkey), and the factors of production (PRC only) are also discussed in the country–specific *Initiation Checklist. See Germany Initiation Checklist, Turkey Initiation Checklist*, and *PRC Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

Turkey

Export Price (''EP'')

Petitioners based U.S. price on EP. Petitioners obtained a price for a sale to an end user of the subject merchandise within the POI. Petitioners provided an affidavit with the information. *See* Volume II of the Turkish Petition at Exhibit 5. The price quoted is for a specific grade, quality, and diameter falling within the scope of this petition. Export price was the basis for U.S. price because CASWR was offered for sale to an unaffiliated U.S. purchaser prior to the date of importation. Petitioners deducted from the offer price the expenses associated with exporting and delivering the product: foreign inland freight, foreign brokerage and handling, ocean freight and insurance, U.S. port charges, and a three percent trading company markup, which was based upon research from a market research company as customary for this type of transaction. *See* Volume II of the Turkish Petition at page 5, Exhibit 6, and Exhibit 9. In addition, Petitioners adjusted for differences in imputed credit expenses by subtracting home market credit expenses to the home market price and by adding U.S. imputed credit expenses to the home market price. *See* Volume II of the Turkish Petition at Exhibit 6, and Supplement to the Turkish Petition, dated November 18, 2005, at Revised Exhibit 10, and Supplement to the Turkish Petition, dated November 22, 2005 at 2nd Revised Exhibit 6.

The price quoted was delivered to the customer and included foreign inland freight, and insurance, U.S. import duties and port fees, U.S. inland freight, and an estimated trading company resale markup. *See* Volume II of the Turkish Petition at Exhibit 6, and Supplement to the Turkish Petition, dated November 18, 2005, at Revised Exhibit 10, and Supplement to the Turkish Petition, dated November 22, 2005, at 2nd Revised Exhibit 6.

Normal Value (''NV'')

To calculate NV, Petitioners provided a price quote from Habas Sinai ve Tibbi Galar Istihsal Endustrisi AS (''Habas Sinai''), a Turkish producer of CASWR. The information was obtained from a confidential market research company. The price quote is for a specific grade, quality and diameter falling within the scope of this petition, with FOB mill (*i.e.*, ex–works) delivery terms. *See* Volume II of the Turkish Petition at pages 1–2 and Memorandum to the File, Telephone Call to Market Research Firm Regarding the Antidumping Petition on Carbon and Certain Alloy Steel Wire Rod (CASWR) from Turkey dated November 18, 2005. Petitioners made adjustments for imputed credit expenses. See Volume II of the Turkish Petition at Exhibit 3 and 4, and Supplement to the Turkish Petition, dated November 18, 2005, at Attachment 1 and Revised Exhibit 10. The Turkish HM price per metric ton was converted to short tons using the standard conversion factor. No additional adjustments were made to derive the HM price.

Cost of Production

Petitioners have provided information demonstrating reasonable grounds to believe or suspect that sales of CASWR in the home market were made at prices below the fully absorbed cost of production (''COP''), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country–wide sales–below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (''COM''); selling, general and administrative (''SG&A'') expenses; financial expenses; and packing expenses. Petitioners calculated COM and packing expenses based on the weighted–averaged production experiences of U.S. CASWR producers during the POI, adjusted for known differences between the costs incurred to manufacture CASWR in the United States and in Turkey using publicly available data. To calculate SG&A and financial expenses, Petitioner relied on the fiscal year 2003 financial statements of Habas Sinai.

Based upon a comparison of the prices of the foreign–like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country–wide cost investigation. *See Turkey Initiation Checklist*.

Normal Value based on Constructed Value (''CV'')

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, Petitioners also based NV on CV. Petitioners calculated CV using the same COM, SG&A, financial and packing figures used to compute the COP. Petitioners then calculated profit based on the FY 2003 financial statements of a Turkish CASWR producer, Habas Sinai. *See Turkey Initiation Checklist*.

Germany

Export Price

To calculate EP, Petitioners obtained a price for a sale of subject merchandise, made within the POI, manufactured by B.E.S. Brandenburger Electrostahlwerke, GmbH (''Brandenburger'') and sold through Brandenburger's affiliated trading company, Riva Stahl. Petitioners provided an affidavit with this information. *See* Volume II of the German Petition at page 2 and Exhibit 5. The price quoted is for a specific grade, quality, and diameter falling within the scope of this petition.

The price quoted was FOB U.S. port, and included foreign inland freight charges, ocean freight and insurance from Germany, and U.S. port fees. See Volume II of the German Petition at pages 2, 3, and 4 and Exhibit 5, and Supplement to the German Petition, dated November 18, 2005, at Attachment 1.

Petitioners deducted a three percent mark–up based upon the actual experience of Stemcor, an international steel trading company, as a publicly available surrogate for Riva's experiences. *See* Volume II of the German Petition at pages 2 and 3 and Exhibit 8 and Supplement to the German Petition, dated November 18, 2005, at Attachment 1.

Normal Value

To calculate NV, Petitioners obtained a price for subject merchandise, as offered for sale by Brandenburger to an unaffiliated customer in the home market. This information was provided by a market researcher. The price quote

is for a specific grade, quality, and diameter falling within the scope of this petition. *See* Supplement to the German Petition, dated November 19, 2005, Foreign Market Research Declaration, and Memorandum to the File, Telephone Call to Market Research Firm Regarding the Antidumping Petition on Carbon and Certain Alloy Steel Wire Rod (CASWR) from Germany dated November 18, 2005.

Petitioners made adjustments to home market gross price for foreign inland freight expense and imputed credit expense. *See* Volume II of the German Petition at pages 1 and 2 and Exhibit 2 and Supplement to the Petition, dated November 15, 2005, Foreign Market Research Declaration at Exhibit 1. To calculate the reported foreign inland freight, petitioners relied on a survey of quotes gathered by the market researcher. *See* Memorandum to the File, Telephone Call to Market Research Firm Regarding the Antidumping Petition on CASWR from Germany dated November 18, 2005.

Cost of Production

Petitioners have provided information demonstrating reasonable grounds to believe or suspect that sales of CASWR in the home market were made at prices below the fully absorbed COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country–wide sales–below-cost investigation. Petitioners calculated COM and packing expenses based on the weight–averaged production experiences of certain U.S. CASWR producers during the POI, adjusted for known differences between the costs incurred to manufacture CASWR in the United States and in Germany. To calculate SG&A and financial expenses, Petitioners relied on the fiscal year 2003 financial statements of Brandenburger.

Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country–wide cost investigation. *See Germany Initiation Checklist*.

Normal Value Based on Constructed Value

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, petitioners also based NV on CV. Petitioners calculated CV using the same COM, SG&A, financial, and packing figures used to compute the COP. *See* Volume II of the Petition at page 2 and Exhibit 1. Petitioners then calculated profit based on the FY 2004 financial statements of two German producers of the same general class of merchandise. *See Germany Initiation Checklist*

PRC

Export Price

Petitioners based their U.S. price on information regarding a Chinese quoted offer price as relayed by a U.S. customer. Petitioners based U.S. price on EP because the offer was made by an unidentified trading company to a U.S. customer. The Department deducted from the offer price the expenses associated with exporting and delivering the product: foreign inland freight, foreign brokerage and handling, ocean freight and insurance, U.S. port charges, and trading company markup. *See PRC Initiation Checklist*.

Normal Value

The Petitioners stated that the PRC is a non–market economy (''NME'') and no determination to the contrary has yet been made by the Department. In previous investigations, the Department has determined that the PRC is an NME. *See Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005), *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal from the People's Republic of China*, 70 FR 9037 (February 24, 2005) and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 7475 (February 14, 2005). In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and remains in effect for purposes of the initiation of this investigation. Accordingly, because available information does not permit the NV of the merchandise to be determined under section 773(a) of the Act, the NV of the product is appropriately based on factors of production valued in a surrogate market–economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

The Petitioners identified India as the surrogate country arguing that India is an appropriate surrogate, pursuant to section 773(c)(4) of the Act, because it is a market–economy country that is at a comparable level of economic development to the PRC and is a significant producer and exporter of CASWR. *See* Volume II of the Petition at pages 6–7. Based on the information provided by the Petitioners, we believe that its use of India as a surrogate country is appropriate for purposes of initiating this investigation. After the initiation of the investigation, the Department will solicit comments regarding surrogate country selection. Also, pursuant to 19 CFR 351.301(c)(3)(i), interested parties will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

The Petitioners explained that the production process for CASWR occurs in two stages: the melt shop and rolling mill. In the melt shop a furnace melts scrap steel or pig iron. The molten steel then enters a continuous caster which casts the liquid steel into billets. Next, in the rolling mill, the billets are reheated, rolled into CASWR, cooled, coiled and bundled for shipment. *See* Volume II of the Petition at page 9. The Petitioners stated that the manufacturing cost of CASWR in the United States is typical of world–wide steel making costs and, therefore, the use of the U.S. producers' production costs and/or consumption rates represents the best information reasonably available to the Petitioners at this time. *See* Volume II of the Petition at page 8. In building–up the factors of production, the Petitioners started with inputs into the production of billets as the primary input in CASWR.

The Petitioners provided a dumping margin calculation using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C). *See* Volume II of the Petition at Exhibit 18, and Supplement to the Petition, dated November 18, 2005, at Attachment 3. To determine, for each raw material, the quantities of inputs used by the PRC manufacturers to produce CASWR, the Petitioners relied on the production experience and actual consumption rates of three U.S. CASWR producers. *See PRC Initiation Checklist*.

In accordance with section 773(c)(4) of the Act, the Petitioners valued factors of production, where possible, using reasonably available, public surrogate country data. To value certain factors of production, the Petitioners used *Monthly Statistics of the Foreign Trade of India*, as published by the Directorate General of Commercial Intelligence and

Statistics of the Ministry of Commerce and Industry, Government of India, and compiled by *World Trade Atlas* (''*WTA*''). *See PRC Initiation Checklist*.

For values expressed in Indian rupees, the Department used a simple average of the daily exchange rate for the POI to convert these values from rupees to U.S. dollars in accordance with our standard practice. The Petitioners used a different source for their exchange rates since rates covering the entire POI were not yet available on Import Administration's website at the time that the Petitioners filed the PRC Petition. However, such rates are now available at *ia.ita.doc.gov/exchange/india.txt*, and we have used them in our calculations. *See PRC Initiation Checklist*.

The Department calculates and publishes the surrogate values for labor to be used in NME cases on its website. Therefore, to value labor, the Petitioners used a labor rate of $0.97 per hour, in accordance with the Department's regulations. *See* 19 CFR 351.408(c)(3) and Supplement to the Petition, dated November 18, 2005, at Attachment 3.

The Petitioners calculated surrogate financial ratios (overhead, SG&A, and profit) using information obtained from the Tata Iron and Steel Company Ltd. (''Tata'') 2004–2005 Annual Report. *See* Volume II of the Petition at pages 15–17 and Exhibit 17. Tata is an Indian producer of CASWR. In this case, the Department has accepted the financial information from the Tata 2004–2005 Annual Report for the purposes of initiation, because these data appear to be the best information currently available to the Petitioners. However, the Department has made certain changes to the Petitioners' financial ratio calculations. *See PRC Initiation Checklist*.

Fair Value Comparisons

Based on the data provided by Petitioners, there is reason to believe that imports of CASWR from Germany, Turkey and the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV, calculated in accordance with section 773(a) of the Act, and of EP to CV, the range of the revised estimated dumping margins for CASWR are 50.25 percent to 81.88 percent for Germany, and 29.23 percent to 77.76 percent for Turkey. Based on comparisons of EP to NV, calculated in accordance with section 773(c) of the Act, the estimated revised weighted–average dumping margin for CASWR from the PRC is 321.76 percent.

Allegations and Evidence of Material Injury and Causation

With regard to Germany, Turkey and the PRC, Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV. Petitioners contend that the industry's injured condition is illustrated by the decline in customer base, lost sales, market share, domestic shipments, prices and profit. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See Germany Initiation Checklist, Turkey Initiation Checklist, and PRC Initiation Checklist* at Attachment III (Injury).

Initiation of Antidumping Investigations

Based upon our examination of the Petitions on CASWR, we find that these Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of CASWR are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determinations no later than 140 days after the date of these initiations.

Separate Rates and Quantity and Value Questionnaire

The Department recently modified the process by which exporters and producers may obtain separate–rate status in NME investigations. *See* Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non–Market Economy Countries (*Separate Rates and Combination Rates Bulletin*), (April 5, 2005), available on the Department's Website at *http://ia.ita.doc.gov/policy/bull05–1.pdf.* The process now requires the submission of a separate–rate status application. Based on our experience in processing the separate rates applications in the antidumping duty investigations of *Artists Canvas, Diamond Sawblades* and *CLPP (see Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005), *Initiation of Antidumping Duty Investigations: Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea*, 70 FR 35625, 35629 (June 21, 2005), and *Initiation of Antidumping Duty Investigations: Certain Lined Paper Products from India, Indonesia, and the People's Republic of China*, 70 FR 58374, 58379 (October 6, 2005)), we have modified the application for this investigation to make it more administrable and easier for applicants to complete. The specific requirements for submitting the separate–rates application in this investigation are outlined in detail in the application itself, which will be available on the Department's Website at *http://ia.ita.doc.gov* on the date of publication of this initiation notice in the **Federal Register**. Please refer to this application for all instructions.

NME Respondent Selection and Quantity and Value Questionnaire

For NME investigations, it is the Department's practice to request quantity and value information from all known exporters identified in the petition. In addition, the Department typically requests the assistance of the NME government in transmitting the Department's quantity and value questionnaire to all companies who manufacture and export subject merchandise to the United States, as well as to manufacturers who produce the subject merchandise for companies who were engaged in exporting subject merchandise to the United States during the period of investigation. The quantity and value data received from NME exporters is used as the basis to select the mandatory respondents. Although many NME exporters respond to the quantity and value information request, at times some exporters may not have received the quantity and value questionnaire or may not have received it in time to respond by the specified deadline.

The Department is now publicizing its requirement that quantity and value responses must be submitted for both the quantity and value questionnaire and the separate–rates application by the respective deadlines in order to receive consideration for separate–rate status. This new procedure will be applied to all future investigations. Appendix I of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the IA Website (*http://ia.ita.doc.gov*). This quantity and value questionnaire is due no later than 15 calendar days from the date of publication of this notice. Consistent with Department practice, if a deadline

falls on a weekend, federal holiday, or any other day when the Department is closed, the Department will accept the response on the next business day. *See Notice of Clarification: Application of ''Next Business Day'' rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as amended*, 70 FR 24533 (May 10, 2005). The Department will continue to send the quantity and value questionnaire to those exporters identified in the Petition and the NME government.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The *Separate Rates and Combination Rates Bulletin*, states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non–investigated firms receiving the weighted–average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash–deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

Separate Rates and Combination Rates Bulletin, at page 6.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, copies of the public versions of the Petition has been provided to the Government of Germany, the Government of Turkey, and the Government of the PRC.

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of these initiations, whether there is a reasonable indication that imports of CASWR from Germany, Turkey and the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 733(a)(2) of the Act. A negative ITC determination will result in the investigations being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: November 30, 2005.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

ATTACHMENT I

Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Tariff Act of 1930 (as amended) permits us to investigate 1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or 2) exporters and producers accounting for the largest volume and value of the subject merchandise that can reasonably be examined.

In the chart provided below, please provide the total quantity and total value of all your sales of merchandise covered by the scope of this investigation (see scope section of this notice), produced in the PRC, and exported/shipped to the United States during the period April 1, 2005, through September 30, 2005.

Market	Total Quantity	Terms of Sale	Total Value
United States.			
1. Export Price Sales. 2.. a. Exporter name. b. Address. c. Contact. d. Phone No.. e. Fax No.. 3. Constructed Export Price Sales. 4. Further Manufactured. **Total Sales**.			

Total Quantity:

- Please report quantity on a short ton basis. If any conversions were used, please provide the conversion formula and source.

Terms of Sales:

- Please report all sales on the same terms (*e.g.*, free on board).

Total Value:

- All sales values should be reported in U.S. Dollars. Please indicate any exchange rates used and their respective dates and sources.

Export Price Sales:

- Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated person occurs before importation into the United States.
- Please include any sales exported by your company directly to the United States;
- Please include any sales exported by your company to a third–country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please do not include any sales of merchandise manufactured in Hong Kong in your figures.

Constructed Export Price Sales:

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated person occurs after importation. However, if the first sale to the unaffiliated person is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation.
- Please include any sales exported by your company directly to the United States;
- Please include any sales exported by your company to a third–country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please do not include any sales of merchandise manufactured in Hong Kong in your figures.

Further Manufactured:

- Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense, and additional packing expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

[FR Doc. 05–23738 Filed 12–6–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–427–816)

Revocation of Antidumping Duty Order: Certain Cut–To-Length Carbon–Quality Steel Plate from France

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

SUMMARY: Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the International Trade Commission (''ITC''), in its sunset review, determined that revocation of the antidumping duty (''AD'') order on certain cut–to-length carbon–quality steel plate (''CTL Plate'') from France would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Cut–to-Length Carbon–Quality Steel Plate from France, India, Indonesia, Italy, Japan, and Korea*, 70 FR 71331 (November 28, 2005) (''ITC Determination''). Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1)(iii), the Department is revoking the AD order on CTL Plate from France.

EFFECTIVE DATE: February 10, 2005.

FOR FURTHER INFORMATION CONTACT: 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) 482–4136.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2000, the Department published its AD order and final amended determination on CTL Plate from France. *See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut–To- Length Carbon–Quality Steel Plate Products From France, India, Indonesia, Italy, Japan, and the Republic of Korea*, 65 FR 6585 (February 10, 2000). In the amended final determination the Department found a margin of 10.41 percent for Usinor S.A. and for ''all other'' manufacturers/producers/exporters of CTL Plate from France.

On January 3, 2005, the Department initiated, and the ITC instituted, sunset reviews of the AD order on CTL Plate from France. *See Initiation of Five-year (Sunset) Reviews*, 70 FR 75 (January 3, 2005). As a result of its review, the Department found that revocation of the AD order would likely lead to continuation or recurrence of dumping, and notified the ITC of the dumping rate likely to prevail if the AD order were 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).

On November 21, 2005, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the AD order on CTL Plate from France would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See ITC Determination and USITC Publication 3816 (November 2005), entitled Cut–to-Length Carbon–Quality 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 Order

The products covered by the AD order are 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 to be included in the scope of this order 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 this scope. Also, specifically included in the scope of this order 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 this order unless otherwise

specifically excluded. The following products are specifically excluded from this order: (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 this order 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 this order is dispositive.

Determination

As a result of the determination by the ITC that revocation of this AD order is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d) of the Act, is revoking the AD order on CTL Plate from France. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is February 10, 2005 (*i.e.*, the fifth anniversary of the date of publication in the **Federal Register** of the notice of the AD order). The Department will notify U.S. Customs and Border Protection to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after February 10, 2005, the effective date of revocation of the AD order. The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

This five-year (''sunset'') review and notice are in accordance with section 751(d)(2) 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. 05–23739 Filed 12–6–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–337–806

Individually Quick Frozen Red Raspberries from Chile: Notice of Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On July 29, 2005, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on individually quick frozen red raspberries from Chile. The period of review is July 1, 2003, through June 30, 2004. This review covers sales of individually quick frozen red raspberries with respect to Fruticola Olmue, S.A.; Santiago Comercio Exterior Exportaciones Limitada; and Vital Berry Marketing, S.A. We provided interested parties with an opportunity to comment on the preliminary results of this review, but received no comments. The final results do not differ from the preliminary results of this review. We will instruct the U.S. Customs and Border Protection to assess importer–specific antidumping duties on the subject merchandise exported by these companies.

EFFECTIVE DATE: December 7, 2005.

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas, Cole Kyle, or Scott Holland, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3813, (202) 482–1503, or (202) 482–1279, respectively.

SUPPLEMENTARY INFORMATION:

Background

Since the publication of the preliminary results of this review (*see Notice of Preliminary Results of Antidumping Duty Administrative Review: Individually Quick Frozen Red Raspberries from Chile*, 70 FR 44889 (August 4, 2005) (''*Preliminary Results*'')), the following events have occurred: The Department of Commerce (''the Department'') invited interested parties to comment on the preliminary results of this review. No comments were received.

Scope of the Order

The products covered by this order are imports of individually quick frozen (''IQF'') whole or broken red raspberries from Chile, with or without the addition of sugar or syrup, regardless of variety, grade, size or horticulture method (*e.g.*, organic or not), the size of the container in which packed, or the method of packing. The scope of the order excludes fresh red raspberries and block frozen red raspberries (*i.e.*, puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this order is currently classifiable under subheading 0811.20.2020 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Period of Review

The period of review (''POR'') is July 1, 2003, through June 30, 2004.

Final Results of the Review

These final results remain unchanged from the *Preliminary Results*. We provided an opportunity for parties to comment on our preliminary results and received no comments. Therefore, we find that the following percentage weighted–average margins exist for the period July 1, 2003, through June 30, 2004:

Exporter/manufacturer	Weighted–average margin percentage
Fruticola Olmue, S.A. ...	0.09 (*de minimis*)
Santiago Comercio Exterior Exportaciones, Ltda..	
Vital Berry, S.A.	0.00

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212 (b)(1), we have calculated exporter/importer (or customer)-specific assessment rates for merchandise subject to this review. The Department will issue appraisement instructions directly to CBP within 15 days of publication of these final results of review. We will direct CBP to assess the resulting assessment rates against

the entered customs values for the subject merchandise on each of that importer's entries during the POR. For assessment purposes, we will calculate importer–specific assessment rates for the subject merchandise by aggregating the dumping duties due for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer during the POR.

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be those established above in the ''Final Results of the Review'' section of this notice, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if the exporter is not a firm covered in this review, but was covered in a previous review, or the original investigation, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers and/or exporters shall continue to be 6.33 percent, the ''all others'' rate made effective by the less–than-fair–value investigation. *See* 67 FR 45460 (July 9, 2002).

These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding APOs

This notice also serves as the only reminder to parties subject to the administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulation and the terms of an APO is a sanctionable violation.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: December 1, 2005.

Stephen Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–23737 Filed 12–6–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–423–808

Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On June 3, 2005, the Department of Commerce (the Department) published the preliminary results of the fifth administrative review of the antidumping duty order on stainless steel plate in coils (SSPC) from Belgium. *See Stainless Steel Plate in Coils from Belgium: Preliminary Results of Antidumping Duty Review*, 70 FR 32573 (June 3, 2005) (''*Preliminary Results*''). This review covers one producer/exporter, Ugine & ALZ Belgium, NV (U&A Belgium), of the subject merchandise. The period of review (POR) is May 1, 2003, through April 30, 2004. Based on our analysis of the comments received, we have made changes to the *Preliminary Results*. For the final dumping margins see the ''Final Results of Review'' section below.

EFFECTIVE DATE: December 7, 2005.

FOR FURTHER INFORMATION CONTACT: Toni Page or Scott Lindsay at (202) 482–1398 or (202) 482–0780, respectively; Office of AD/CVD Operations 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2005, the Department published in the **Federal Register** the preliminary results of the fifth administrative review of the antidumping duty order on SSPC from Belgium. *See Preliminary Results*. Since the *Preliminary Results*, the following events have occurred. On July 14, 2005, U&A Belgium (Respondent) requested that the Department extend the due dates for briefs until July 22, 2005, and rebuttal briefs until July 27, 2005. Based on the reasons in Respondent's letter, the Department extended the deadline for briefs until July 22, 2005, and the rebuttal briefs until July 29, 2005. Case briefs from Respondent and Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, United Steelworkers of America, AFL–CIO/CLC, and Zanesville Armco Independent Organization (collectively, Petitioners) were timely filed.

In the *Preliminary Results*, the Department stated that it would issue a supplemental questionnaire to Respondent requesting that it clarify a difference between the volume of sales reported in its database, and the volume and value of entries observed by the Department from U.S. Customs and Border Protection (CBP) data. The Department issued three supplemental questionnaires on this issue and received responses from Respondent on July 1, 2005, to the Department's May 27, 2005 questionnaire; August 19, 2005, to the Department's August 2, 2005 questionnaire; and September 21, 2005, and September 27, 2005, (in two parts) to the Department's September 13, 2005 questionnaire. Petitioners commented on these responses on September 28, 2005, and October 11, 2005. Three of these supplemental questionnaire responses were received after the due dates for case and rebuttal briefs. As such, on October 28, 2005, we established a briefing schedule for the issues that surfaced as a result of Respondent's questionnaire responses being submitted after the *Preliminary Results*. On November 4, 2005, and November 9, 2005, we received briefs and rebuttal briefs for the issues raised in Respondent's supplemental questionnaire responses.

Analysis of Comments Received

The issues raised in all case briefs, rebuttal briefs, and additional comments by parties to this administrative review are addressed in the *Issues and Decision Memorandum for the Final Results of the Fifth Administrative Review of the Antidumping Duty Order on Stainless Steel Plate in Coils from Belgium*, from

Stephen J. Claeys, Deputy Assistant Secretary for Import Administration to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration (November 30, 2005) (*Decision Memorandum*), which is hereby adopted by this notice. A list of the issues addressed in the *Decision Memorandum* is appended to this notice. The *Decision Memorandum* is on file in the Central Records Unit (CRU), room B–099 of the Department of Commerce main building and can be accessed directly at *http://ia.ita.doc.gov/frn*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Scope of the Antidumping Duty Order

The product covered by this order is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat–rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold–rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order are the following: (1) Plate not in coils; (2) Plate that is not annealed or otherwise heat treated and pickled or otherwise descaled; (3) Sheet and strip; and (4) Flat bars.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to these orders is dispositive.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made changes in the calculations for the final dumping margin. The changes made since the *Preliminary Results* are listed under the ''List of Issues'' which is appended to this notice. The changes are discussed in detail in the *Decision Memorandum* and the *Memorandum to the File Through Thomas Gilgunn from Toni Page and Scott Lindsay: Analysis for Ugine & ALZ, N.V. Belgium (U&A Belgium) for the Final Results of the Fifth Administrative Review of Stainless Steel Plate in Coils (SSPC) from Belgium* (November 30, 2005) (*Final Analysis Memo*).

Use of Facts Available

The record of this review shows that Respondent did not report certain sales of SSPC with a nominal thickness of 4.75 mm or greater. Section 776(a)(2)(A) of the Act provides that the Department shall use facts otherwise available if a respondent ''withholds information that has been requested by the administering authority.'' Since Respondent has withheld information requested by the Department, the application of partial facts otherwise available under section 776(a)(2)(A) of the Act is warranted. However, we note that Respondent's decision to exclude sales of nominal SSPC in this review relied, in part, on the Department's acceptance of Respondent's exclusion of nominal SSPC sales in prior reviews of this order. As such, the Department is not applying adverse facts available pursuant to section 776(b) of the Act. *See* the *Decision Memorandum* at *Comment 9* for a more complete discussion of the Department's analysis. As partial facts available, we have applied the weighted–averaged margin calculated using U&A Belgium's reported U.S. sales to U&A Belgium's unreported sales of nominal SSPC.

For a more complete discussion of the Department's use of partial facts otherwise available, see the public version of *Final Analysis Memo*.

Final Results of Review

As a result of our review, we determine that the following weighted–average margin exists for the period May 1, 2003, through April 30, 2004:

Manufacturer/Exporter	Margin (percent)
Ugine & ALZ Belgium, NV	2.96

Duty Assessment

The Department shall determine and CBP shall assess antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. Upon issuance of the final results of this administrative review, if any importer–specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), for each respondent we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to that importer or customer and dividing this amount by the total value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, and the respondent has reported reliable entered values, we apply the assessment rate to the entered value of the importer's/customer's entries during the review period. Where an importer (or customer)- specific *ad valorem* rate is greater than *de minimis* and we do not have reliable entered values, we calculate a per–unit assessment rate by aggregating the dumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). The Department will issue appropriate assessment instructions directly to CBP within 15 days of the final results of this review.

Cash Deposit Requirements

The following antidumping duty deposit rates will be effective upon publication of the final results of this administrative review for all shipments of SSPC from Belgium entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Act: (1) for U&A Belgium, the cash deposit rate will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less–than-fair–value (LTFV) investigation, the cash deposit rate will continue to be the company–specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the

manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate shall be the all others rate established in the LTFV investigation, which is 9.86 percent *ad valorem*, the ''all others'' rate. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Belgium*, 64 FR 15476 (March 31, 1999). These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(5). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 30, 2005.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

APPENDIX

List of Issues

1. Major Inputs
2. U.S. Warehousing Expenses
3. Offsetting Margins with Above–Normal-Value Transactions
4. Prime and Non–Prime Merchandise
5. Revised Entered Values
6. CEP Offset
7. Duty Assessment
8. Whether Sales of SSPC with a Nominal Thickness of 4.75 mm or Greater Regardless of Actual Thickness Should Have Been Reported
9. Application of Facts Available

[FR Doc. 05–23740 Filed 12–6–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112305C]

Fisheries of the Exclusive Economic Zone Off Alaska; Public Workshop

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

ACTION: Notice; public workshop.

SUMMARY: NMFS will present a workshop on proposed catch-monitoring standards for the non-American Fisheries Act (AFA) trawl catcher/processor sector. These standards are necessary to support proposed groundfish and prohibited species allocations to these sectors that are under consideration by the North Pacific Fishery Management Council.

DATES: The workshop will be held on December 16, 2005, from 10 a.m. to 1 p.m. local time.

ADDRESSES: The workshop will be held at the Nordby Center, in Fishermen's terminal, 1711 W Nickerson St., Seattle, WA.

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, 928–774–4362.

SUPPLEMENTARY INFORMATION: The North Pacific Fisheries Management Council is developing proposed Amendment 80 to the Groundfish of the Bering Sea and Aleutian Islands Management Area Fishery Management Plan (FMP). Amendment 80 would allocate prohibited species and target species other than Pacific cod and pollock to trawl catcher/processor vessels that are not qualified to fish for pollock under the AFA. One aspect of the analysis of alternatives being developed for Amendment 80 includes options for catch monitoring, weighing, and accounting standards for the non-AFA trawl catcher/processor sector. On June 27, 2005, NMFS conducted a workshop on the proposed standards and obtained comments from industry on various options. NMFS is conducting the December 16, 2005, workshop so that interested industry members may provide further guidance to NMFS on the development and implementation of these standards.

This workshop is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Alan Kinsolving (see **FOR FURTHER INFORMATION**).

Dated: December 1, 2005.

Alan D. Risenhoover,

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

[FR Doc. 05–23736 Filed 12–6–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students; Overview Information; Native American and Alaska Native Children in School Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006

Catalog of Federal Domestic Assistance (CFDA) Number: 84.365C.

Dates: Applications Available: December 5, 2005.

Deadline for Notice of Intent to Apply: December 30, 2005.

Deadline for Transmittal of Applications: January 18, 2006.

Deadline for Intergovernmental Review: March 18, 2006.

Eligible Applicants: The following entities, when they operate elementary, secondary, and postsecondary schools primarily for Native American children (including Alaska Native children), are eligible applicants under this program: Indian tribes; tribally sanctioned educational authorities; Native Hawaiian or Native American Pacific Islander native language educational organizations; elementary schools or secondary schools that are operated or funded by the Bureau of Indian Affairs (BIA), or a consortium of such schools; elementary schools or secondary schools operated under a contract with or grant from the BIA in consortium with another such school or a tribal or community organization; and elementary schools or secondary schools operated by the BIA and an institution of higher education (IHE), in consortium with elementary schools or secondary schools operated under a contract with or a grant from the BIA or a tribal or community organization.

Note: Any eligible entity that receives Federal financial assistance under this program is not eligible to receive a subgrant under section 3114 of Title III of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (Pub. L. 107–110)(NCLB).

Note: Eligible applicants seeking to apply as a consortium should read and follow the regulations in 34 CFR 75.127 through 75.129.

Estimated Available Funds: $4,950,000.

Estimated Range of Awards: $100,000–$175,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: 33.

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

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to provide grants for eligible entities to develop high levels of academic attainment in English among limited English proficient (LEP) children, and to promote parental and community participation in language instruction educational programs.

Priorities: Under this competition we are particularly interested in applications that address the following priorities.

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 these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1. Applications that propose to prepare teachers to more effectively involve parents and community groups in school improvement.

Invitational Priority 2. Applications that propose instructional services at the secondary school level that are designed to reduce the high school drop-out rate of LEP students.

Program Authority: 20 U.S.C. 6821(c)(1)(A)–6822.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, and 99.

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

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $4,950,000.

Estimated Range of Awards: $100,000–$175,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: 33.

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

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* The following entities, when they operate elementary, secondary, and postsecondary schools primarily for Native American children (including Alaska Native children), are eligible applicants under this program: Indian tribes; tribally sanctioned educational authorities; Native Hawaiian or Native American Pacific Islander native language educational organizations; elementary schools or secondary schools that are operated or funded by the BIA, or a consortium of such schools; elementary schools or secondary schools operated under a contract with or grant from the BIA in consortium with another such school or a tribal or community organization; and elementary schools or secondary schools operated by the BIA and an IHE, in consortium with elementary schools or secondary schools operated under a contract with or a grant from the BIA or a tribal or community organization.

Note: Any eligible entity that receives Federal financial assistance under this program is not eligible to receive a subgrant under section 3114 of Title III of the ESEA, as amended by NCLB.

Note: Eligible applicants applying as a consortium should read and follow the regulations in 34 CFR 75.127 through 75.129.

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

IV. Application and Submission Information

1. *Address to Request Application Package:* Patrice Swann, U.S. Department of Education, 400 Maryland Ave, SW., Potomac Center Plaza, room 10070, Washington, DC 20202–6510. Telephone: (202) 245–7130, or by e-mail: *patrice.swann@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 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 in this section.

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: If you intend to apply for a grant under this competition, contact Patrice Swann: Telephone: (202) 245–7130 or by e-mail: *patrice.swann@ed.gov*.

Note: We do not consider an application that does not comply with the deadline requirements. However, we will consider an application submitted by the deadline date for transmittal of applications, even if the applicant did not provide us notice of its intent to apply. 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. You must limit Part III to the equivalent of no more than 35 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, including 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 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. However, you must include all of the application narrative in Part III.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: December 5, 2005.

Deadline for Notice of Intent to Apply: December 30, 2005.

Deadline for Transmittal of Applications: January 18, 2006.

Applications for grants under this program may be submitted electronically using the Grants.gov Web 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.

Deadline for Intergovernmental Review: March 18, 2006.

4. *Intergovernmental Review:* This program 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 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. The Native American and Alaska Native Children in School Program-CFDA Number 84.365C is one of the programs 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 The Native American and Alaska Native Children in School Program 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 through 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 the 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 acknowledgement 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: (CFDA Number 84.365C), 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 84.365C), 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: (CFDA Number 84.365C), 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

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 of EDGAR and section 3115 of the ESEA, as amended by NCLB. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses.

(a) *Project activities.* (15 points) The Secretary reviews each application to determine how well the applicant proposes to carry out activities that will—

(1) Increase the English language proficiency of LEP children by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs in increasing English proficiency and student academic achievement in core academic subjects;

(2) Provide high-quality professional development to classroom teachers (including teachers in classroom settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel, that is—

(i) Designed to improve the quality of instruction to and assessment of LEP children;

(ii) Designed to enhance the ability of such teachers to understand and use curricula, assessment measures, and instructional strategies for LEP children; and

(iii) Based on scientifically based research demonstrating the effectiveness of the professional development in substantially increasing these teachers' subject matter knowledge, teaching knowledge, and teaching skills.

(b) *Need for project.* (10 points) The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(1) The magnitude or severity of the problem to be addressed by the proposed project.

(2) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(3) The extent to which the proposed project will provide services or otherwise address the needs of students at risk of educational failure.

(c) *Significance.* (5 points) The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(d) *Quality of the project design.* (15 points) The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(3) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(4) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(5) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and to support rigorous academic standards for students.

(6) The quality of the proposed demonstration design and procedures for documenting project activities and results.

(7) The extent to which the proposed project encourages parental involvement.

(8) The quality of the methodology to be employed in the proposed project.

(e) *Quality of project personnel.* (10 Points) The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The qualifications, including relevant training and experience, of the project director.

(2) The qualifications, including relevant training and experience, of key project personnel.

(3) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(f) *Adequacy of resources.* (10 points) The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The extent to which the budget is adequate to support the proposed project.

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(3) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(g) *Quality of the management plan.* (15 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:

(1) 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.

(2) 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.

(3) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(h) *Quality of the project evaluation.* (20 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 the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) 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.

(3) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(4) The extent to which the methods of evaluation will provide timely guidance for quality assurance.

(5) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

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.

4. *Performance Measures:* The performance measures for the Native American and Alaska Native Children in School Program are:

(1) The percentage of limited English proficiency (LEP) students in the program who make gains in English.

(2) The percentage of LEP students in the program who make gains in core academic subjects.

Grantees will be expected to report on progress in meeting these performance measures for the Native American and Alaska Native Children in School Program in their Annual Performance Report and in their Final Performance Report.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Trini Torres, 400 Maryland Avenue, SW., Potomac Center Plaza, room 1082, Washington, DC 20202–6510. Telephone: (202) 245–7134, or by e-mail: *trinidad.torres-carrion@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 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: November 30, 2005.

Kathleen Leos,

Assistant Deputy Secretary and Director, Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

[FR Doc. E5–7011 Filed 12–6–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos: 84.334A and 84.334S]

Office of Postsecondary Education, Teacher and Student Development Program Service; Grants and Cooperative Agreements; Availability, etc.

ACTION: Notice Announcing Technical Assistance Workshops for fiscal year (FY) 2006 Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) program.

SUMMARY: The Department expects to hold competitions for new State and Partnership grants under the GEAR UP program in FY 2006. This notice provides information about four one-day technical assistance workshops to assist institutions of higher education, local educational agencies, and States interested in preparing grant applications for FY 2006 new awards under the Gaining Early. Program staff will present information about the purpose of the GEAR UP Program, selection criteria, application content, submission procedures, and reporting requirements.

Although the Department has not yet announced an application deadline date in the **Federal Register** for the FY 2006 competitions, the Department is holding these workshops to give potential applicants guidance for preparing applications for the competitions we expect to conduct in FY 2006. Specific requirements for the FY 2006

competitions will be published in a separate **Federal Register** notice. This notice announces the technical assistance workshops only.

FOR FURTHER INFORMATION CONTACT: Angela K. Oliphant, Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) Program, U.S. Department of Education, 1990 K Street, NW., room 6101, Washington, DC 20006–8513. Telephone: (202) 502–7676.

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 for (*e.g.*, Braille, large print, audio tape, or computer diskette) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION: The technical assistance workshops will be held as follows:

1. Philadelphia, Pennsylvania: Monday, December 5, 2005, Hilton Philadelphia, 4200 City Avenue, Philadelphia, PA 19107, Telephone: 215–879–4000.
2. St Louis, Missouri: Tuesday, December 6, 2005, Sheraton St. Louis, 400 South 14th Street, St. Louis, MO 63105, Telephone: 314–231–5007.
3. Atlanta, Georgia: Thursday, December 8, 2005, Holiday Inn Select Conference Center, 450 Capitol Avenue, Atlanta, GA 30312, Telephone: 404–591–2000.
4. Los Angeles, California: Thursday, December 8, 2005, The Wilshire Grand Los Angeles, 930 Wilshire Boulevard 90017, Telephone: 213–688–7777.

All Technical Assistance Workshop sessions will be conducted from 9 a.m. to 5 p.m. each day. Registration is 8 a.m. to 9 a.m. on the day of the session. There is no fee for these workshops. However, space is limited. Attendees are required to make their own reservations directly with the hotel. The Department has reserved a limited number of rooms at each of the hotel sites at a special government room rate. To reserve this rate, be certain to inform the hotel that you are attending the ''U.S. Department of Education GEAR UP Program Technical Assistance Workshop.'' We encourage attendance from those who will be responsible for providing technical support for uploading the application materials onto the Department of Education's portal site for electronic grants.

Assistance to Individuals With Disabilities Attending the Technical Assistance Workshop

The technical assistance workshop site is accessible to individuals with disabilities. If you need an auxiliary aid or service to participate in the workshop (*e.g.*, interpreting service, assistive listening device, or materials in an alternative format), notify the contact person listed under **FOR FURTHER INFORMATON CONTACT**. Although we will attempt to meet a request, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

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 any 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: *www.gpoaccess.gov/nara/index.html*

Program Authority: 20 U.S.C. 1070a–21.

Dated: December 2, 2005.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. 05–23686 Filed 12–1–05; 3:57 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Overview Information Fund for the Improvement of Postsecondary Education—Special Focus Competition: Program for North American Mobility in Higher Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006

Catalog of Federal Domestic Assistance (CFDA) Number: 84.116N.

DATES: Applications Available: December 9, 2005.

Deadline for Transmittal of Applications: April 17, 2006.

Deadline for Intergovernmental Review: July 14, 2006.

Eligible Applicants: Institutions of higher education (IHEs) or combinations of IHEs and other public and private nonprofit institutions and agencies.

Estimated Available Funds: The Administration has requested $300,000 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 if Congress appropriates funds for this program.

Estimated Range of Awards: $25,000–30,000 for the first year only.

Estimated Average Size of Awards: $30,000 for the first year only. $210,000 for four-year duration of grant.

Maximum Award: We will reject any application that proposes a budget exceeding $215,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 10.

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

Project Period: Up to 48 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: To provide grants or enter into cooperative agreements to improve postsecondary education opportunities by focusing on problem areas or improvement approaches in postsecondary education.

Priority: Under this competition, we are particularly interested in applications that address the following priority.

Invitational Priority: For FY 2006 this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is designed to support the formation of educational consortia of American, Canadian, and Mexican institutions to encourage cooperation in the coordination of curricula, the exchange of students, and the opening of educational opportunities among the United States, Canada, and Mexico. The invitational priority is issued in cooperation with Canada and Mexico. These awards support only the participation of U.S. institutions and students in these consortia of American, Canadian, and Mexican institutions. Canadian and Mexican institutions participating in any consortium proposal responding to the invitational priority may apply, respectively, to Human Resources and Skills Development Canada (HRSDC) or the Mexican Secretariat for Public Education (SEP), for additional funding under separate but parallel Canadian and Mexican competitions.

Program Authority: 20 U.S.C. 1138–1138d.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 84, 85, 86, 97, 98, and 99.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $300,000 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 before the end of the current fiscal year, if Congress appropriates funds for this program.

Estimated Range of Awards: $25,000—30,000 for the first year only.

Estimated Average Size of Awards: $30,000 for the first year only. $210,000 for four-year duration of grant.

Maximum Award: We will reject any application that proposes a budget exceeding $215,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 10.

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

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs or combinations of IHEs and other public and private nonprofit institutions and agencies.

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:* Sylvia W. Crowder, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8544. Telephone: (202) 502–7514.

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 contact the 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 84.116N.

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.

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. You must limit Part III to the equivalent of no more than 20 pages (double spaced), 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, including titles, headings, footnotes, quotations, reference, 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 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.

We will reject your application if:

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times: Applications Available:* December 9, 2005.

Deadline for Transmittal of Applications: April 17, 2006.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). 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: July 14, 2006.

4. *Intergovernmental Review:* This program 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 program.

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 program 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 Program for North American Mobility in Higher Education—CFDA Number 84.116N must be submitted electronically using 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.

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.*

You may access the electronic grant application for the Program for North American Mobility in Higher Education 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:

- 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 submission 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 all of the steps in the Grants.gov registration process (see *http://www.Grants.gov/GetStarted*). These steps include (1) registering your organization, (2) registering yourself as an Authorized Organization Representative (AOR), and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/assets/GrantsgovCoBrandBrochure8X11.pdf*). You also must 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, and you must have completed all registration steps to allow you to successfully submit an application via Grants.gov.
- You must submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (SF 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.
- After you electronically submit your application, you will receive an automatic acknowledgement 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 Technical Issues with the Grants.gov System: 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 the 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.

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 Grants.gov system because:

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov 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: Sylvia W. Crowder, U.S. Department of Education, 1990 K Street, NW., room 6154, Washington, DC 20006–8544. FAX: (202) 502–7877.

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 84.116N), 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 84.116N), 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 84.116N), 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 (SF 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 evaluating applications for this program are from 34 CFR 75.210 of EDGAR and are listed in the application package.

2. *Review and Selection Process:* Additional factors we consider in selecting an application for an award are applications that demonstrate a tri-lateral, innovative North American approach to training and education.

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.

4. *Performance Measures:* The success of this program depends upon—(1) The extent to which funded projects are being replicated (i.e., adopted or adapted by others); and (2) The manner in which projects are being institutionalized and continued after funding. These two performance measures constitute the Fund for the Improvement of Postsecondary Education's (FIPSE's) indicators of the success of the program. If funded, you will be asked to collect and report data from your project on steps taken toward achieving these goals. Consequently, applicants are advised to include these two outcomes in conceptualizing the design, implementation, and evaluation of their proposed projects. Institutionalization and replication are important outcomes that ensure the ultimate success of international consortia funded through this program.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Sylvia W. Crowder, Fund for the Improvement of Postsecondary Education, Program for North American Mobility in Higher Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8544. Telephone: (202) 502–7514.

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 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 2, 2005.

Sally Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. E5–7009 Filed 12–6–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Overview Information; Fund for the Improvement of Postsecondary Education—Special Focus Competition: US-Brazil Higher Education Consortia Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006

Catalog of Federal Domestic Assistance (CFDA) Number: 84.116M.

Dates: Applications Available: December 9, 2005.

Deadline for Transmittal of Applications: April 17, 2006.

Deadline for Intergovernmental Review: July 14, 2006.

Eligible Applicants: Institutions of higher education (IHEs) or combinations of IHEs and other public and private nonprofit institutions and agencies.

Estimated Available Funds: The Administration has requested $300,000 for the US-Brazil Higher Education Consortia 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: $30,000 for the first year. $200,000—$210,000 for four-year duration of grant.

Estimated Average Size of Awards: $30,000 for the first year. $210,000 for four-year duration of grant.

Maximum Award: We will reject any application that proposes a budget exceeding $210,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 12.

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

Project Period: Up to 48 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: To provide grants or enter into cooperative agreements to improve postsecondary education opportunities by focusing on problem areas or improvement approaches in postsecondary education.

Priority: Under this competition, we are particularly interested in applications that address the following priority.

Invitational Priority: For FY 2006 this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority encourages proposals designed to support the formation of educational consortia of American and Brazilian institutions to support cooperation in the coordination of curricula, the exchange of students, and the opening of educational opportunities between the United States and Brazil. The invitational priority is issued in cooperation with Brazil. These awards support only the participation of U.S. institutions and students in these consortia. Brazilian institutions participating in any consortium proposal responding to the invitational priority may apply, respectively, to the Coordination of Improvement of Personnel of Superior Level (CAPES), Brazilian Ministry of Education, for additional funding under a separate but parallel Brazilian competition.

Program Authority: 20 U.S.C. 1138–1138d.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 84, 85, 86, 97, 98, and 99.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $300,000 for the US-Brazil Higher Education Consortia 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 before the end of the current fiscal year, if Congress appropriates funds for this program.

Estimated Range of Awards: $30,000 for the first year. $200,000–$210,000 for four-year duration of grant.

Estimated Average Size of Awards: $30,000 for the first year. $210,000 for four-year duration of grant.

Maximum Award: We will reject any application that proposes a budget exceeding $210,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 12.

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

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs or combinations of IHEs and other public and private nonprofit institutions and agencies.

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:* Sylvia W. Crowder, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8544. Telephone: (202) 502–7514.

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 contact the 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 84.116M.

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. You must limit Part III to the equivalent of no more than 20 pages (double spaced), using the following standards:

- A ''page'' is 8.5″ × 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, including 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 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.

We will reject your application if:

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times: Applications Available:* December 9, 2005.

Deadline for Transmittal of Applications: April 17, 2006.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). 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: July 14, 2006.

4. *Intergovernmental Review:* This program 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 program.

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 program 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 US-Brazil Higher Education Consortia Program—CFDA Number 84.116M must be submitted electronically using 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.

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.*

You may access the electronic grant application for the US-Brazil Higher Education Consortia Program 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:

- 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 submission 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 all of the steps in the Grants.gov registration process (see *http://www.Grants.gov/GetStarted*). These steps include (1) registering your organization, (2) registering yourself as an Authorized Organization Representative (AOR), and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/assets/GrantsgovCoBrandBrochure8X11.pdf*). You also must 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, and you must have completed all registration steps to allow you to successfully submit an application via Grants.gov.
- 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 all information typically included on the Application for Federal Education Assistance (SF 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.
- After you electronically submit your application, you will receive an automatic acknowledgement 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 Technical Issues with the Grants.gov System: 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 the 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.

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 Grants.gov system because:

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov 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: Sylvia W. Crowder, U.S. Department of Education, 1990 K Street, NW., room 6154, Washington, DC 20006–8544. FAX: (202) 502–7877.

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 84.116M), 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 84.116M), 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 84.116M), 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 (SF 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 of EDGAR and are listed in the application package.

2. *Review and Selection Process:* Additional factors we consider in selecting an application for an award are applications that demonstrate a bi-lateral, innovative US-Brazilian approach to training and education.

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.

4. *Performance Measures:* The success of this competition depends upon (1) the extent to which funded projects are being replicated (*i.e.*, adopted or adapted by others); and (2) the manner in which projects are being institutionalized and continued after funding. These two performance measures constitute the Fund for the Improvement of Postsecondary Education's (FIPSE's) indicators of the

success of the program. If funded, you will be asked to collect and report data from your project on steps taken toward achieving these goals. Consequently, applicants are advised to include these two outcomes in conceptualizing the design, implementation, and evaluation of their proposed projects. Institutionalization and replication are important outcomes that ensure the ultimate success of international consortia funded through this program.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Sylvia W. Crowder, Fund for the Improvement of Postsecondary Education, Program for North American Mobility in Higher Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8544. Telephone: (202) 502–7514.

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 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 2, 2005.

Sally Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. E5–7010 Filed 12–6–05; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: United States Election Assistance Commission.

ACTION: Notice of Public Meeting Agenda.

DATE AND TIME: Tuesday, December 13, 2005, 10 a.m.–12 noon.

PLACE: U.S. Election Assistance Commission, 1225 New York Ave., NW., Suite 1100, Washington, DC 20005. (Metro Stop: Metro Center).

AGENDA: The Commission will receive the following reports: Title II Requirements Payments Update; FY 2006 Appropriations update; and updates on other administrative matters. The Commission will elect the Chair and Vice Chair of the Commission for 2006. The Commission will receive presentations on the Voluntary Voting System Guidelines (VVSG) and consider the VVSG for adoption.

This meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone: (202) 566–3100.

Paul S. DeGregorio,

Vice Chairman, U.S. Election Assistance Commission.

[FR Doc. 05–23760 Filed 12–2–05; 4:00 pm]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1534–001]

American Electric Power Service Corporation; Notice of Filing

November 25, 2005.

On November 14, 2005, American Electric Power Service Corporation (AEP), as agent for Appalachian Power Company submitted Second Revised Substitute Sheet No. 13 to the Interconnection and Local Delivery Service Agreement No. 1252 between Blue Ridge Power Agency, Inc. and AEP.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on December 5, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6923 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–5–000, ER06–5–001]

CBK Group, LTD; Notice of Issuance of Order

November 29, 2005.

CBK Group, LTD (CBK Group) filed an application for market-based rate authority, with an accompanying tariff. The proposed rate tariff provides for wholesale sales of capacity and energy at market-based rates. CBK Group also requested waiver of various Commission regulations. In particular, Wisconsin River requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Wisconsin River.

On March 25, 2005, the Commission granted the request for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of

issuances of securities or assumptions of liability by Wisconsin River should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest, is April 25, 2005.

Absent a request to be heard in opposition by the deadline above, Wisconsin River is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Wisconsin River, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Wisconsin River's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6937 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–107–000]

Chandeleur Pipe Line Company; Notice of Filing

November 29, 2005.

Take notice that on November 22, 2005, Chandeleur Pipe Line Company (Chandeleur) tendered for filing Gas Tariff, Second Revised Volume No. 1, a work paper supporting the continuation, effective January 1, 2006, of its currently effective Fuel and Line Loss Allowance of 0.0%.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time December 6, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6949 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–618–001]

Colorado Interstate Gas Company; Notice of Compliance Filing

November 29, 2005.

Take notice that on November 23, 2005, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, Pro Forma First Revised Volume No.1, the following tariff sheets:

First Revised Sheet No. 380F.
First Revised Sheet No. 380G.
First Revised Sheet No. 380H.
Original Sheet No. 380H.01.
Original Sheet No. 380H.02.
Original Sheet No. 380H.03.
Original Sheet No. 380H.04.

CIG states that the pro forma tariff sheets are being filed to comply with the Commission's Order dated September 30, 2005 in Docket No. RP05–618–000. CIG states that these pro forma tariff sheets are submitted to establish a true-up feature in its Fuel and L&U reimbursement mechanism.

CIG states that copies of its filing have been sent to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6945 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–151–003]

Columbia Gas Transmission Corporation; Notice of Petition to Amend

November 30, 2005.

Take notice that on August 1, 2005, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP98–151–003, a petition to amend the authorization previously issued by the Commission as it relates to the facilities approved for abandonment, the method of abandonment, and the leasing of capacity from Millennium Pipeline Company, L.P. In addition, Columbia requests approval of an interim operating agreement. In addition, Columbia requests approval of a limited-term certificate of public convenience and necessity with pre-granted abandonment authorizing Columbia to operate certain facilities that Millennium has requested authority to construct, pending the in-service date of Millennium.

This petition is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any initial questions regarding this petition should be directed to counsel for Columbia, Fredric J. George, Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325–1273; at (304) 357–2359 (phone) or (304) 357–3206 (fax).

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons who wish to comment only on the environmental review of this project, or in support of or in opposition to this project, should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the applicant. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: January 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6955 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commssion

[Docket Nos. ES06–7–000, ES06–8–000]

Consolidated Edison Company of New York, Inc.; Orange and Rockland Utilities, Inc.; Notice of Application

November 25, 2005.

Take notice that on November 21, 2005, Consolidated Edison Company of New York, Inc. (Consolidated Edison) and Orange and Rockland Utilities, Inc. (Orange and Rockland) submitted applications pursuant to Section 204 of the Federal Power Act. Consolidated Edison is seeking authorization to issue short-term debt in an amount not to exceed $1.5 billion outstanding at any one time. Orange and Rockland is seeking authorization to issue short-term debt in an amount not to exceed $200 million.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on December 6, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6921 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–78–001]

Discovery Gas Transmission LLC; Notice of Compliance Filing

November 29, 2005.

Take notice that on November 22, 2005, Discovery Gas Transmission LLC (Discovery) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 117, to be effective November 14, 2005.

Discovery states that the filing is being made in compliance with the order issued by the Commission in the above-captioned proceeding on November 14, 2005, 113 FERC ¶ 61,149.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6935 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–26–000]

Dominion Cove Point LNG, LP; Notice of Application

November 28, 2005.

Take notice that on November 16, 2005, Dominion Cove Point LNG, LP (Cove Point LNG) filed an application in Docket No. CP06–26–000, pursuant to section 3 of the Natural Gas Act, for authority to construct, install, own, operate and maintain certain facilities at the Cove Point LNG import terminal at Cove Point, Maryland (Air Separation Unit Project). The details of this proposal are more fully set forth in the application that is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to Anne E. Bomar, Managing Director, Transmission, Rates and Regulation, Dominion Resources, Inc., 120 Tredegar Street, Richmond, Virginia 23219, or by phone at (804) 819–2134.

Cove Point LNG says that the Air Separation Unit Project is designed to add two air separation units, a liquid nitrogen storage tank, an electric generation unit, and appurtenant facilities at the Cove Point LNG import terminal. This project will increase Cove Point LNG's ability to inject nitrogen into the vaporized liquefied natural gas as necessary to meet the tariff requirements for gas quality contained in the Cove Point LNG's tariff. Cove Point LNG requests that the Commission grant the requested authorization at the earliest practicable date, in order to ensure an in-service date of January 2008.

Cove Point LNG says that the facilities proposed in the Cove Point Air Separation Unit Project will also enhance the reliability of service at the terminal and provide the Rate Schedule LTD–1 customers with more flexibility to acquire and schedule cargoes of LNG from a wider variety of supply sources. Cove Point LNG says that the Air Separation Unit Project also will not result in any change to the gas quality specifications contained in Cove Point's tariff, including the BTU level and nitrogen content specified in those provisions.

Cove Point LNG says that it intends to make a subsequent, limited Natural Gas Act Section 4 filing to adjust the currently effective LTD–1 settlement rates to reflect the costs of the Air Separation Unit Project. Further, Cove Point LNG does not seek Commission approval of the Air Separation Unit Project rates in the instant proceeding; however, it requests that the Commission find in this proceeding that: (1) The proposed facilities are prudently designed and appropriately sized to provide the requested nitrogen injection capacity; (2) the costs of the proposed facilities, about $ 63 million, are reasonable; and (3) the proposed rate treatment for the costs of the Air Separation Unit Project as shown on Exhibit Z is reasonable. Cove Point LNG is proposing an Air Separation Unit Project surcharge in the LTD rate schedules with a reservation charge of $ 1.5990 per Dth in the LTD–1 Rate Schedule and a maximum commodity charge of $ 0.0526 per Dth in the LTD–2 Rate Schedule.

On October 7, 2005, the Commission issued new rules which generally require that projects involving liquefied natural gas terminals follow mandatory procedures requiring prospective applicants to begin the Commission's pre-filing review process at least six months prior to filing an application for any siting or construction authorizations. (See Order No. 665, new rules at 18 CFR 157.21) However, based on an October 25, 2005 request by Cove Point LNG under section 157.21(e)(2) of the new rules, the Director of the Commission's Office of Energy Projects made a finding and determination on November 14, 2005, that the pre-filing review process would not apply to Cove Point LNG's Air Separation Unit Project.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the

requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons who wish to comment only on the environmental review of this project, or in support of or in opposition to this project, should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the applicant. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: December 16, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6927 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–105–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 29, 2005.

Take notice that on November 22, 2005, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with a proposed effective date of November 1, 2005:

Fifty-Ninth Revised Sheet No. 7.
Fifty-Ninth Revised Sheet No. 8.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6947 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–248–008; Docket No. RP04–251–009]

El Paso Natural Gas Company; Notice of Compliance Filing

November 29, 2005.

Take notice that on November 22, 2005, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1A, the tariff sheets listed in Appendix A to become effective January 1, 2006.

EPNG states that copies of the filing were served on parties on the official service list in the above-captioned proceedings.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail

FERCOnlineSupport@ferc.gov, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6943 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP06–5–000; CP06–6–000; CP06–7–000]

Empire State Pipeline, Empire Pipeline, Inc.; Notice of Application

November 30, 2005.

Take notice that on October 11, 2005, Empire State Pipeline (Empire State), and Empire Pipeline, Inc. (EPI)(collectively, Applicants), 6363 Main Street, Williamsville, New York 14221, filed with the Federal Energy Regulatory Commission (Commission) an application under section 7(c) of the Natural Gas Act and parts 157 and 284 of the Commission's regulations for: (1) A certificate of public convenience and necessity authorizing the construction, ownership, and operation of existing and new interstate natural gas pipeline, compression and other facilities; (2) a blanket certificate to provide open-access firm and interruptible transportation services; and (3) a blanket certificate to construct, operate, and/or abandon certain eligible facilities, and services related thereto. Empire also requests authorization of the initial rates for transportation service and terms and conditions of service proposed in the *pro forma* tariff.

Empire State's existing facilities consist of an approximately 157-mile natural gas pipeline running from the U.S./Canada border near Buffalo, New York to near Syracuse, New York, and are currently subject to state jurisdiction. In the Empire Connector Project, the Applicants propose to expand and extend the existing Empire State pipeline from Victor, New York, to a proposed interconnection with the facilities of Millennium Pipeline Company, L.P. in Corning, New York. The expansion facilities will consist of approximately 78 miles of 24-inch diameter pipeline, 20,620 horsepower compressor station, and associated facilities. The Applicants state the proposed facilities will have a design capacity of 250,000 Dth/day in the winter and 221,000 Dth/day in the summer.

The application is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to David W. Reitz, Attorney for the Applicants, 6363 Main Street, Williamsville, New York 14221; phone (719) 857–7949 or *reitzd@natfuel.com.*

On September 21, 2004 the Commission staff granted the Applicants' request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF04–16–000 to staff activities involving the Empire Connector Project. Now, as of the filing of this application on October 11, 2005, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket Nos. CP06–5–000, *et. al*, as noted in the caption of this Notice.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date listed below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of this filing and all subsequent filings made with the Commission and must mail a copy of all filing to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, other persons do not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to this project provide copies of their protests only to the party or parties directly involved in the protest.

Persons may also wish to comment further only on the environmental review of this project. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents issued by the Commission, and will be notified of meetings associated with the Commission's environmental review process. Those persons, organizations, and agencies who submitted comments during the NEPA Pre-Filing Process in Docket No. PF04–16–000 are already on the Commission staff's environmental mailing list for the proceeding in the above dockets and may file additional comments on or before the below listed comment date. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, environmental commenters are also not parties to the proceeding and will not receive copies of all documents filed by other parties or non-environmental documents issued by the Commission. Further, they will not have the right to seek court review of any final order by Commission in this proceeding.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: January 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6959 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–108–000]

Enbridge Pipelines (KPC); Notice of Proposed Changes in FERC Gas Tariff

November 29, 2005.

Take notice that on November 23, 2005, Enbridge Pipelines (KPC)

tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Sixth Revised Sheet No. 31C, to become effective on December 23, 2005.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6950 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC05–43–000]

Exelon Corporation Public Service Enterprise Group Incorporated; Notice of Compliance Filing

November 25, 2005.

On August 1, 2005, Exelon Corporation and Public Service Enterprise Group Incorporated (Applicants) submitted a filing in compliance with Ordering Paragraph (H) the Commission's Order Authorizing Merger Under section 203 of the Federal Power Act issued July 1, 2005, in the above-docketed proceeding. *Exelon Corporation Public Service Corporation*, 112 FERC ¶61,011 (20205). The compliance filing addresses (1) the Applicants' commitment to retain an independent party to administer the baseload energy auction; and (2) the Applicants commitment to establish a public compliance Web site.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on December 8, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6924 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–15–000]

Exelon Generation Corporation, LLC; Notice of Filing

November 28, 2005.

Take notice that on October 28, 2005, Exelon Generation Company, LLC and Public Service Electric and Gas Company (collectively, Applicants) submitted for filing a Petition for Declaratory Order. Applicants state that the purpose of the filing is to request the Commission to find that the payment of dividends from the Applicant's capital accounts, following the consummation of the merger between Exelon Corporation and Public Service Enterprise Group Incorporated, will not implicate section 305(a) of the Federal Power Act. Applicants request authority to pay dividends from the identified capital accounts only up to the level of retained earnings of identified subsidiaries shown on their closing balance sheets on the day of the merger closing.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on December 13, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6928 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–106–000]

Gas Transmission Northwest Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 29, 2005.

Take notice that on November 22, 2005, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, Second Revised Sheet No. 175, to become effective December 23, 2005.

GTN states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6948 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–475–001]

Great Lakes Gas Transmission Limited Partnership; Notice of Compliance Filing

November 29, 2005.

Take notice that on September 23, 2005, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of September 1, 2005:

Eighth Revised Sheet No. 10A.
Sixth Revised Sheet No. 39A.
Fifth Revised Sheet No. 39B.
Substitute Tenth Revised Sheet No. 50C.

Great Lakes states that the filing is being made in compliance with the Commission's Letter Order on Compliance with Order No. 587–S, issued on September 8, 2005 in Docket No. RP05–475–000.

Great Lakes states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6944 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–167–000 and ER06–167–001]

Liberty Power Maryland LLC; Notice of Issuance of Order

November 29, 2005.

Liberty Power Maryland LLC (Liberty Power Maryland) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for the sales of capacity and energy at market-based rates. Liberty Power Maryland also requested waiver of various Commission regulations. In particular, Liberty Power Maryland requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Liberty Power Maryland.

On November 29, 2005, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Liberty Power Maryland should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protests is December 29, 2005.

Absent a request to be heard in opposition by the deadline above, Liberty Power Maryland is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Liberty Power Maryland, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Liberty Power Maryland's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6936 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–150–006]

Millennium Pipeline Company, L.P.; Notice of Petition To Amend

November 30, 2005.

Take notice that on August 1, 2005, Millennium Pipeline Company, L.P., (Millennium), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030, filed in Docket No. CP98–150–006, a petition to amend the Commission Order issued September 19, 2002, pursuant to section 7 of the Natural Gas Act to allow the phased construction of its system. Specifically, Millennium seeks authorization to construct Phase I of the system, extending from a point in Greenwood, New York to a point in Clarkstown, New York.

This petition is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any initial questions regarding this petition should be directed to counsel for Millennium, Daniel F. Collins or Glenn S. Benson, Fulbright & Jaworski, L.L.P., at 801 Pennsylvania Avenue, NW., Washington, DC 20004; or (202) 662–4586 (Daniel) or (202) 662–4589 (Glenn), or by fax at (202) 662–4643.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons who wish to comment only on the environmental review of this project, or in support of or in opposition to this project, should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the applicant. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: January 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6954 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–109–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 30, 2005.

Take notice that on November 23, 2005, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Eleventh Revised Sheet No. 259, with an effective date of December 24, 2005.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6953 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–671–003]

Portland Natural Gas Transmission System; Notice of Compliance Filing

November 29, 2005.

Take notice that on November 17, 2005, Portland Natural Gas Transmission System (PNGTS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Third Substitute Fifth Revised Sheet No. 380 to become effective on September 1, 2005.

PNGTS states that copies of this filing are being served on all jurisdictional customers, interested state commissions, and persons on the official service list in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6946 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER05–1195–000, ER05–1195–001 and ER05–1195–02]

Silverhill Ltd.; Notice of Issuance of Order

November 25, 2005.

Silverhill Ltd. (Silverhill) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed rate tariff provides for the sales of energy and capacity at market-based rates. Silverhill also requested waiver of various Commission regulations. In particular, Silverhill requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Silverhill.

On November 22, 2005, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Silverhill should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protests is December 22, 2005.

Absent a request to be heard in opposition by the deadline above, Silverhill is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Silverhill, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Silverhill's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the

''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6922 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–10–000; Docket Nos. EY06–7–000, TS06–2–000]

Standards of Conduct for Transmission Providers; Venice Gathering System, L.L.C.; Notice Granting Waiver of Posting and Record Keeping Requirements

November 28, 2005.

On November 9, 2005, Venice Gathering System, L.L.C. (Venice Gathering) filed to seek a temporary emergency waiver of sections 358.4(a)(2) and 358.4(b)(3)(iv) of the Commission's regulations, 18 CFR 358.4(a)(2) and 358.4(b)(3)(iv)(2005), and for any other waivers necessary for Venice Gathering to proceed with the restoration work on its pipeline facilities and on the Venice Gathering Processing Plant necessitated by Hurricane Katrina. Venice Gathering requests the waiver until the earlier of the end of the gas day on December 31, 2005 or the date on which the Venice Gathering system has returned to full pre-hurricane operation.

Effective on the date of this notice, the Commission will grant Venice Gathering a waiver, until the earlier of the end of the gas day on December 31, 2005 or the date on which the Venice Gathering system has returned to full pre-hurricane operation, of the otherwise applicable requirements of section 358.4(a)(2) to record and post a log of emergency-related deviations from the Standards of Conduct and of section 358.4(b)(3)(iv) requirements to post updated information on organizational changes resulting from the acquisition by Targa Resources, Inc. (Targa) of Venice Gathering's managing member, Dynegy Midstream Services, Limited Partnership (Dynegy Midstream).

Venice states that it owns and operates a FERC-jurisdictional natural gas gathering and transmission system consisting of: (1) A twenty-six inch mainline, extending from the South Timbalier Block 151 compressor platform in the Gulf of Mexico to the Venice Plant; (2) a twenty-four inch mainline extending from the South Timbaliler Block 151 compressor platform to the West Delta Block 79A platform; and (3) a twenty-two inch mainline extending from the West Delta Block 79A platform to the Venice Plant located near Venice, Louisiana. Venice states, further, that Hurricane Katrina caused extensive damage to processing plants and offshore pipelines located along the Louisiana Gulf Coast, including the Venice Plant and the Venice Gathering system.

Venice Gathering explains that, due to the substantial quantities of gas production shut-in on its system due to damage caused by Hurricane Katrina, certain Venice Gathering and Targa employees with the required expertise and availability to assist in restoration efforts will engage in communications about the status of the restoration efforts and communications to coordinate joint operations and repair work. Venice Gathering explains, further, that it needs to use all available employees with the requisite skills to assist in repairs to the pipelines and related onshore facilities. According to Venice Gathering, its restoration efforts may result in sharing of information and/or employees between Venice Gathering and its Energy Affiliates and discussions between its employees and third-party employees who also are engaged in hurricane-related restoration efforts. Venice Gathering points out that any potential risk of discrimination that may be associated with the waivers is mitigated by the fact that it currently is out of service, and the waivers will terminate when its system is restored to full operation.

In addition, Venice Gathering states that, due to the resources devoted to the restoration project, it is left with limited resources to update in a timely manner its public website to reflect organizational changes associated with Targa's recent acquisition of Dynegy Midstream, Venice Gathering's managing member. Venice Gathering, therefore, requests that the Commission grant these waivers on an expedited basis.

The Commission has previously granted waivers of the emergency exception recording and posting requirements of the Standards of Conduct due to Hurricane Katrina [1] and Hurricane Rita.[2] The waivers, among other things, allowed affected transmission providers to delay for a limited period of time compliance with the requirement of section 358.4(a)(2) of the Commission's regulations to report to the Commission and post on the OASIS or Internet Web site, as applicable, each emergency that resulted in any deviation from the Standards of Conduct. In addition, due to the extreme nature of the emergency in each instance, the Commission also waived, for those limited periods, the requirements to record and retain a record of each deviation of the Standards of Conduct.[3]

The Commission grants Venice Gathering a waiver of the recording and posting requirements of sections 358.4(a)(2) and 358.4(b)(3)(iv) of the Commission's regulations in these emergency circumstances, effective on the date of this notice until the earlier of the end of the gas day on December 31, 2005, or the date on which the Venice Gathering system has returned to full pre-hurricane operation, without prejudice to Venice Gathering requesting a further extension, if necessary. The Commission directs Venice Gathering to ensure that the employees affected by this waiver observe the no-conduit prohibition in the Standards of Conduct, 18 CFR 358.5(b)(7) (2005).

Magalie R. Salas,

Secretary.

[FR Doc. E5–6925 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

[1] Notice Granting Extension Of Time To Comply With Posting And Other Requirements, *Standards of Conduct for Transmission Providers*, Docket Nos. EY05–14–000, *et al.* (August 31, 2005); Notice Waiving Record Keeping Requirements, *Standards of Conduct for Transmission Providers*, Docket Nos. EY05–14–001, *et al.* (September 7, 2005).

[2] Notice Granting Extension Of Time To Comply With Posting And Other Requirements, *Standards of Conduct for Transmission Providers*, Docket Nos. EY05–20–000, *et al.* (September 23, 2005).

[3] *Supra* notes 1 and 2.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–323–009]

Williston Basin Interstate Pipeline Company; Notice of Negotiated Rate

November 29, 2005.

Take notice that on November 21, 2005, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing with the Commission a negotiated Rate Schedule FT–1 Service Agreement. Williston Basin states that the proposed effective date of the Service Agreement is the date the Conoco Refinery-Billings delivery point is placed into service.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6942 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 459–143, Docket No. EL05–73–003]

Duncan's Point Lot Owners Association, Inc.; Duncan's Point Homeowners Association, Inc.; and Nancy A. Brunson, Juanita Brackens, Helen Davis, and Pearl Hankins, Individually v. Union Electric Company d/b/a AmerenUE; Notice Dismissing Complaint as Premature

November 28, 2005.

On November 14, 2005, Duncan's Point Lot Owners Association, Inc., Duncan's Point Homeowners Association, Inc., Nancy A. Brunson, Juanita Brackens, Helen Davis, and Pearl Hankins (Complainants) filed what they termed a formal complaint against Union Electric Company, doing business as AmerenUE, licensee of the Osage Hydroelectric Project No. 459. The project is located on the Lake of the Ozarks in Missouri. Complainants allege that the licensee has failed or refused to comply with the Commission staff's letter order of September 7, 2004, and the Commission's order of May 9, 2005 (111 FERC ¶ 61,190). In support, they raise issues concerning the licensee's compliance filing of October 14, 2005, and Commission staff's site visit report of July 29, 2005.

On September 15, 2005, the Commission denied Complainants' request for rehearing of the Commission's May 9 order. *See* 112 FERC ¶ 61,289. Therefore, the issues resolved in that decision are final and may not be the subject of a new complaint. On September 1, 2005, Commission staff issued a letter order concerning some outstanding compliance issues concerning the project. On September 30, 2005, Complainants filed a request for rehearing of staff's September 1 letter order.

The issues raised in Complainants filing of November 14, 2005, either relate to an ongoing compliance proceeding for which Commission staff has not yet completed its determinations, or are the subject of Complainants' request for rehearing of staff's letter order of September 1, 2005.[1] As such, they are not yet final and are not properly the subject of a formal complaint. Accordingly, the complaint is dismissed as premature. Complainants will have an opportunity to seek further relief after the pending staff and Commission actions have been completed.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6933 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

[1] To the extent that Complainants seek to raise issues regarding the conduct of the Commission or its staff, these matters are outside the scope of the Commission's complaint process. See 18 CFR 385.206(a).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–20–000]

Wisconsin Public Service Corporation, Upper Peninsula Power Company, WPS Energy Services, Inc., WPS Power Development, L.L.C. Complainants v. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C. Respondents; Notice of Complaint

November 29, 2005.

Take notice that on November 23, 2005, Wisconsin Public Service Corporation, Upper Peninsula Power Company, WPS Energy Services, Inc. and WPS Power Development, L.L.C. (collectively, WPS Companies) filed a formal complaint against the Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C. (RTOs) pursuant to section 206 of the Federal Power Act and 18 CFR 385.206, alleging that the RTOs' October 31, 2005, compliance filing in Docket Nos. ER04–375–017 and 018 fails to satisfy the Commission's directives to form a comprehensive Joint and Common Market.

The WPS Companies certify that copies of the complaint were served on the contacts for the Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the

''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on December 19, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6951 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

November 28, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER00–2268–011.
Applicants: Pinnacle West Capital Corporation.
Description: Joint motion to expedite consideration of pending offer of settlement and concurrent filing by Arizona Public Service Co of notice of cancellation re Pinnacle West Capital Corp, Rate Schedule FERC No. 127.
Filed Date: November 14, 2005.
Accession Number: 20051115–0150.

Docket Numbers: ER04–961–005.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc submits proposed revisions to Schedule 2 and Module A of their FERC Electric Tariff, Third Revised Volume No. 1.
Filed Date: November 16, 2005.
Accession Number: 20051118–0202.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER05–1047–002.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc submits the Small Generator Interconnection & Operating Agreement with East Ridge Transmission, LLC and Great River Energy.
Filed Date: November 16, 2005.
Accession Number: 20051118–0221.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER05–1048–002.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc submits the Small Generator Interconnection & Operating Agreement with Wolf Wind Transmission, LLC and Great River Energy.
Filed Date: November 16, 2005.
Accession Number: 20051118–0222.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER05–1318–002.
Applicants: Geneva Energy, LLC.
Description: Geneva Energy LLC submits a petition for acceptance of initial rate schedule, waiver and blanket authority in reference to Geneva's self-certified small power production facility located in Ford Heights, IL formerly known as New Heights Recovery & Power, LLC.
Filed Date: November 17, 2005.
Accession Number: 20051121–0108.
Comment Date: 5 p.m. eastern time on Thursday, December 8, 2005.

Docket Numbers: ER05–1534–001.
Applicants: American Electric Power.
Description: American Electric Power Service Corp, as agent for its affiliate Appalachian Power Co submits AEP & Blue Power Agency, Inc Second Revised Substitute Original Sheet No. 13 of Interconnection & Local Delivery Service Agreement No. 1252.
Filed Date: November 14, 2005.
Accession Number: 20051116–0192.
Comment Date: 5 p.m. eastern time on Monday, December 5, 2005.

Docket Numbers: ER05–1361–001.
Applicants: Calpine Fox LLC.
Description: Calpine Fox LLC's compliance filing of its revised Reactive Supply & Voltage Control from generation service rate schedule, Rate Schedule FERC No. 2.
Filed Date: November 16, 2005.
Accession Number: 20051118–0203.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–162–000.
Applicants: Entergy Service, Inc.
Description: Entergy Operating Companies submits proposed revisions to their Open Access Transmission Tariff, FERC Electric Tariff, second Revised Volume No. 3.
Filed Date: November 4, 2005.
Accession Number: 20051108–0284.
Comment Date: 5 p.m. eastern time on Thursday, December 8, 2005.

Docket Numbers: ER06–214–000.
Applicants: Power Bidding Strategies, LLC.
Description: Power Bidding Strategies, LLC submits the petition for acceptance of initial rate schedule, waiver & blanket authority.
Filed Date: November 15, 2005.
Accession Number: 20051118–0204.
Comment Date: 5 p.m. eastern time on Tuesday, December 6, 2005.

Docket Numbers: ER06–215–000.
Applicants: DeGreeffpa, LLC.
Description: DeGreeffpa, LLC's petition for order accepting market-based rate tariff for filing and granting waivers and blanket approvals.
Filed Date: November 16, 2005.
Accession Number: 20051118–0201.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–216–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc., submits a Large Generator Interconnection Agreement with Ameren Services Co *et al.*
Filed Date: November 16, 2005.
Accession Number: 20051118–0205.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–217–000.
Applicants: Geysers Power Company, LLC.
Description: Geysers Power Co LLC submits updated rate schedule for the Reliability Must-Run Service Agreement for Service Year 2006 w/ the California Independent System Operator Corp et al.
Filed Date: November 16, 2005.
Accession Number: 20051118–0216.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–218–000.
Applicants: Liberty Power District of Columbia LLC.
Description: Liberty Power District of Columbia LLC submits a Petition for Initial Rate Schedule, Waivers and Blanket Authority.
Filed Date: November 16, 2005.
Accession Number: 20051118–0214.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–219–000.
Applicants: Liberty Power New York LLC.
Description: Liberty Power New York LLC submits a Petition for Initial Rate Schedule, Waivers and Blanket Authority.
Filed Date: November 16, 2005.
Accession Number: 20051118–0215.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–220–000.
Applicants: Bendwind, LLC.
Description: Petition of Bendwind LLC for order accepting market-based rate tariff for filing and granting waivers and blanket approvals.
Filed Date: November 16, 2005.

Accession Number: 20051118–0218.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–221–000.
Applicants: Sierra Wind, LLC.
Description: Petition of Sierra Wind LLC for order accepting market-based rate tariff for filing and granting waivers and blanket approvals.
Filed Date: November 16, 2005.
Accession Number: 20051118–0217.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–222–000.
Applicants: Groen Wind, LLC.
Description: Groen Wind, LLC's petition for order accepting market-based rate tariff for filing and granting waivers and blanket approvals.
Filed Date: November 16, 2005.
Accession Number: 20051118–0224.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–223–000.
Applicants: Larswind, LLC.
Description: Larswind, LLC's petition for order accepting market-based rate tariff for filing and granting waivers and blanket approvals.
Filed Date: November 16, 2005.
Accession Number: 20051118–0226.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–224–000.
Applicants: TAIR Windfarm, LLC.
Description: TAIR Windfarm, LLC's petition for order accepting market-based rate tariff for filing and granting waivers and blanket approvals.
Filed Date: November 16, 2005.
Accession Number: 20051118–0225.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–225–000.
Applicants: Hillcrest Wind, LLC.
Description: Hillcrest Wind, LLC's petition for order accepting market-based rate tariff for filing and granting waivers and blanket approvals.
Filed Date: November 16, 2005.
Accession Number: 20051118–0223.
Comment Date: 5 p.m. eastern time on Wednesday, December 7, 2005.

Docket Numbers: ER06–226–000.
Applicants: Choctaw Gas Generation, LLC.
Description: Application of Choctaw Gas Generation, LLC for approval of rate schedule for sales of electric capacity, energy & ancillary services at market-based rates & for approval of certain waivers & blanket authorizations.
Filed Date: November 17, 2005.
Accession Number: 20051121–0109.
Comment Date: 5 p.m. eastern time on Thursday, December 8, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other and the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6911 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EG06–11–000, et al.]

Casselman Windpower, LLC, et al.; Electric Rate and Corporate Filings

November 29, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Casselman Windpower, LLC.

[Docket No. EG06–11–000]

Take notice that on November 22, 2005, Casselman Windpower LLC (Casselman), hereby submits an application for determination of exempt wholesale generator status.

Casselman states that it is developing and will construct, own and operate an approximately 40 MW wind power generation facility located in Summit Township, Somerset County, Pennsylvania. Casselman further states that it will be engaged directly and exclusively in the business of owning and operating all or part of one or more eligible facilities, and selling electric energy at wholesale.

Comment Date: 5 p.m. Eastern Time on December 13, 2005.

2. Bank of America, N.A.

[Docket No. EL02–130–000]

Take notice that on November 14, 2005, Bank of America, N.A. (Bank of America) tendered for filing its report on holdings of public utility securities as of September 30, 2005. Bank of America states that due to an administrative oversight it failed to submit prior reports for each quarter since issuance of the June 5, 2003 and October 22, 2003 Orders and it is including Attachments B through H in compliance of these Orders.

Comment Date: 5 p.m. Eastern Time on December 8, 2005.

3. Consolidated Edison Company of New York, Inc.

[Docket No. EL05–123–002]

Take notice that on November 18, 2005, Consolidated Edison Company of New York, Inc., in compliance with 112 FERC ¶ 61,304 issued September 9, 2005, submits a refund report of refund payments made to the New York Power Authority.

Comment Date: 5 p.m. Eastern Time on December 9, 2005.

4. Prime Power Sales I, LLC.

[Docket No. ER05–982–002]

Take notice that on October 18, 2005, Prime Power Sales I, LLC (PPSI) tendered for filing a notice of change in status regarding the representations the Commission relied upon in granting PPSI market-based authority on July 14, 2005. PSSI states that it has changed it upstream ownership since the July 14 Order was issued.

Comment Date: 5 p.m. Eastern Time on December 7, 2005.

5. Xcel Energy Services Inc.

[Docket No. ER06–172–000]

Take notice that on November 3, 2005, Xcel Energy Services Inc. (XES) tendered for filing revised tariff sheets to the Xcel Energy Operating Companies Joint Open Access Transmission Tariff, First Revised Volume No. 1. XES states that these revised tariff sheets are being submitted on behalf of its operating companies Northern States Power Company—Minnesota and Northern States Power Company—Wisconsin and Southwestern Public Service Company.

Comment Date: 5 p.m. Eastern Time on December 7, 2005.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6952 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2984–042]

S.D. Warren Company; Notice of Availability of Final Environmental Assessment

November 29, 2005.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects' staff has reviewed the application for new license for the Eel Weir Project, located at the outlet of Sebago Lake, and has prepared a final Environmental Assessment (EA) for the project. In the final EA, Commission staff analyzed the potential environmental effects of relicensing the project and concludes that issuing a new license for the project, with appropriate environmental measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the final EA is available for review in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. You may also register online at *http://www.fer.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or any other pending projects. For assistance, contact FERC Online Support.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6940 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2153–012 California]

United Water Conservation District; Notice of Availability of Environmental Assessment

November 28, 2005.

In accordance with the National Environmental Policy Act of 1969, as amended, and Federal Energy Regulatory Commission's (Commission) regulations (18 CFR Part 380), Commission staff reviewed the application for a minor license for the Santa Felicia Hydroelectric Project and prepared this environmental assessment (EA). The project is located on Piru Creek in Ventura County, California. The project occupies 174.5 acres of U.S. land that is administered by the U.S. Department of Agriculture, Forest Service (Forest Service) in the Los Padres and Angeles National Forests.

Specifically, the project licensee, United Water Conservation District, requested Commission approval of the Santa Felicia Project for hydroelectric generation purposes. In the EA, Commission staff analyze the probable environmental effects of relicensing the project and conclude that approval of the project, with appropriate staff-recommended environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in Public Reference Room 2–A of the Commission's offices at 888 First Street, NE., Washington, DC. The EA also may be viewed on the Commission's Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Additional information about the project is available from the Commission's Office of External Affairs at (202) 502–6088, or on the Commission's website using the eLibrary link. For assistance with eLibrary, contact *FERCOnlineSupport@ferc.gov* or call toll-free at (866) 208–3676; for TTY contact (202) 502–8659.

Any comments on the EA should be filed within 45 days of the date of this notice and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please reference ''Santa Felicia Hydroelectric Project, FERC Project No. 2153–012'' on all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages

electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Please contact Kenneth Hogan by telephone at (202)502–8434 or by e-mail at *Kenneth.Hogan@ferc.gov* if you have any questions.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6931 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2246–047]

Yuba County Water Agency; Notice of Availability of Environmental Assessment

November 28, 2005.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed an application for an amendment of license for the Yuba River Development Project (FERC No. 2246) and has prepared an Environmental Assessment (EA) for the proposed amendment. The project is located on the North Yuba River downstream of Englebright Dam in Yuba County, California, about 20 miles northeast of Marysville and about 24 miles upstream from the confluence of the Yuba and Feather Rivers.

The licensee requests approval to construct and operate a 3,000 cubic feet per second (cfs) synchronous flow bypass system and to revise flow reduction and fluctuation criteria under article 33(d) of the license for the Narrows II development. Currently, the licensee is only capable of bypassing 650 cfs through the plant, which has a capacity of 3,400 cfs under full generation load. The proposed bypass system will allow the licensee, especially during emergency shutdown periods, to be able to minimize flow fluctuations downstream. The EA contains Commission staff's analysis of the probable environmental impacts of the proposal and concludes that approving the licensee's application would not constitute a major federal action significantly affecting the quality of the human environment.

The EA is attached to a Commission order titled ''Order Modifying and Approving Amendment of License,'' which was issued November 22, 2005, and is available for review and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''elibrary'' link. Enter the project number (prefaced by P-) and excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6932 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–018–000]

Tennessee Gas Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Essex-Middlesex Project; Request for Comments on Environmental Issues, and Notice of Site Visit and Public Scoping Meeting

November 28, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Essex-Middlesex Project involving construction and operation of facilities by Tennessee Gas Pipeline Company (Tennessee Gas) in Essex and Middlesex Counties, Massachusetts.[1] These facilities would consist of about 7.8 miles of 24-inch-diameter pipeline and aboveground pig receiver and tie-in facilities. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Tennessee Gas provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

Tennessee Gas wants to increase its ability to receive and transport gas into the Northeast natural gas pipeline network by constructing its facilities in Essex and Middlesex Counties, Massachusetts to provide up to 82,300 decatherms per day of incremental firm transportation capacity. Tennessee Gas would connect its Beverly-Salem Line 270C–100 near Saugus, Massachusetts to its DOMAC Line 270C–1100 near Lynnfield, Massachusetts. The proposed alignment follows New England Power Company's (NEPCO) powerline right-of-way. Tennessee Gas seeks authority to construct and operate:

- 7.8 miles of 24-inch-diameter pipeline in Essex and Middlesex Counties, Massachusetts;
- One tie-in facility at the northern terminus, milepost 7.83;
- One new pig receiver at the north end, milepost 7.62; and
- One tie-in facility at the southern terminus, milepost 0.0.

The general location of the project facilities is shown in Appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would require about 81 acres of land. Following construction, about 47 acres would be maintained as new permanent pipeline right-of-way. The remaining 34 acres of land would be restored and allowed to revert to its former use. Tennessee Gas would use a total construction right-of-way width of 75 to 100 feet during construction. Following construction, Tennessee Gas would

[1] Tennessee Gas' application was filed with the Commission under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than Appendix 1 (maps), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission(s Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202)502–8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

maintain the pipeline in a 50-foot-wide permanent right-of-way easement with periodic mowing. Tennessee Gas' construction right-of-way would overlap NEPCO's maintained right-of-way by as much as 50 feet. Tennessee Gas proposes to use unidentified additional land for pipe yards and staging areas.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA we [3] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Residential and planned development
- Construction air quality and noise
- Land use impacts
- Public safety
- Water resources (groundwater, drinking water, and streams), fisheries, and wetlands
- Vegetation
- Geology and soils
- Wildlife, including endangered and threatened species
- Hazardous waste
- Cultural resources

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Tennessee Gas. This preliminary list of issues may be changed based on your comments and our analysis.

- Impacts to sixteen residences within 50 feet of the construction work area;
- Clearing of approximately 27 acres of forest and construction in approximately 26 acres of wetlands and stream crossings;
- Impacts to Reedy Meadow National Natural Landmark, also a Massachusetts designated potentially sensitive habitat area; Golden Hills—a Massachusetts designated Area of Critical Environmental Concern; and the Breakheart Reservation—a Massachusetts designated recreational and potentially sensitive habitat area; and
- Potential visual and aesthetic impact to the Breakheart Reservation Parkway and Lynn Fells Parkway National Register of Historic Places Districts

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, including alternative routes, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 2.
- Reference Docket No. CP06–018–000.
- Mail your comments so that they will be received in Washington, DC on or before December 21, 2005.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created on-line.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (Appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Notice of Site Visit and Public Comment Meeting

The OEP staff will conduct a site visit on December 14, 2005 to inspect Tennessee Gas' proposed pipeline route and project for the Essex-Middlesex Project. The areas will be inspected by automobile. Representatives of Tennessee Gas will accompany the OEP staff. Anyone interested in participating in the December 14 site visit should meet at the parking lot of the Hill Top Steakhouse at 9 am in Saugus, Massachusetts, located at 855 Broadway Street off of Route U.S. 1 South. Participants must provide their own transportation.

In addition to or in lieu of sending written comments, we invite you to attend the public scoping meeting the FERC will conduct in the project area. The public scoping meeting will be held jointly with a public hearing conducted by the Massachusetts Energy Facilities Siting Board. The location and time for the meeting is listed below:

Date and Time: December 14, 2005, 7 p.m.

Location: Wakefield High School—Cafeteria, 60 Farm St, Wakefield, Massachusetts 01880, (781) 246–6440.

The public scoping meetings are designed to provide you with more detailed information and another opportunity to offer your comments on the proposed project. Tennessee Gas representatives will be present at the scoping meetings to describe their proposal. Interested groups and

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the EA. A transcript of each meeting will be made so that your comments will be accurately recorded.

For additional information, contact the Commission's Office of External Affairs at 1–866–208–FERC.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding, or ''intervenor.'' To become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). Intervenors have the right to seek rehearing of the Commission's decision. Motions to Intervene should be electronically submitted using the Commission's eFiling system at *http://www.ferc.gov.* Persons without Internet access should send an original and 14 copies of their motion to the Secretary of the Commission at the address indicated previously. Persons filing Motions to Intervene on or before the comment deadline indicated above must send a copy of the motion to the Applicant. All filings, including late interventions, submitted after the comment deadline must be served on the Applicant and all other intervenors identified on the Commission's service list for this proceeding. Persons on the service list with email addresses may be served electronically; others must be served a hard copy of the filing.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. By this notice we are also asking governmental agencies, especially those in Appendix 2, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6926 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–16–000]

Transcontinental Gas Pipe Line Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Station 50 Horsepower Replacement Project and Request for Comments on Environmental Issues

November 28, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Station 50 Horsepower Replacement Project involving abandonment, construction, and operation of facilities by Transcontinental Gas Pipe Line Corporation (Transco) in Evangeline Parish, Louisiana.[1] These facilities would consist of (a) abandonment by removal of two 6,250-horsepower (hp) turbine/compressor units, and (b) installation of one 10,310-hp turbine/compressor unit. This EA will be used by the Commission in its decisionmaking process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping period that will be used to gather environmental input from the public and interested agencies on the project. Please note that the scoping period will close on December 22, 2005.

This notice is being sent to potentially affected landowners; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need to Know?'' should have been attached to the project notice Transco provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It also is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

Transco is seeking authorization to improve the facilities at Compressor Station 50 in Evangeline Parish, Louisiana, by performing the following activities: (a) Abandonment by removal of two existing 6,520-hp turbine/compressor units, and (b) installation of one new 10,310-hp turbine/compressor unit. The old units, which Transco describes as obsolete and cumbersome to operate, would be removed as would the associated enclosures, building, equipment, piping, utilities, and controls. The new unit would be installed in a new building with associated interconnecting piping, equipment, utilities, and controls.

The location of the project facilities is shown in Appendix 1.[2]

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[1] Transco's application was filed with the Commission under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendix referenced in this notice is not being printed in the **Federal Register**. A copy of this notice is available on the Commission's website at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First St. NE., Washington, DC 20426, or call (202) 502–8371. For

Land Requirements for Construction

Transco states that all proposed activities associated with this project would occur within the boundaries of the existing Compressor Station 50 property. The facilities at this station are located within a fenced area of approximately 28 acres. No new land would be required for this project. The proposed new compressor building would be approximately 51 feet by 67 feet, and approximately 3.4 acres of the existing property would be affected by the installation activity. All land disturbed by construction that is not covered by the new compressor building will be returned to its current condition (grass).

Construction of the proposed facilities would require about 4.4 acres of land. No new pipeline rights-of-way, extra work/staging areas, access roads, or pipe/contractor yards would be required for the proposed project.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA, we [3] will discuss impacts that could occur as a result of the construction and operation of the proposed project. We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section.

Currently Identified Environmental Issues

We have already identified some issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Transco. This preliminary list of issues may be changed based on your comments and our analysis.

- The revision of the Unanticipated Discovery Plan.
- Impacts on Air Quality and Noise.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St. NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 1.
- Reference Docket No. CP06–16–000.
- Mail your comments so that they will be received in Washington, DC on or before December 22, 2005.

We will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. To expedite our receipt and consideration of your comments, the Commission strongly encourages electronic submission of any comments or interventions or protests to this proceeding. See Title 18 Code of Federal Regulations (CFR) 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can submit comments, you will need to create a free account which can be created on-line by clicking ''Sign-up'' under ''New User.'' You will be asked to select the type of submission you are making. This type of submission is considered a ''Comment on Filing.''

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (Appendix 2). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding, or ''intervenor.'' To become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). Intervenors have the right to seek rehearing of the Commission's decision. Motions to Intervene should be electronically submitted using the Commission's eFiling system at *http://www.ferc.gov.* Persons without Internet access should send an original and 14 copies of their motion to the Secretary of the Commission at the address indicated previously. Persons filing Motions to Intervene on or before the comment deadline indicated above must send a copy of the motion to the Applicant. All filings, including late interventions, submitted after the comment deadline must be served on the Applicant and all other intervenors identified on the Commission's service list for this proceeding. Persons on the service list with e-mail addresses may be served electronically; others must be served a hard copy of the filing.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket

instructions on connecting to eLibrary refer to the end of this notice. Copies of the appendix were sent to all those receiving this notice in the mail.

[3] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. To register for this service, go to the eSubscription link on the FERC Internet Web site.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6934 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

November 28, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 12624–000.

c. *Date filed:* October 27, 2005.

d. *Applicant:* Colorado Springs Utilities.

e. *Name of Project:* Cascade Hydroelectric Generating Facility.

f. *Location:* The Cascade Hydroelectric Generating Facility would be located adjacent to the Cascade pressure reduction facility on the Old North Slope Pipeline, which is part of the City of Colorado Springs' water supply system in El Paso County, Colorado.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a through 825r.

h. *Applicant Contact:* Mr. Wayne E. Booker, Colorado Springs Utilities, 1521 Hancock Expressway, Colorado Springs, CO 80903, (719) 668–3505.

i. *FERC Contact:* James Hunter, (202) 502–6086.

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing responsive documents:* The Commission directs, pursuant to section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions concerning the application be filed with the Commission by January 27, 2006. All reply comments must be filed with the Commission by February 13, 2006.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Project:* The proposed small conduit hydroelectric project would consist of: (1) a 85-foot-long, 20-inch-diameter steel pipeline connecting to the existing pipeline, (2) a 900-kilowatt horizontal shaft Pelton turbine-generator, and (3) a 55-foot-long, 20-inch-diameter steel pipeline returning water to the existing pipeline. The average annual energy production would be 5,114 megawatt hours.

m. This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, here P–12624, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item h. above.

n. *Development Application:* Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

o. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a competing development application. A notice of intent must be served on the applicant(s) named in this public notice.

p. *Protests or Motions to Intervene:* Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

q. All filings must (1) Bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''COMMENTS'', ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy

Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6930 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

November 29, 2005.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications:* Preliminary Permit.

b. *Applicant, Project Numbers, and Dates Filed:* Black River Felts Mills, LLC filed the applications for Project No. 12622–000 and Project No. 12623–000 on October 26, 2005.

c. *Name of the projects:* Lower Dam Project (P–12622); Upper Dam Project (P–12623). The projects would be located on the Black River in Jefferson County, New York. The proposed dams are to be located at the site of an existing breached dam currently owned by Eric Boulevard HydroPower, L.P.

d. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

e. *Applicant Contacts:* Black River Felts Mills, LLC: Mr. William A. Garnett, Member Manager; Steven Courtney, Member Manager; Terence Darby, Member Manager; Black River Energy, LLC; 6000 Fairview Road, Suite 600; Charlotte, North Carolina 28270, (704) 553–3036; James C. Liles, Regulatory Advisor, Milbank, Tweed, Hadley & McCloy, LLC; 1850 K Street, NW., 11th Floor, Washington, DC 20006, (202) 835–7545.

f. *FERC Contact:* Etta Foster, (202) 502–8769.

g. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

h. *Description of Projects:* The proposed Lower Dam would consist of: (1) A proposed earth dike approximately 590 feet long; (2) a proposed intake structure constructed on the left side of the south channel spillway; (3) a reservoir with a normal pool elevation of 589 feet, a gross storage capacity of approximately 850 acre-feet and a surface area of approximately 140 acres; (4) a proposed powerhouse containing two or more generating units with an installed capacity of 8 megawatts (MW); (5) a tailrace channel downstream of the powerhouse; (6) a new 115-kV overhead transmission line; and (7) appurtenant facilities. The Black River Felts Mills, LLC's Lower Dam Project, would have an estimated average annual generation of 40,000 MWh (megawatt-hours) and would be sold to a local utility.

The proposed Upper Dam would consist of: (1) A proposed concrete gravity dam approximately 320 feet long with gated control facilities; (2) a proposed intake structure; (3) a reservoir with a normal maximum pool elevation of approximately 609 feet, a gross storage capacity of 1,100 acre-feet, and a surface area of 220 acres; (4) a proposed powerhouse containing two or more generating units with a total installed capacity of 5 MW; (5) a proposed tailrace channel; (6) a new overhead 115-kV transmission line; and (7) appurtenant facilities. The Upper Dam Project would have an estimated average annual generation of 24,500 MWh and would be sold to a local utility.

i. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item e above.

j. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

k. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

l. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

m. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

n. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

o. Comments, Protests, or Motions To Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the

requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

p. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

q. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6938 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application To Amend License and Soliciting Comments, Motions To Intervene, and Protests

November 29, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands and waters.

b. *Project No.:* 271–084.

c. *Date Filed:* November 7, 2005.

d. *Applicant:* Entergy Arkansas, Inc. (Entergy).

e. *Name of Project:* Carpenter-Remmel Project.

f. *Location:* The project is located on the Quachita River in Hot Springs and Garland Counties, Arkansas. The project does not occupy any Federal or tribal lands. The proposed non-project use would be located on Hamilton Lake near the town of Hot Springs in Garland County, Arkansas.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a) through 825(r).

h. *Applicant Contact:* Blake Hogue, Lakes and Property Coordinator, Hydro Operations, Entergy Arkansas, Inc., 141 West County Line Road, Malvern, AR 72104. Phone: (501) 844–2148.

i. *FERC Contact:* Gina Krump, *gina.krump@ferc.gov,* 202–502–6704.

j. *Deadline for filing comments and or motions:* December 30, 2005.

All documents (original and eight copies) should be filed with Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website under the ''e-Filing'' link. Please reference ''Carpenter-Remmel Project, FERC Project No.271–084'' on any comments or motions filed.

k. *Description of the Application:* Entergy requests Commission approval to permit Hunnicutt Development, Inc. (HDI) to construct two docks with 11 boat slips and a 500-foot-long boardwalk to be used by patrons of a new condominium development known as Woodland Estates. HDI also proposes to place riprap along the entire length of the boardwalk to stabilize the shoreline. No dredging or other shoreline development activities are proposed.

l. *Locations of the Application:* This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Mail Stop PJ–12.1, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6939 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Applicant-Prepared EA Accepted for Filing, Soliciting Motions To Intervene and Protests, and Soliciting Comments, and Final Terms and Conditions, Recommendations, and Prescriptions

November 30, 2005.

Take notice that the following hydroelectric application and applicant-prepared environmental assessment has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 11841–002.

c. *Date filed:* August 12, 2004.

d. *Applicant:* Ketchikan Public Utilities.

e. *Name of Project:* Whitman Lake Hydroelectric Project.

f. *Location:* The Whitman Lake Hydroelectric Project would be located on Whitman Lake in Ketchikan Gateway Borough, Ketchikan, Alaska. The proposed project would affect approximately 155.8 acres of federal lands (155.0-acres managed by the U.S. Forest Service and 0.8-acres managed by the U.S. Bureau of Land Management).

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Don Thompson, WESCORP, 3035 Island Crest Way, Suite 200, Mercer Island, WA 98040; Telephone: (206) 275–1000.

i. *FERC Contact:* Kenneth Hogan at (202) 502–8434; e-mail: *kenneth.hogan@ferc.gov.*

j. Deadline for filing motions to intervene and protests, comments, and final terms and conditions, recommendations, and prescriptions: 60 days from the issuance of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene, protests, comments, terms and conditions, recommendations, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. This application has been accepted for filing.

l. The proposed Whitman Lake Hydroelectric Project will have an installed generating capacity of 4.6 Megawatts with a maximum hydraulic capacity of 180 cubic feet per second (cfs). The proposed project would consist of the following features: (1) The existing 39-foot-high, 220-foot-long concrete gravity arch dam; (2) 40-foot-wide Ogee spillway within the dam; (3) a 148 surface acre reservoir (Whitman Lake); (4) a 2,450-foot-long, 45-inch-diameter penstock; (5) a 2,000-foot-long, 21-inch-diameter pipeline; (6) a horizontal Francis turbine and 3,900 kW generator, with a hydraulic capacity of 150 cfs; (7) a horizontal or vertical Francis turbine and 700 kW generator, with a hydraulic capacity of 30 cfs; and (8) other appurtenant facilities.

Ketchikan Public Utilities (KPU) estimates that the average annual generation will be 16,225 megawatthours (MWh). KPU proposes to use the project to supplement, as well as displace, other generation resources owned and operated by KPU. With the construction and operation of the project, KPU hopes to minimize its use and dependency on fossil fuel generation.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

The Commission directs, pursuant to section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application and APEA be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must: (1) Bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply

with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6956 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–691–000]

CenterPoint Energy-Mississippi River Transmission Corporation; Notice of Postponement of Technical Conference

November 30, 2005.

Take notice that the technical conference scheduled for Tuesday, December 6, 2005, has been postponed until Tuesday, January 24, 2006, at 10 a.m. (e.s.t.), in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6958 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–8–000; Docket No. ER02–2001–000]

Revised Public Utility Filing Requirements; Electric Quarterly Reports; Notice of Electric Quarterly Reports Users Group Meeting

November 29, 2005.

On April 25, 2002, the Commission issued Order No. 2001,[1] a final rule which requires public utilities to file Electric Quarterly Reports. Order 2001–C, issued December 18, 2002, instructs all public utilities to file these reports using Electric Quarterly Report Submission Software. This notice announces a meeting for the EQR Users Group to be held Wednesday, December 14, 2005, via teleconference. The meeting will run from 1 p.m. to 5 p.m. e.s.t.

During the teleconference, Commission staff and EQR users will discuss the technical compliance screening process for EQR filings. The call will include a discussion of the overall process as well as a review of specific screens. A detailed agenda will be provided on *http://www.ferc.gov* prior to the meeting.

All interested parties are invited to call in. Documents to be discussed at the meeting will be posted on the EQR Users Group and Workshops page on FERC.gov at *http://www.ferc.gov/docs-filing/eqr/groups-workshops.asp.* The workshop will only be available via teleconference.

Those interested in participating are asked to do so by registering on the FERC Web site at *https://www.ferc.gov/whats-new/registration/eqr-1129-form.asp.* There is no registration fee.

Interested parties wishing to file comments may do so under the above-captioned Docket Numbers. Those filings will be available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''eLibrary'' link.

Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or via phone at (866) 208–3676 (toll-free). For TTY, contact (202) 502–8659.

[1] Revised Public Utility Filing Requirements, Order No. 2001, 67 FR 31043, FERC Stats. & Regs. ¶ 31,127 (April 25, 2002); *reh'g denied*, Order No. 2001–A, 100 FERC ¶ 61,074, *reconsideration and clarification denied*, Order No. 2001–B, 100 FERC ¶ 61,342 (2002).

For additional information, please contact Michelle Reaux of FERC's Office of Market Oversight & Investigations at (202) 502–6497 or by e-mail at *eqr@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E5–6941 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Membership of Performance Review Board for Senior Executives (PRB)

November 28, 2005.

The Federal Energy Regulatory Commission hereby provides notice of the membership of its Performance Review Board (PRB) for the Commission's Senior Executive Service (SES) members. The function of this board is to make recommendations relating to the performance of senior executives in the Commission. This action is undertaken in accordance with Title 5, U.S.C., section 4314(c)(4). The Commission's PRB will add the following member: Susan J. Court.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6929 Filed 12–6–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Petition IV–2002–1; FRL–8005–7]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Oglethorpe Power Company—Wansley Combined Cycle Energy Facility; Roopville (Heard County), GA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of amended final order denying petition to object to a state operating permit in response to remand.

SUMMARY: This Amended Order Responding to Remand corrects certain errors that were found in the Order Responding to Remand that was issued on September 15, 2005. The September 15th Order, which is superseded by this Order, is being amended to correct certain clerical errors and to address a factual error in note 13 of that order regarding whether Oglethorpe Power Company (Oglethorpe) had any

ownership interest in units at Plant Wansley operated by Georgia Power Company. The Administrator issued the preceding Order Responding to Remand denying a petition to object to a state operating permit issued to Oglethorpe—Wansley Combined Cycle Energy Facility (Block 8) located in Roopville, Heard County, Georgia, pursuant to title V of the Clean Air Act (the Act), 42 U.S.C. 7661–7661f. On February 4, 2002, Sierra Club had filed a petition seeking EPA's objection to the title V operating permit for Block 8 issued by the Georgia Environmental Protection Division (EPD). The Administrator denied the petition in an Order dated November 15, 2002. Pursuant to Section 502(b) of the Act, Sierra Club appealed to the U.S. Court of Appeals for the Eleventh Circuit (the Court), arguing that Oglethorpe was not entitled to a permit for Block 8 (in accordance with Georgia's Statewide Compliance Rule) because it owns part of another major stationary source that has been cited for non-compliance with the Act. On May 5, 2004, the Court granted Sierra Club's petition for review, vacated the November 12, 2002, Order, and remanded to EPA for further explanation of the manner in which the Georgia rule should be applied in cases of partial ownership. After considering the issues raised by the Court, the Amended Order Responding to Remand (like the Order Responding to Remand) reached the same conclusion as EPA's original Order, but provided a more detailed explanation.

ADDRESSES: Copies of the Amended Order Responding to Remand, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The amended final order is also available electronically at the following address: *http://www.epa.gov/region7/programs/artd/air/title5/petitiondb/petitions/opcwansley_decision2002_amendedremand.pdf.*

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562–9115 or *hofmeister.art@epa.gov.*

SUPPLEMENTARY INFORMATION: The Georgia Center for Law in the Public Interest originally submitted a petition on behalf of the Sierra Club (Petitioner) to the Administrator on February 4, 2002, requesting that EPA object to a state title V operating permit issued by the EPD to Oglethorpe. Other inconsistencies (with the Act) alleged by the Petitioner were: (1) That the permit failed to require a case-by-case maximum achievable control technology determination for the emissions of hazardous air pollutants; (2) that the permit failed to include adequate monitoring of carbon monoxide; (3) that the permit impermissibly limited the enforceability of a federal stack height provision; and (4) that the permit failed to include short-term best available control technology limits. EPA's responses to the above issues in the November 12, 2002, Order were upheld by the Court; therefore, sections IV.B. through IV.E. of the November 12, 2002, Order are incorporated by reference into the Amended Order Responding to Remand.

Dated: November 27, 2005.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 05–23720 Filed 12–6–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0061; FRL–7742–6]

Azinphos-methyl Ecological Risk Assessment, Grower Impact Assessments; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's environmental fate and effects risk assessment, grower impact assessments, and related documents for the organophosphate pesticide azinphos-methyl, and opens a 60–day public comment period on these documents. EPA is in the process of reevaluating the remaining uses for azinphos-methyl, consistent with the Interim Reregistration Eligibility Decision (IRED) issued in 2001 and the May 2002 Memorandum of Agreement between EPA and the technical registrants for azinphos-methyl.

DATES: Comments must be received on or before February 6, 2006.

ADDRESSES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0061, may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Diane Isbell, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8154; fax number: (703) 308–8041; e-mail address: *isbell.diane@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Docket.* EPA has established an official public docket for this action under docket ID number EPA–HQ–OPP–2005–0061. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

Agency Website. EDOCKET, EPA's electronic public docket and comment system was replaced on November 25, 2005, by an enhanced federal-wide electronic docket management and comment system located at *http://www.regulations.gov.* Follow the online instructions.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/*

to submit or view public comments, to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number EPA–HQ–OPP–2005–0061. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number EPA–HQ–OPP–2005–0061. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number EPA–HQ–OPP–2005–0061.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number EPA–HQ–OPP–2005–0061. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior

notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provide the name, date, and **Federal Register** citation related to your comments.

II. Background

A. What Action is the Agency Taking?

EPA is making available the environmental fate and ecological effects risk assessment, and the grower impact assessments for azinphos-methyl. Azinphos-methyl is an organophosphate insecticide first registered in 1959, and is used in agriculture on orchard fruits, berries, nuts, and other crops. The Interim Reregistration Eligibility Decision for azinphos-methyl was issued in October 2001. During the development of the IRED, EPA evaluated the risks and benefits associated with azinphos-methyl use, considered all relevant risk mitigation options and implemented a variety of mitigation measures, including reductions in the rate and frequency of applications and precautionary labeling to reduce risks. Despite these mitigation measures, calculated risks to workers and the environment from azinphos-methyl use still indicated potential concerns. The technical registrants of azinphos-methyl entered into a Memorandum of Agreement (MOA) with EPA that was signed on May 23, 2002, which provided for the deletion or phase out of most azinphos-methyl uses. The remaining 10 uses have time-limited registrations pending the submission and evaluation of biomonitoring, product efficacy and other data. These uses include: Almonds; apples and crab apples; blueberries, lowbush and highbush; Brussels sprouts; sweet and tart cherries; nursery stock; parsley; pears; pistachios; and walnuts. EPA intends to complete its evaluation of these uses and propose a decision in 2006.

EPA is providing an opportunity, through this notice, for interested parties to provide comments and input on the Agency's ecological risk and grower impact assessments for azinphos-methyl. Such comments and input could address, for example, the availability of additional data to further refine the risk or grower impact assessments, information about a specific pest problem not addressed or evaluated in the assessment, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific pesticide. Some sample questions are provided in a memorandum to the docket, dated November 29, 2005. These questions may be used as a guide for commenting on the assessments available in this docket.

Comments should be limited to issues raised within the assessments and associated documents. Failure to comment on any such issues as part of this opportunity will not limit a commenter's opportunity to participate in any later notice and comment processes on this matter. All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the closing date. Comments will become part of the Agency Docket for azinphos-methyl. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

B. What is the Agency's Authority for Taking this Action?

The Agency is issuing this Notice in connection with decisions it will make in 2006 pursuant to section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) regarding uses of azinphos-methyl and phosmet.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 23, 2005.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 05–23719 Filed 12–2–05; 1:05 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0317; FRL–7748–6]

Notice of Filing of a Pesticide Petition for Establishment of an Exemption from the Requirement of a Tolerance for the Residues of the Biochemical Pesticide (Z)–7,8–epoxy–2–methyloctadecane in or on All Food and Feed Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of an exemption from the requirement of a tolerance for the residues of the biochemical pesticide (Z)–7,8–epoxy–2–methyloctadecane in or on all food and feed commodities.

DATES: Comments must be received on or before January 6, 2006.

ADDRESSES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0317 and pesticide petition (PP) number 5F6985, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Andrew Bryceland, Biopesticides and Pollution Prevention Division, (7511C), Office of Pesticide Programs, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, telephone number: (703) 305–6928; e-mail address: *bryceland.andrew@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American

Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established an official public docket for this action under docket ID number EPA–HQ–OPP–2005–0317. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

Agency Website. EDOCKET, EPA's electronic public docket and comment system was replaced on November 25, 2005, by an enhanced federal-wide electronic docket management and comment system located at *http://www.regulations.gov*. Follow the online instructions.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number EPA–HQ–OPP–2005–0317. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number EPA–HQ–OPP–2005–0317. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number EPA–HQ–OPP–2005–0317.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number EPA–HQ–OPP–2005–0317. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the pesticide petition number of the summary of interest in the subject line on the first page of your response. It would also he helpful if you would provide the name, date, and **Federal Register** citation related to your comments.

II. What Action is the Agency Taking?

EPA is printing notice of filing of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment of an exemption from the requirement of a tolerance in 40 CFR part 180 for the residues of the biochemical pesticide (Z)–7,8–epoxy–2–methyloctadecane in or on all food and feed commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical methods available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket.* To locate this information, on the home page of EPA's Electronic Docket select ''Quick Search'' and type the OPP docket ID number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

Exemption from the Requirement of a Tolerance

PP 5F6985. Hercon Environmental, P.O. Box 435, Emigsville, PA 17318, proposes to establish an exemption from the requirement of a tolerance for residues of the biochemical pesticide (Z)–7,8–epoxy–2–methyloctadecane in or on all food and feed commodities. An analytical method for residues is not applicable.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 15, 2005.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 05–23726 Filed 12–6–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0316; FRL–7748–4]

Notice of Filing of a Pesticide Petition for Establishment of an Exemption from the Requirement of a Tolerance for the Residues of the Microbial Pesticide *Beauveria bassiana* HF 23 in or on All Food and Feed Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of an exemption from the requirement of a tolerance for the residues of the microbial pesticide *Beauveria bassiana* HF 23 in or on all food and feed commodities.

DATES: Comments must be received on or before January 6, 2006.

ADDRESSES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0316 and pesticide petition (PP) number 5F6960, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division, (7511C), Office of Pesticide Programs, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001, telephone number: (703) 308–8097; e-mail address: *bacchus.shanaz@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established an official public docket for this action under docket ID number EPA–HQ–OPP–2005–0316. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

Agency Website. EDOCKET, EPA's electronic public docket and comment system was replaced on November 25, 2005, by an enhanced federal-wide electronic docket management and comment system located at *http://www.regulations.gov*. Follow the online instructions.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

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1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*.Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number EPA–HQ–OPP–2005–

0316. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number EPA–HQ–OPP–2005–0316. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number EPA–HQ–OPP–2005–0316.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number EPA–HQ–OPP–2005–0316. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

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In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the pesticide petition number of the summary of interest in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. What Action is the Agency Taking?

EPA is printing notice of filing of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment of an exemption from the requirement of regulations in 40 CFR part 180 for the residues of the microbial pesticide *Beauveria bassiana* HF 23 in or on all food and feed commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical methods available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket*. To locate this information, on the home page of EPA's Electronic Docket select ''Quick Search'' and type the OPP docket ID number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

Exemption from the Requirement of a Tolerance

PP 5F6960. Jabb of the Carolinas, P.O. Box 310, Pine Level, NC 27568, proposes to establish an exemption from the requirement of a tolerance for residues of the microbial pesticide *Beauveria bassiana* HF 23 in or on all food and feed commodities. An analytical method is not required to detect residues of *Beauveria bassiana* HF 23 because the pesticidal active ingredient is not expected to survive on food or feed after the treated chicken manure is used on fields as fertilizer. The pesticide is not applied directly to food or feed commodities. *Beauveria bassiana* HF 23 occurs naturally in the environment. Thus, even if residues are found on food or feed commodities as a result of the pesticidal use of *Beauveria bassiana* HF 23, it is not feasible to distinguish the pesticide active ingredient from those that abound naturally. In addition, the acute oral toxicological tests indicate a low toxicity potential for *Beauveria bassiana* HF 23.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 15, 2005.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 05–23725 Filed 12–6–05; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0313; FRL–7747–7]

Notice of Filing of a Pesticide Petition for the Establishment of Regulations for Residues of the Herbicide Diquat Dibromide in or on Food Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of the herbicide diquat dibromide in or on peas and beans, dried shelled (except soybeans).

DATES: Comments must be received on or before January 6, 2006.

ADDRESSES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0313 and pesticide petition (PP) number PP 6F4609, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Joanne Miller, Registration Division (7505C), Office of Pesticide Programs, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–305–6224; e-mail address: *miller.joanne@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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2. *Electronic access*.You may access this document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

Agency Web site: EDOCKETS, EPA's electronic public docket and comment system was replaced on November 25, 2005, by an enhanced federal-wide electronic docket management and comment system located at *http://www.regulations.gov/*. Follow the on-line instructions.

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follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

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i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number EPA–HQ–OPP–2005–0313. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number EPA–HQ–OPP–2005–0313. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number EPA–HQ–OPP–2005–0313.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number EPA–HQ–OPP–2005–0313. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

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You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the pesticide petition number of the summary of interest in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. What Action Is the Agency Taking?

EPA is printing notice of the filing of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment of regulations in 40 CFR part 180 for residues of the herbicide diquat dibromide in or on peas and beans, dried shelled (except soybeans). EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical methods available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket* . To locate this information, on the home page of the EPA's Electronic Docket select ''Quick Search'' and type the OPP docket number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 6F4609. Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419, proposes to establish a tolerance for residues of the herbicide diquat dibromide in or on in or on food commodities pea and bean, dried shelled (except soybean) (subgroup6–C) at 0.80 parts per million. An adequate analytical method (spectrophotometric method) measuring absorption following derivitisation of diquat with

alkaline sodium dithinoite has been accepted.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 15, 2005.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 05–23727 Filed 12–6–05; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

November 28, 2005.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

FOR FURTHER INFORMATION CONTACT: Dana Jackson, Federal Communications Commission, 445 12th Street, SW., Washington DC 20554, (202) 418–2247 or via the Internet at *Dana.Jackson@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0854.

OMB Approval Date: 09/15/2005.

Expiration Date: 09/30/2008.

Title: Truth-in-Billing Format, CC Docket No. 98–170.

Form No.: None.

Estimated Annual Burden: 34,866 responses; 5 to 462 hours per response; 4,636,942 total annually hourly burden.

Needs and Uses: On March 18, 2005, the Commission released the Second Report and Order, Declaratory Ruling, In the Matter of Truth-in-Billing and Billing Format *2005 Second Report and Order and Declaratory Ruling*, FCC 05–55, which determined that Commercial Mobile Radio Service (CMRS) providers no longer should be exempted from 47 CFR 64.2401(b), which requires billing descriptions to be brief, clear, non-misleading and in plain language. In conjunction with the *2005 Second Report and Order and Declaratory Ruling*, the Commission released a *2005 Second Further Notice of Proposed Rulemaking*, which was also released on March 18, 2005, and which proposed and sought comment on measures to enhance the ability of consumers to make informed choices among competitive telecommunications providers.

The information collection requirements include the following: (1) Those requirements contained in the Truth-in-Billing Format rules, which were previously approved by OMB on November 30, 2004; (2) the adjustments pursuant to the new Census data; (3) changes to the existing rule § 64.2400(b) pursuant to the *2005 Second Report and Order*; and (4) the proposed requirements contained in the *2005 Second Further Notice of Proposed Rulemaking*.

OMB Control No.: 3060–0874.

OMB Approval Date: 11/01/2005.

Expiration Date: 11/30/2008.

Title: FCC General Communications Related Issues/Obscene, Profane, and/or Indecent Material Complaint Form.

Form No.: FCC Form 475 and FCC Form 475B.

Estimated Annual Burden: 1,354,619 responses; FCC Form 475—30 minutes, FCC Form 475B—15 minutes; 359,477 total annually hourly burden.

Needs and Uses: Revised FCC Form 475, Consumer Complaint Form, allows the Commission to collect detailed data from consumers on the practices of common carriers. The information contained in the collection will allow consumers to provide the Commission with a concise statement outlining all the issues in dispute. Revisions were made in the form to minimize the need to call back consumers in order to acquire additional data. The Commission uses the information to: (1) Assist in resolving informal complaints; (2) assess the practices of common carriers; and (3) for investigative work performed by Federal and State law enforcement agencies to monitor carrier practices and promote compliance with Federal and State law. The data may become the basis for enforcement actions and/or rulemaking proceedings, as appropriate.

The Commission revised FCC Form 475 to clarify information requirements and to comply with OMB requests to make the form more user friendly, by making it clear when and how revised Form 475 may be used appropriately. To emphasize which types of complaints may be filed using the revised form, Form 475 includes directions for use in colored text at the top of the form. Revised Form 475 will be used for all telephone-related complaints, except slamming. If information is required in order to submit a complaint, certain fields have an asterisk next to them. Form 475 also clearly states that ''slamming'' complaints may not be filed using the revised Form 475. Letters and numbers have been added to the individual data requests, to make it easier for consumers to fill out the revised FCC Form 475.

In Form 475, the Commission asks for the complainant's contact information in the first ten fields, including, name/company name, address, telephone number and e-mail address. Form 475 also asks the consumer to briefly describe his or her complaint, including the company(ies) involved, the account numbers, telephone numbers associated with the complaint, types of service involved, important dates, and the resolution the consumer is seeking. Revised Form 475 also provides clearer guidance for persons wishing to file Telephone Consumer Protection Act (TCPA) related complaints (*e.g.*, unwanted telemarketing calls, unsolicited faxes, etc.). Revised Form 475 now has a section for consumers to submit TCPA complaints with the Commission. This section includes five fields or questions where consumers will provide the requested information and submit the information to file a TCPA violation with the Commission.

FCC Form 475B, Obscene, Profane, and/or Indecent Material Complaint Form, will enable the Commission to collect detailed data from consumers on the practices of those entities that may air/broadcast obscene, profane and/or indecent programming by giving consumers an opportunity, for the first time, to use a specific form to delineate such complaints. Form 475B will be used only for complaints associated with obscene, profane, and/or indecent programming. Information contained in the collection will allow consumers to provide the Commission with the relevant information to help consumers develop a concise statement outlining the issues in dispute, thereby minimizing the amount of time it takes to file a complaint, minimizing confusion on what information the Commission requires, and improving the complaint process and the overall quality of the complaints received.

Prior to the creation of Form 475B, consumers have attempted to use Form 475 to submit complaints about programming and in most instances the Commission has been unable, due to lack of adequate information, to process the complaints. For example, information pertaining to the date, time, and content of the program, the name of the station or program that is the subject of the complaint can now be easily

provided. FCC Form 475B includes fields that ask for the complainant's contact information, including name, address, e-mail address, and telephone number. Form 475B also includes a section that asks for information to help identify the station that aired the alleged obscene, profane, and/or indecent material, including the network's name, name of the station, name of the particular program, host or personality/DJ, time of the program, the time zone, the date of the program and the community where the material was aired. The last section on Form 475B asks the complainant to describe the incident and to include as much detail as possible about specific words, languages, and images, to help the Commission determine whether the program was, in fact, obscene, profane, or indecent.

The data may become the foundation for enforcement actions and/or rulemaking proceedings, as appropriate. The information will strengthen the effectiveness of the Commission's rules in deterring obscene, profane, and indecent content and programming.

OMB Control No.: 3060–1084.

OMB Approval Date: 08/30/2005.

Expiration Date: 08/31/2008.

Form No.: None.

Estimated Annual Burden: 380,340 responses; 0.75 to 6.70 hours per response; 444,576 total annually hourly burden.

Title: Rules and Regulations Implementing Minimum Customer Account Record Obligations on All Local Interexchange Carrier (CARE), CG Docket No. 02–386.

Needs and Uses: In the *2005 Report and Order and Further Notice of Proposed Rulemaking,* In the Matter of Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers (*2005 Report and Order*), CG Docket No. 02–386, FCC 05–29, which was released on February 25, 2005, the Commission adopted rules governing the exchange of customer account information between local exchange carriers (LECs) and interexchange carriers (IXCs).

The Commission concluded that mandatory, minimum standards are needed in light of record evidence demonstrating that information needed by carriers to execute customer requests and properly bill customers is not being consistently provided by all LECs and IXCs.

In the *2005 Further Notice of Proposed Rulemaking,* the Commission sought comment on whether to mandate the exchange of particular customer account information between two LECs when a customer switches local service providers. The Commission proposed this action in light of concerns reflected in the record regarding the need for more effective communications between LECs when consumers change local service providers. Because the information exchanges proposed in the *2005 Further Notice of Proposed Rulemaking* constitute proposed new information collections under the PRA, the Commission specifically invited the general public and OMB to comment on the proposed requirements.

The information collection requirements include: (1) those that are contained in the *2005 Report and Order,* which was released on February 25, 2005; and (2) those that the Commission proposes in the *2005 Further Notice of Proposed Rulemaking,* published on June 2, 2005, 70 FR 31406.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E5–6889 Filed 12–6–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011925.

Title: WHL/Norasia Slot Exchange and Sailing Agreement.

Parties: Wan Hai Lines Ltd. and Norasia Container Lines Limited.

Filing Party: Walter H. Lion, Esq.; McLaughlin & Stern, LLP; 260 Madison Avenue; New York, NY 10016.

Synopsis: The agreement authorizes the parties to share vessel space in the trades between ports in China and South Korea, on the one hand, and ports on the West Coast of the United States.

By Order of the Federal Maritime Commission.

Dated: December 2, 2005.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E5–7004 Filed 12–6–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E5-6679) published on pages 71852 and 71853 of the issue for Wednesday, November 30, 2005.

Under the Federal Reserve Bank of St. Louis heading, the entry for Carolyn Ferguson Pryor, Jackson, Mississippi, is revised to read as follows:

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. The Ferguson Family Control Group, consisting of Carolyn Ferguson Pryor, Jackson, Mississippi; Nancy Ferguson Rasco, Hot Springs, Arkansas; Rebecca Ferguson Ehrlicher, Memphis, Tennessee; Carolyn F. Pryor Trust, De Witt, Arkansas; Nancy F. Rasco Trust, De Witt, Arkansas; and Rebecca F. Ehrlicher Trust, De Witt, Arkansas; to acquire additional voting shares of DBT Financial Corporation, De Witt, Arkansas, and thereby indirectly acquire additional voting shares of De Witt Bank and Trust Company, De Witt, Arkansas.

Comments on this application must be received by December 15, 2005.

Board of Governors of the Federal Reserve System,December 1, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–6915 Filed 12–6–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in

writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 30, 2005.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. M&P Community Bancshares, Inc., 401(k) Employee Stock Ownership Plan, Newport, Arkansas; to become a bank holding company by acquiring an additional 1.7 percent, for a total of 26.6 percent, of the voting shares of M&P Bancshares, Inc., Newport, Arkansas, and thereby indirectly acquire Greers Ferry Lake State Bank, Herber Springs, Arkansas, and Merchants & Planters Bank, Newport, Arkansas.

Board of Governors of the Federal Reserve System, December 1, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–6913 Filed 12–6–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 3, 2006.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. AJJ Bancorp, Elkader, Iowa; to acquire 100 percent of the voting shares of Corridor State Bank (in organization), Coralville, Iowa, and thereby indirectly acquire Corridor State Bank, Coralville, Iowa.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Lincoln County Bancorp, Inc., Troy, Missouri, to merge with Centennial Bancshares Corporation, Elsberry, Missouri, and thereby indirectly acquire Bank of Lincoln County, Elsberry, Missouri.

Board of Governors of the Federal Reserve System, December 2, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–7003 Filed 12–6–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies That are Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. E6453) published on page 70849 of the issue for Wednesday, November 23, 2005.

Under the Federal Reserve Bank of Chicago heading, the entry for MainSource Financial Group, Inc., Greensburg, Indiana, is revised to read as follows:

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Main Source Financial Group, Inc., Greensburg, Indiana; to acquire 100 percent of the voting shares of Union Community Bancorp, Crawfordsville, Indiana, and thereby indirectly acquire Union Federal Savings and Loan Association, Crawfordsville, Indiana (''Union Federal''), and thereby engage in operating a savings and loan association, pursuant to section 225.28(b)(4)(ii) of Regulation Y.

In connection with this Application, Applicant has applied to acquire MainSource Bank–Crawfordsville, Crawfordsville, Indiana. Union Federal will merge into MainSource Bank—Crawfordsville, as part of this transaction, pursuant to section 3 of the Bank Holding Company Act.

Comments on this application must be received by December 19, 2005.

Board of Governors of the Federal Reserve System, December 1, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–6914 Filed 12–6–05; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the Citizens' Health Care Working Group

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Citizens' Health Care Working Group (the Working Group) mandated by section 1014 of the Medicare Modernization Act.

DATES: A business meeting of the Working Group will be held on Wednesday, December 14, 2005, from 8:30 a.m. to 4:30 p.m. and Thursday, December 15, 2005 from 8:30 a.m. to 2 p.m.

ADDRESSES: The meeting will take place at the Wilbur Cohen Building, 300 Independence Avenue, SW., Washington, DC 20201 in Room 5051, the Snow Room.

The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Caroline Taplin, Citizens' Health Care

Working Group, at (301) 443–1514 or *ctaplin@ahrq.gov.* If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Mr. Donald L. Inniss, Director, Office of Equal Employment Opportunity Program, Program Support Center, on (301) 443–1144.

The agenda for this Working Group meeting will be available on the Citizens' Working Group Web site, *http://www.citizenshealthcare.gov.* Also available at that site is a roster of Working Group members. When transcripts of these meetings are completed, they will also be available on the Web site.

SUPPLEMENTARY INFORMATION: Section 1014 of Public Law 108–173, (known as the Medicare Modernization Act) directs the Secretary of the Department of Health and Human Services (DHHS), acting through the Agency for Healthcare Research and Quality, to establish a Citizens' Health Care Working Group (Citizen Group). This statutory provision, codified at 42 U.S.C. 299 n., directs the Working Group to: (1) Identify options for changing our health care system so that every American has the ability to obtain quality, affordable health care coverage; (2) provide for a nationwide public debate about improving the health care system; and (3) submit its recommendations to the President and the Congress.

The Citizens' Health Care Working Group is composed of 15 members: The Secretary of DHHS is designated as a member by statute and the Comptroller General of the U.S. Government Accountability Office (GAO) was directed to name the remaining 14 members whose appointments were announced on February 28, 2005.

Working Group Meeting Agenda

The Working Group meeting on December 14th and 15th will be devoted to ongoing Working Group business. Topics to be addressed are expected to include: logistics of community meetings, the questions and discussion guide for community meetings and the Working Group's Web site, involvement of national organizations in outreach, background and possible frameworks for future recommendations, and future plans and budgets.

Submission of Written Information

The Working Group invites written submissions on those topics to be addressed at the Working Group business meeting listed above. In general, individuals or organizations wishing to provide written information for consideration by the Citizens' Health Care Working Group should submit information electronically to *citizenshealth@ahrq.gov.* Since all electronic submissions will be posted on the Working Group Web site, separate submissions by topic will facilitate review of ideas submitted on each topic by the Working Group and the public.

This notice is published less than 15 days in advance of the meeting due to logistical difficulties.

Dated: November 30, 2005.

Carolyn M. Clancy,

Director.

[FR Doc. 05–23673 Filed 12–6–05; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Health Care Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications for ''Small Research Grants for Primary Care Practice-Based Research Networks'' (PBRN) RFA, are to be reviewed and discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: ''Small Research Grants for Primary Care Practice-Based Research Networks'' (PBRN) RFA.

Date: January 26–27, 2005 (Open on January 26 from 8:00 a.m. to 8:15 a.m. and closed for the remainder of the meeting).

Place: John Eisenberg Building, 540 Gaither Road, AHRQ Conference Center, Rockville, Maryland 20850.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the non-confidential portions of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone (301) 427–1554.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: November 23, 2005.

Carolyn M. Clancy,

Director.

[FR Doc. 05–23674 Filed 12–6–05; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Statement of Organization, Functions, and Delegations of Authority

Part T (Agency for Toxic Substances and Disease Registry) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (50 FR 25129–25130, dated June 17, 1985, as amended most recently at 70 FR 59350, dated October 12, 2005) is amended to reflect the reorganization of the Agency for Toxic Substances and Disease Registry (ATSDR).

Section T–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the title and functional statements for the *Program Services Activity (TV612)*, *Division of Health Assessment and Consultation (TB6).*

Delete in its entirety the functional statement for the *Community Involvement Branch (TB67)*, and insert the following:

Health Promotion and Community Involvement Branch (TB67). (1) Plans, directs, coordinates and implements the division's health promotion and community involvement program; communicates ATSDR's roles and responsibilities to communities and tribes; and, provides technical advice, guidance and support on site-specific community involvement and participation to the division, and to

other agency entities upon request; (2) participates in the design, implementation, and impact evaluation of health promotion interventions at sites at the individual and community level to mitigate health effects from potential and actual exposures; provides leadership in using the best available science for health promotion products and activities in communities; advocates for public health promotion in support of community concerns and needs; (3) plans, designs and implements strategies for engaging (site entry) in site-specific community and tribal public health activities and, upon completion of activities strategies for disengagement; (4) provides leadership in developing, managing, and implementing the health education component of the ATSDR's state-based cooperative agreement program with external partners; ensures that the technical and administrative requirements of the health education component of the program are met; (5) provides leadership in establishing linkages between communities and technical and science staff; where appropriate, maintains and coordinates community contact; maintains database of site-specific community concerns and needs and actions taken to respond; and, advocates for the public health needs of the community and serves to mediate and assist in resolving areas of dispute or conflict; (6) in activities that involve communities, tribes, tribal governments and tribal organizations, collaborates with ATSDR programs to ensure cultural awareness and respect are observed and practiced.

Delete in its entirety the titles and functional statements for the *Division of Health Education and Promotion (TB7)*

Delete in its entirety the titles and functional statements for the *Division of Toxicology (TB9)* and inserting the following:

Division of Toxicology and Environmental Medicine (TB9). (1) Develops and applies innovative research methods to expand knowledge of the relationship between exposure to hazardous substances and adverse human health effects; (2) coordinates all activities associated with toxicological profiles including associated research; (3) develops and applies science-based health educational tools, methods and strategies to deliver messages, education, and training; (4) develops educational materials in support of environmental medicine; (5) provides expertise and service to site-specific activities across ATSDR including chemical-specific consultations as needed; (6) provides technical expertise and site specific support in addressing the health issues presented by emergency or acute release events and threatened releases of hazardous materials; (7) coordinates agency toxicology and environmental medicine activities with the Environmental Protection Agency, National Toxicology Program, and other appropriate federal, state, local, or public programs.

Applied Toxicology Branch (TB94). (1) Provides scientific expertise for the development of toxicological information and disseminates educational information in multiple formats; (2) develops and disseminates toxicological profiles; (3) develops, implements, and coordinates a program of research designed to identify priority data needs and determine the health effects of those data needs for various hazardous substances; (4) works as an integral partner with other division branches to ensure that toxicological activities incorporate environmental medicine and emergency preparedness perspectives into their basic message; (5) coordinates toxicological information and research activities with the Environmental Protection Agency, the National Toxicology Program, the Interagency Testing Committee, other appropriate federal, state, and local programs, and other public and private concerns, as appropriate.

Prevention, Response and Medical Support Branch (TB95). (1) Provides technical expertise and site specific support in addressing the health issues presented by emergency or acute release events and threatened releases of hazardous materials; (2) conducts special priority setting and evaluation activities; (3) provides technical expertise to conduct special evaluation activities necessary for support of division programs; (4) provides infrastructure to support planning and evaluation activities for the toxicology programs of the division; (5) works within the National Response Program and CDC guidelines to collaborate with other federal, state, and local agencies during emergency response situations; (6) develops information resources and guidance for first responders and health care providers for use in responding to unplanned release and spills; (7) works as an integral partner with other division branches to ensure that environmental medicine activities incorporate toxicological and emergency preparedness perspectives into their basic message.

Environmental Medicine and Educational Services Branch (TB96). (1) Establishes program goals and objectives for health education and environmental medicine practices; (2) develops and applies science-based health education strategies, services, and tools to deliver key messages, education, and training to state public health partners, other public health partners, health professionals, and community groups to improve environmental health outcomes at the local, state, and national levels; (3) coordinates and facilitates practice development in environmental medicine across ATSDR divisions and offices; (4) develops educational materials in support of health education and environmental medicine; (5) provides leadership in development, implementation, and evaluation of internal and external professional health education and environmental medicine activities; and (6) provides expertise and service to site-specific activities across ATSDR.

Dated: November 28, 2005.

William H. Gimson,

Chief Operating Officer, Centers for Disease Control and Prevention (CDC).

[FR Doc. 05–23688 Filed 12–6–05; 8:45 am]

BILLING CODE 4160–70–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–217]

Notice of the Revised Priority List of Hazardous Substances That Will Be the Subject of Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), U.S. Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), as amended by the Superfund Amendments and Reauthorization Act (SARA), requires that ATSDR and the Environmental Protection Agency (EPA) revise the Priority List of Hazardous Substances. This list includes substances most commonly found at facilities on the CERCLA National Priorities List (NPL) which have been determined to be of greatest concern to public health at or around these NPL hazardous waste sites. This announcement provides notice that the agencies have developed and are making available a revised CERCLA Priority List of 275 Hazardous Substances, based on the most recent information available. Each substance on the priority list is a candidate to become the subject of a toxicological profile prepared by ATSDR and

subsequently a candidate for the identification of priority data needs.

In addition to the Priority List of Hazardous Substances, ATSDR has developed a Completed Exposure Pathway Site Count Report. This report lists the number of sites or events with ATSDR activities where a substance has been found in a completed exposure pathway (CEP). This report is included in the Support Document of the Priority List.

ADDRESSES: Requests for a printed copy of the report, the 2005 CERCLA Priority List of Hazardous Substances That Will Be The Subject of Toxicological Profiles and Support Document, including the CEP report, should bear the docket control number ATSDR–217, and should be submitted to: Ms. Olga Dawkins, Division of Toxicology and Environmental Medicine, Mail Stop F–32, 1600 Clifton Road, NE., Atlanta, GA 30333. Requests must be in writing.

Electronic Availability: The 2005 Priority List of Hazardous Substances and Support Document will be posted on ATSDR's Web site located at *http://www.atsdr.cdc.gov/clist.html.* The CEP Report will also be posted at *http://www.atsdr.cdc.gov/cep.html.*

This is an informational notice only, and comments are not being solicited at this time. However, any comments received will be considered for inclusion in the next revision of the list and placed in a publicly accessible docket; therefore, please do not submit confidential business or other confidential information.

FOR FURTHER INFORMATION CONTACT: ATSDR, Division of Toxicology and Environmental Medicine, 1600 Clifton Road, NE., Mail Stop F–32, Atlanta, GA 30333, telephone 888–422–8737.

SUPPLEMENTARY INFORMATION: CERCLA establishes certain requirements for ATSDR and EPA with regard to hazardous substances that are most commonly found at facilities on the CERCLA NPL. Section 104(i)(2) of CERCLA, as amended [42 U.S.C. 9604(i)(2)], required that the two agencies prepare a list, in order of priority, of at least 100 hazardous substances that are most commonly found at facilities on the NPL and which, in their sole discretion, have been determined to pose the most significant potential threat to human health (see 52 FR 12866, April 17, 1987). CERCLA also required the agencies to revise the priority list to include 100 or more additional hazardous substances (see 53 FR 41280, October 20, 1988), and to include at least 25 additional hazardous substances in each of the three successive years following the 1988 revision (see 54 FR 43619, October 26, 1989; 55 FR 42067, October 17, 1990; 56 FR 52166, October 17, 1991). CERCLA also requires that ATSDR and EPA shall, at least annually thereafter, revise the list to include additional hazardous substances that have been determined to pose the most significant potential threat to human health. In 1995, the agencies altered the publication schedule of the priority list by moving to a 2-year publication schedule, reflecting the stability of this listing activity (60 FR 16478, March 30, 1995). As a result, the priority list is now on a 2-year publication schedule with a yearly informal review and revision. Each substance on the CERCLA Priority List of Hazardous Substances is a candidate to become the subject of a toxicological profile prepared by ATSDR and subsequently a candidate for the identification of priority data needs.

The initial priority lists of hazardous substances (1987–1990) were based on the most comprehensive and relevant information available when the lists were developed. More comprehensive sources of information on the frequency of occurrence and the potential for human exposure to substances at NPL sites became available for use in the 1991 priority list with the development of ATSDR's HazDat database. Utilizing this database, a revised approach and algorithm for ranking substances was developed in 1991, and a notice announcing the intention of ATSDR and EPA to revise and rerank the Priority List of Hazardous Substances was published on June 27, 1991 (56 FR 29485). The subsequent 1991 Priority List and revised approach used for its compilation was summarized in the ''Revised Priority List of Hazardous Substances'' **Federal Register** notice published October 17, 1991 (56 FR 52166). The same approach and the same basic algorithm have been used in all subsequent activities, including the 2005 listing activity. The algorithm used in ranking hazardous substances on the priority list consists of three criteria, which are combined to result in the total score. The three criteria are: Frequency of occurrence at NPL sites; toxicity; and potential for human exposure.

Since HazDat is a dynamic database with ongoing data collection, additional information from the HazDat database became available for the 2005 listing activity. This additional information has been entered into HazDat since the development of the 2003 Priority List of Hazardous Substances. The site-specific information from HazDat that is used in the listing activity has been collected from ATSDR public health assessments and from site file data packages that are used to develop these public health assessments. The new information may include more recent NPL frequency of occurrence data, additional concentration data, and more information on exposure to substances at NPL sites. With these additional data, 10 substances have been replaced on the list of 275 substances since the 2003 publication. Of the 10 replacement substances, 2 are new candidate substances, and 8 are substances that were previously under consideration. These replacement substances and changes in the order of substances appearing on the CERCLA Priority List of Hazardous Substances will be reflected in the program activities that rely on the list for future direction.

The 2005 Priority List of Hazardous Substances includes 275 substances that have been determined to be of greatest concern to public health based on the criteria of CERCLA section 104(i)(2) [42 U.S.C. 9604(i)(2)]. A total of 861 candidate substances have been analyzed and ranked with the current algorithm. Of these candidates, the 275 substances on the priority list may become the subject of toxicological profiles in the future. The top 25 substances on the 2005 Priority List of Hazardous Substances are listed below.

Rank	Substance name
1	Arsenic
2	Lead
3	Mercury
4	Vinyl Chloride
5	Polychlorinated Biphenyls
6	Benzene
7	Polycyclic Aromatic Hydrocarbons
8	Cadmium
9	Benzo (A) Pyrene
10	Benzo (B) Fluoranthene
11	Chloroform
12	Ddt, P,P'-
13	Aroclor 1254
14	Aroclor 1260
15	Dibenzon (A,H) Anthracene
16	Trichloroethylene
17	Dieldrin
18	Chromium, Hexavalent
19	Phosphorus, White
20	Dde, P,P'-
21	Chlordane
22	Hexachlorobutadiene
23	Coal Tar Creosote
24	Ddd, P',P'-
25	Aldrin

ATSDR intends to publish the next revised list of hazardous substances in two years, with an informal review and revision performed in one year. These revisions will reflect changes and improvements in data collection and

availability. Additional information on the existing methodology used in the development of the CERCLA Priority List of Hazardous Substances can be found in the Support Document to the List and in the **Federal Register** notices mentioned above.

In addition to the revised priority list, ATSDR is also releasing a Completed Exposure Pathway Site Count Report. A completed exposure pathway (CEP) is an exposure pathway that links a contaminant source to a receptor population. The CEP ranking is very similar to a sub-component of the potential-for-human-exposure component of the listing algorithm. The CEP ranking is based on a site frequency count, and thus lists the number of sites at which a substance has been found in a CEP. ATSDR's HazDat database contains this information which is derived from ATSDR public health assessments and health consultations. Because exposure to hazardous substances is of significant concern, ATSDR is publishing this CEP report along with the CERCLA Priority List of Hazardous Substances. Since this CEP report focuses on documented exposure, it provides an important prioritization based on substances to which people are exposed.

The substances on the CEP report are similar to the substances on the CERCLA Priority List of Hazardous Substances. However, there are some substances that are on the CEP report because they are frequently found in completed exposure pathways, but are not on the CERCLA Priority List because they have a very low toxicity (e.g., sodium). Since the CERCLA Priority List incorporates three different components (toxicity, frequency of occurrence, and potential for human exposure) to determine its priority substances, substances with very low toxicity are not on the CERCLA Priority List and consequently are not the subject of toxicological profiles. In addition, since the Priority List is mandated by CERCLA, it only uses data from sites on the CERCLA National Priorities List, whereas the CEP report uses data from all sites with ATSDR activities that have a CEP. Of the 100 substances on the CEP report, the 25 substances found at the most number of sites in a CEP are presented below.

Substance name	Number of sites with substance in a CEP	
	All sites	NPL sites
Lead	431	267
Trichloroethylene	363	286
Arsenic	341	208
Tetrachloroethylene	280	207
Benzene	210	137
Cadmium	207	136
Volatile Organic Compounds, Unspecified	193	132
Chromium	193	129
Polychlorinated Biphenyls	177	116
Mercury	167	93
Manganese	164	95
Zinc	158	95
Copper	143	83
1,1,1-Trichloroethane	135	110
Chloroform	124	92
Benzo(A)Pyrene	122	58
1,1-Dichloroethene	117	96
Polycyclic Aromatic Hydrocarbons	117	79
Nickel	112	70
Methylene Chloride	111	73
Toluene	111	68
Antimony	108	69
Vinyl Chloride	103	84
Barium	102	56
1,2-Dichloroethane	96	77

Note: Sorted by the All Sites column.
All Sites = all sites with ATSDR activities that have a CEP; NPL.
Sites = current and former sites on the National Priorities List, as mandated.

Dated: November 29, 2005.

Ken Rose,

Acting Director, Office of Policy, Planning and Evaluation, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

[FR Doc. E5–6971 Filed 12–6–05; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 70 FR 70617–18, dated November 22, 2005) is amended to reflect the reorganization of the Facilities Planning and Management Office, within the Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the titles and functional statements for the *Facilities Planning and Management Office (CAJ3)* and insert the following:

Buildings and Facilities Office (CAJC). (1) Operates, maintains, repairs, and modifies CDC's Atlanta area plant facilities, and conducts a maintenance and repair program for CDC's program support equipment; (2) carries out facilities planning functions for CDC, including new or expanded facilities, and a major repair and improvement program; (3) develops services for new, improved, and modified equipment to meet program needs, *i.e.*, building related and installed equipment such as HVAC, bio safety cabinets, chemical fume hoods, walk-in freezers, etc; and (4) conducts CDC's real property and space management activities, including the acquisition of leased space, the purchase and disposal of real property, and provides technical assistance in space planning to meet programmatic needs.

Office of the Director (CAJC1). (1) Plans, directs, and coordinates the functions and activities of the Buildings and Facilities Office (BFO); (2) provides management and administrative direction for budget planning and execution, property management, and personnel management within BFO; (3) provides leadership and strategic support to senior managers in the determination of CDC's long-term facilities needs; (4) coordinates the operations of BFO staff involved in the planning, evaluation, design, construction, and management of facilities and acquisition of property; (5) provides centralized value engineering (VE) services, policy development and coordination, and global acquisition planning for BFO; (6) develops and maintains the Integrated Facilities Management System to process data for management and control systems, and develop reports and analyses; and (7) assists and advises senior CDC officials in the development, coordination, direction, and assessment of facilities and real property activities throughout CDC's facilities and operations, and assures consideration of facilities management implications in program decisions.

Capital Improvements Management Office (CAJCB). (1) Provides professional architectural/engineering capabilities, and technical and administrative project support to CDC and the national centers (NC) for renovations and improvements to CDC-owned facilities and construction of

new facilities; (2) develops project management requirements (including determination of methods, means of project completion, and selection of resources); (3) provides critical path method scheduling support for all large capital construction projects and all repair and improvements (R&I) projects; and (4) provides central cost estimating support for all large capital construction projects, all R&I projects, special projects, feasibility studies, as requested, and certain work orders, as requested.

Design Engineering Management Office (CAJCC). (1) Prepares architectural and engineering designs, and specifications for construction of modifications and renovations to CDC-owned facilities; (2) provides architectural and engineering technical expertise and is the technical authority on new facilities, and modifications and renovations on facility project designs; (3) provides furniture, fixture, and equipment designs, and project management services for all CDC facilities; (4) provides record and guideline document support services to all BFO offices; and (5) maintains CDC Design Standards and Guidelines for use as basis of design for construction of new facilities, and modifications and renovations in CDC-owned facilities.

Facilities Maintenance & Engineering Office (CAJCD). (1) Operates, maintains, repairs, and modifies CDC's Atlanta area plant facilities and other designated CDC facilities throughout the United States (US) and Puerto Rico (PR), and conducts a maintenance and repair program for CDC's program support equipment; (2) develops services for new, improved, and modified equipment to meet program needs; (3) provides technical assistance, reviews maintenance and operation programs, and recommends appropriate action for all Atlanta area facilities and other designated CDC facilities throughout the US and PR; (4) provides recommendations, priorities, and services for new, improved, or modified equipment to meet program needs; (5) provides maintenance and operation of the central energy plant including structures, utilities production and distribution systems, and equipment; (6) conducts a program of custodial services, waste disposal, incinerations, disposal of biological waste, and other building services at all CDC Atlanta area facilities and other designated CDC facilities throughout the US and PR; (7) provides landscape development, repair, and maintenance at all CDC Atlanta area facilities and other designated CDC facilities throughout the US and PR; (8) provides hauling and moving services for CDC in the Atlanta area; (9) provides an Integrated Pest Management Program to control insect and rodents for CDC in Atlanta area facilities; (10) develops required contractual services and provides supervision for work performed in these areas; (11) establishes and maintains a computerized system for maintenance services, for stocking and ordering supplies, and replacement parts; (12) provides for pick-up and delivery of supplies and replacement parts; to work sites; (13) maintains adequate stock levels of supplies and replacement parts; (14) as needed, prepares designs and contract specifications, and coordinates completion of contract maintenance projects; (15) manages CDC's Energy Conservation Program for all CDC facilities; (16) reviews all construction documents for energy conservation goals and compliance with applicable CDC construction standards; (17) participates on all core teams and VE teams; (18) provides maintenance and inspection for fire extinguishers and fire sprinkler systems; (19) provides services for the procurement of natural gas; (20) develops and maintains a standard equipment list for all CDC facilities; (21) assists the Design Engineering Management Office and the Capital Improvements Management Office with facility-related issues; (22) provides building coordinators to interface with program personnel and all work to keep the building and equipment functioning; and (23) responsible for new building commissioning.

Real Property Management Office (CAJCE). (1) Conducts the real estate activities throughout CDC, including the acquisition of leased space, the purchase and disposal of real property for CDC nationwide (with emphasis on current and long-range planning for utilization of existing and future real property resources); (2) responsible for space assignment and utilization of all CDC space, both owned and leased, nationwide; (3) provides technical assistance in space planning to meet programmatic needs; (4) responsible for executing all easements for owned property; (5) administers day-to-day management of leased facilities and ensures contract compliance by lessors; (6) provides technical assistance and prepares contract specifications for all repair and improvement projects in leased space; (7) maintains liaison with the General Services Administration Regional Offices; (8) performs all functions relating to leasing and/or acquisition of real property under CDC delegation of authority for leasing, including direct lease actions; and (9) coordinates the relocation of CDC personnel within owned and leased space.

Dated: November 28, 2005.

William H. Gimson,

Chief Operating Officer, Centers for Disease Control and Prevention (CDC).

[FR Doc. 05–23689 Filed 12–6–05; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0535]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; MedWatch: Food and Drug Administration Medical Products Reporting Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''MedWatch: Food and Drug Administration Medical Products Reporting Program'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 27, 2004 (69 FR 77256), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0291.

As requested by the agency, in addition to the approval of the revised forms, the existing forms are approved for continued use for the next 12 months to allow for the industry to make necessary changes to their computerized systems.

The approval expires on October 31, 2008. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets.*

Dated: November 30, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–23676 Filed 12–6–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Industry Exchange Workshop on Food and Drug Administration Clinical Trial Requirements; Public Workshop; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of public workshop on FDA clinical trial statutory and regulatory requirements. This workshop was announced in the **Federal Register** of September 21, 2005 (70 FR 55405). The amendment is made to reflect a change in the *Location* portion of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: David Arvelo, Food and Drug Administration, 4040 North Central Expressway, suite 900, Dallas TX 75204, 214–253–4952, FAX: 214–253–4970, e-mail: *oraswrsbr@ora.fda.gov*.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 21, 2005 (70 FR 55405), FDA announced that a public workshop entitled ''Industry Exchange Workshop on Food and Drug Administration Clinical Trial Requirements'' would be held on Wednesday, February 8, 2006. On page 55405, in the first column, the *Location* portion of the document is amended to read as follows:

Location: The public workshop will be held at the Renaissance Houston Hotel Greenway Plaza, 6 Greenway Plaza East, Houston, TX 77046, 713–629–1200, FAX: 713–629–4702.

Dated: November 30, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–23675 Filed 12–6–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Risk Management, Corrective and Preventive Actions, and Training: An Educational Forum; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA), Office of Regulatory Affairs, Southwest Region, Dallas District Office, in collaboration with the FDA Medical Device Industry Coalition (FMDIC) is announcing a public workshop entitled ''Risk Management, Corrective and Preventive Actions, and Training: An Educational Forum.'' This public workshop is intended to provide information about FDA's medical device quality systems regulation (QSR) to regulated industry, particularly small businesses.

Date and Time: The public workshop will be held on April 28, 2006, from 8 a.m. to 5 p.m.

Location: The public workshop will be held at The Westin City Center, 650 North Pearl St., Dallas, TX 75201. Directions to the facility are available at the FMDIC Web site at *http://www.fmdic.org/*.

Contact Person: David Arvelo or Cassandra Davis, Food and Drug Administration, 4040 North Central Expressway, suite 900, Dallas, TX 75204, 214–253–4952 or 214–253–4951, FAX: 214–253–4970, e-mail *oraswrsbr@ora.fda.gov*.

Registration: FMDIC has a $150 early registration fee. Early registration begins on February 1, 2006, and ends April 14, 2006. Registration is $175 from April 15, 2006, to April 28, 2006. To register online, please visit *http://www.fmdic.org/*. As an alternative, you may send registration information including name, title, firm name, address, telephone and fax numbers, and e-mail, along with a check or money order for the appropriate amount payable to the FMDIC, to Dr. William Hyman, Texas A&M University, Department of Biomedical Engineering, 3120 TAMU, College Station, TX 75843–3120. Course space will be filled in order of receipt of registration with appropriate fees. Seats are limited; please submit registration form as soon as possible. Those accepted into the course will receive confirmation. Registration will close after the course is filled. Registration at the site will be done on a space-available basis on the day of the public workshop beginning at 8 a.m. The cost of registration at the site is $175 payable to the FMDIC. The registration fee will be used to offset expenses of hosting the conference, including meals, refreshments, meeting rooms, and materials.

If you need special accommodations due to a disability, please contact David Arvelo or Cassandra Davis at least 7 days in advance.

SUPPLEMENTARY INFORMATION: The workshop is being held in response to the interest in the topics discussed from small medical device manufacturers in the Dallas District area. FMDIC and FDA present this workshop to help achieve objectives set forth in section 406 of the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. 393), which include working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. This is also consistent with the purposes of FDA's Regional Small Business Program, which are, in part, to respond to industry inquiries, develop educational materials, and sponsor workshops and conferences to provide firms, particularly small businesses, with firsthand working knowledge of FDA's requirements and compliance policies. This workshop is also consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), as an outreach activity by Government agencies to small businesses.

The goal of the workshop is to present information that will enable manufacturers and regulated industry to better comply with the medical device QSR. The following topics will be discussed at the workshop: (1) Overview of the International Organization for Standardization (ISO) standard EN 14971, and residual risk, (2) incorporating risk management throughout the product lifecycle, (3) overview of a closed-loop corrective and preventive action (CAPA) system, (4) CAPA effectiveness, (5) overview of a training program, and (6) training program effectiveness.

Transcripts: Transcripts of the public workshop will not be available due to the format of this workshop. Course handouts may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the public workshop at a cost of 10 cents per page.

Dated: November 30, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–23677 Filed 12–6–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines; Notice of Meeting

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice; amendment.

SUMMARY: The Health Resources and Services Administration published a notice in the **Federal Register** of November 22, 2005 (70 FR 70623) announcing an Advisory Commission on Childhood Vaccines meeting on December 12, 2005. The document announced that the public can join the meeting by attending in person or by audio conference call. The meeting will now be held by audio conference call only. This document amends the notice by changing the place of the meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Lee at 301–443–2124 or e-mail: *clee@hrsa.gov.*

Correction

In the **Federal Register** of November 22, 2005, in FR Doc. 05–23042, on page 70623, 3rd paragraph, change to read:

The meeting will be an Audio Conference Call, and to join the meeting, you may call 1–800–369–6048, and provide the password: ACCV.

Dated: December 1, 2005.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. E5–6972 Filed 12–6–05; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

RIN 1660–ZA10

Application Period for the Assistance Program Under the 9/11 Heroes Stamp Act of 2001

Editorial Note: FR Doc. E5–6749 was originally published at page 72305 in the issue of Friday, December 2, 2005. In that publication two dates were incorrectly computed. The corrected document is republished below in its entirety.

AGENCY: United States Fire Administration (USFA), Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: The 9/11 Heroes Stamp Act of 2001 directed the United States Postal Service to issue a semipostal stamp and distribute the proceeds through the Federal Emergency Management Agency to the families of emergency relief personnel killed or permanently disabled while serving in the line of duty in connection with the terrorist attacks against the United States on September 11, 2001. This notice announces the application period for the Assistance Program Under the 9/11 Heroes Stamp Act of 2001.

DATES: The application period for the Assistance Program Under the 9/11 Heroes Stamp Act of 2001 starts on December 2, 2005 and closes on April 3, 2006.

FOR FURTHER INFORMATION CONTACT: Tom Olshanski, Heroes Stamp, USFA, National Emergency Training Center (NETC), 16825 South Seton Avenue, Emmitsburg, MD 21727, or call 1–866–887–9107, or send e-mail to *FEMA-HeroesStamp@dhs.gov*.

SUPPLEMENTARY INFORMATION: The 9/11 Heroes Stamp Act of 2001, Public Law 107–67, sec. 652, 115 Stat. 514 (Nov. 12, 2001) (Heroes Stamp Act), directed the United States Postal Service to issue a semipostal stamp and distribute the proceeds through the Federal Emergency Management Agency (FEMA) to the families of emergency relief personnel killed or permanently disabled while serving in the line of duty in connection with the terrorist attacks against the United States on September 11, 2001. FEMA issued an interim final rule as the mechanism by which it will distribute the Heroes Stamp Act funds. *See* 70 FR 43214, July 26, 2005.

The application period for the Assistance Program Under the 9/11 Heroes Stamp Act of 2001 starts on December 2, 2005 and closes on April 3, 2006. A copy of the application may be downloaded from *http://www.usfa.fema.gov* or you may obtain a copy by writing to Heroes Stamp, USFA, NETC, 16825 South Seton Avenue, Emmitsburg, MD 21727.

If you have questions, please call the toll free Helpline at 1–866–887–9107 or e-mail your questions to *fema-heroesstamp@dhs.gov*. For further information, please see *http://www.usfa.fema.gov*.

(The Catalog of Federal Domestic Assistance (CFDA) Number is 97.085.)

Dated: November 28, 2005.

R. David Paulison,

Acting Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E5–6749 Filed 12–1–05; 8:45 am]

Editorial Note: FR Doc. E5–6749 which was originally published at page 72305 in the issue of Friday, December 2, 2005 is being republished in its entirety in the issue of Wednesday, December 7, 2005 because of editing errors.

[FR Doc. R5–6749 Filed 12–6–05; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–660–1430–ER–CACA–17905]

Notice of Intent To Prepare an Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) for the Proposed Devers-Palo Verde No. 2 Transmission Line Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, (Pub. L. 91–190, 42 U.S.C. 432l *et seq.*), notice is hereby given that the Bureau of Land Management (BLM), together with the California Public Utilities Commission (CPUC), intend to prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Devers-Palo Verde 500 kV No. 2 Transmission Line Project (DPV2), proposed by the Southern California Edison Company (SCE). The BLM is the lead Federal agency for the preparation of this EIS in compliance with the requirements of the National Environmental Policy Act (NEPA). The CPUC is the lead State of California agency for the preparation of this EIR in compliance with the requirements of the California Environmental Quality Act (CEQA).

This notice initiates the public participation and scoping processes for the EIS/EIR and also serves as an invitation for other cooperating agencies to provide comments on the scope and content of the EIS/EIR. Potential cooperating agencies include the U.S. Fish and Wildlife Service, the Department of Defense, the State Historic Preservation Office, and the California Department of Fish and Game.

DATES: Scoping meetings will be held during fall 2005. Comments on issues and planning criteria may be submitted in writing to the address listed below. All public meetings will be announced at least 15 days prior to the event through the local news media, newspapers, and these two agency Web sites: *http://www.ca.blm.gov/palmsprings* and *http://www.cpuc.ca.gov/environment/info/aspen/dpv2/ dpv2.htm.* In addition to the ongoing public participation process, formal opportunities for public participation will be provided upon publication of the Draft EIS/EIR. Written comments must be postmarked no later than 30 days from the date of this notice in order to be included in the Draft EIS/EIR. When available, the public will be provided a 60-day public review period on the Draft EIS/EIR. These documents will be made available at document repository sites listed on the previously identified agency Web sites. Contact the BLM if you would like to be included in the mailing list to receive copies of all public notices relevant to this project.

ADDRESSES: Comments and other correspondence should be sent to Field Manager, Bureau of Land Management, 690 West Garnet Ave., P.O. Box 581260, North Palm Springs, CA 92258–1260 or by fax at (760) 251–4899. Documents pertinent to this proposal, including comments with the names and addresses of respondents, will be available for public review at the BLM Palm Springs-South Coast Field Office located at 690 W. Garnet Avenue, North Palm Springs, California 92258, during regular business hours of 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the Draft EIS/EIR. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. BLM will not consider anonymous comments. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Claude Kirby, Bureau of Land Management, Palm Springs-South Coast Field Office, 690 West Garnet Ave, P.O. Box 581260, North Palm Springs, California 92258–1260, (760) 251–4850.

SUPPLEMENTARY INFORMATION: Southern California Edison (SCE) is proposing to construct a new 230-mile long, 500-kilovolt (kV) electrical transmission line between SCE's Devers Substation located near Palm Springs, California, and the Harquahala Generating Station switchyard, located near the Palo Verde Nuclear Generating Station (PVNGS) west of Phoenix, Arizona. For the most part, this portion of the project would parallel SCE's existing Devers-Palo Verde No. 1 500kV transmission line. In addition, SCE is proposing to upgrade 48.2 miles of existing 230 kV transmission lines between the Devers Substation west to the San Bernardino and Vista Substations, located in the San Bernardino, California, vicinity. Together, the proposed 500 kV line and the 230 kV transmission facility upgrades are known as DPV2. Construction of DPV2 would add 1,200 megawatts (MW) of transmission import capacity from the southwestern United States to California, which would reduce energy costs throughout California and enhance the reliability of California's energy supply through increased transmission infrastructure. The BLM has identified a preliminary list of issues that will need to be addressed in this analysis, including the impacts of the proposed project on visual resources, agricultural lands, air quality, plant and animal species including special status species, cultural resources, and watersheds. Other issues identified by the BLM are impacts to the public in the form of noise, traffic, accidental release of hazardous materials, and impacts to urban, residential, and recreational areas. Members of the public are invited to identify additional issues and concerns to be addressed.

Gail Acheson,

Field Manager.

[FR Doc. E5–6975 Filed 12–6–05; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO501–1431–EQ; COC–68431]

Notice of Realty Action: Non-Competitive Lease of Public Land in Fremond County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has determined that approximately 0.055 acres of public land in Fremont County, Colorado, is suitable for lease pursuant to Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732).

DATES: Interested parties may submit comments for a period of January 23, 2006.

ADDRESSES: Comments should be sent to the Field Manager, Royal George Field Office, Bureau of Land Management, 3170 East Main Street, Cañon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: Lindell Greer, Realty Specialist, BLM Royal Gorge Field Office, (719) 269–8532.

SUPPLEMENTARY INFORMATION:

The BLM has examined a parcel of public land, containing approximately 0.055 acres and described as a metes and bounds parcel in the SW¼SW¼ of section 33, T. 50 N., R. 11 E., New Mexico Principal Meridian, Fremont County, Colorado, and determined that it is suitable for lease pursuant to Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732), using noncompetitive lease procedures as provided in 43 CFR 2920.5–4(b). The lands are presently used for seasonal occupancy purposes.

The BLM proposes to grant the current occupant Charles E. Afeman, a non-assignable life-estate lease to authorize the existing seasonal occupancy and use. The lease, if issued, would be for not less than fair market value and be to all valid existing rights and the provisions of the Federal Land Policy and Management Act and applicabl regulations of the Secretary of the Interior. Upon relinquishment or cancellation of the lease, or death of the lessee, the lease would terminate, the existing improvements would be removed, and the land would be restored to its natural condition. Issuing a non-assignable, life-estate lease for this public land parcel is consistent with the Royal Gorge Resource Management Plan (May 1996).

Publication of this notice will initiate public review, consultation, and collaboration for this proposed land use authorization. Detailed information concerning the proposed action is available for review at the Royal Gorge Field Office, Bureau of Land Management, 3170 East Main Street, Cañon City, Colorado 81212, or by telephoning Lindell Greer, Realty Specialist, at (719) 269–8532.

Interested parties may submit comment to the Field Manager, Royal

Gorge Field Office, at the above address until January 23, 2006. Any adverse comments will be evaluated by the Royal Gorge Field Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this action will become the final determination of the Department of the Interior.

Roy L. Masinton,

Royal Gorge Field Manager.

[FR Doc. 05–23731 Filed 12–6–05; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–330–04–1610–DN]

Notice of Intent To Prepare Arcata Resource Management Plan Amendment for Recently Acquired Humboldt County Coastal Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: This document provides notice that the Bureau of Land Management (BLM) Arcata Field Office intends to prepare a Resource Management Plan (RMP) Amendment with an associated Environmental Assessment (EA) for recently acquired BLM coastal lands in Humboldt County in Northwest California. The lands addressed by this amendment have been acquired through a combination of fee title and conservation easements, using private donations and state and Federal funds.

Approximately 1100 acres have been acquired by the BLM along the Humboldt County coast since completion of the Arcata RMP in 1992. These lands are located in T.6N., R.1W., Secs. 26, 27, 34 and 35; T.4N., R.2W., Secs. 13, 14, 23, 24, 26 and 27; and T.2N., R.3W., Secs. 12, 13, 23, 24, 25, 26, Humboldt Meridian. The plan amendment will fulfill the obligations set forth by the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA) and BLM management policies. The plan amendment will serve to update the Arcata RMP and associated amendments for the affected lands. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns. The public scoping process will identify planning issues, develop planning criteria, and outline a vision for area management that reflects the needs and interests of the public and protection of the areas' resource values.

DATES: The publication of this notice initiates the public scoping process. Public comments concerning the scope of the draft RMP amendment should be submitted within 30 days of the date of publication of this notice in the **Federal Register**. Comments are requested on potential issues, alternatives, as well as any suggested planning criteria that BLM should use to guide the plan amendment process.

Public Participation: Public input will be accepted throughout the preparation period. Public open houses will be held in the Eureka, CA area during the scoping period and again with the release of the draft RMP amendment. Information concerning the planning process, including open houses and other public participation opportunities, will be announced by BLM through news releases, direct mailings or other applicable means of public notification. Current information about the planning process is also maintained at the Arcata Field Office, 1695 Heindon Rd., Arcata, CA 95521, telephone (707) 825–2300.

ADDRESSES: Scoping comments should be sent to Arcata RMP Amendment, Bureau of Land Management, Arcata Field Office, 1695 Heindon Road, Arcata, California 95521; Fax (707) 825–2301, or e-mail at *caweb330@ca.blm.gov.* The BLM will maintain a record of public documents related to the development of the RMP amendment at the Arcata Field Office at the address listed above. Comments, including names and street addresses of respondents, will be available for public review at the Arcata Field Office during regular business hours, 7:45 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays, and may be published as part of the environmental assessment. Individual respondents may request confidentiality. Individuals who wish to withhold their name or street address from public review or from disclosure under the Freedom of Information Act must state this prominently at the beginning of their written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION: For further information or to have your name added to the mailing list, contact Bob Wick, telephone (707) 825–2321 or e-mail to *rwick@ca.blm.gov.*

SUPPLEMENTARY INFORMATION: A plan amendment is needed because the existing 1992 Arcata RMP does not provide specific management direction for the coastal properties identified in this notice (since they were not managed by the BLM at the time of the RMP approval). The lands contain a number of resource issues/opportunities that call for a plan amendment to facilitate management. Portions of the acquired lands contain populations of Federally listed threatened and endangered species including two plants; beach layia (*Layia carnosa*) and Humboldt Bay wallflower (*Erysimum menziesii* ssp. *eurekense*); one endangered bird, the California brown pelican (*Pelecanus occidentalis californicus*); and one threatened bird, the western snowy plover (*Charadrius alexandrinus nivosus*). The plan amendment will include measures to protect habitat for these species.

The South Spit makes up the majority of the acquired lands and is the primary reason behind the timeframe for the RMP amendment. Through a Deed of Conservation Easement, the State of California conveyed to the Bureau of Land Management (BLM) management authority over the South Spit in all aspects of its use in perpetuity. The deed conveying an easement to the BLM from the State of California stated that the area will be administered consistent with management planning. This long-term management plan will involve a community-based partnership approach with all interested parties and the general public. This includes the Table Bluff Reservation—Wiyot Tribe, government agencies, environmental and conservation organizations, and recreation groups. The BLM completed an interim plan/biological assessment in 2003 with an understanding that a long-term plan would be completed within three years (2006). The current process will serve to develop this long-term plan and will include both RMP and implementation level decisions.

The South Spit is a unique and significant area to the region. Due to the area's natural diversity, cultural resource values, and populations of sensitive species, protection of these resources is necessary and will require active management. The South Spit has historically provided a variety of recreation activities and other public uses. The BLM will work collaboratively with other agencies, tribes and interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns. Preliminary issues and management concerns have been identified by BLM personnel, other

agencies, and in meetings with individuals and user groups, including: Protection and enhancement of threatened and endangered plant and animal species and their habitats; Control of invasive non-native vegetation, including European beachgrass, iceplant, yellow bush lupine, and others; Importance of the area to the cultural heritage of the Wiyot people and sensitivity of Tribal areas; Traditional use for recreation opportunities such as waterfowl hunting, wildlife/wildlands observation, photography, fishing, surfing, environmental education, horse use and vehicle access to the waveslope.

Disciplines involved in the planning process will include specialists with expertise in wildlife management, geology, archaeology, lands and realty, recreation, botany, and information technology. Several alternatives will be evaluated as part of the Environmental Assessment process. These will include: A ''No Action'' Alternative-continuation of present management; and one or several other alternatives to best address the issues identified during the scoping process.

Dated: October 11, 2005.

Lynda Roush,

Field Manager, Arcata Field Office.

[FR Doc. E5–6976 Filed 12–6–05; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before November 12, 2005.

Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by December 22, 2005.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

CALIFORNIA

Ventura County

Gould, Thomas, Jr., House, 402 Lynn Dr., Ventura, 05001426

GEORGIA

Carroll County

Veal School, 2753 Old Columbus Rd., Roopville, 05001427

INDIANA

Lake County

Crown Point Courthouse Square Historic District (Boundary Adjustment), Roughly bounded by Robinson, East, Walnut, and Court Sts., Crown Point, 05001464

IOWA

Black Hawk County

Syndicate Block, 206, 208, 210, 212 and 216 Main St., La Porte City, 05001429

Marion County

Koelman, Philipus J. and Cornelia, House, 1005 Broadway, Pella, 05001430

MAINE

Cumberland County

Andrews, Lt. Robert, House, 428 S. Bridgton Rd., Bridgton, 05001440

Knox County

Williams, Timothy and Jane, House, 34 Old County Rd., Rockland, 05001441

Lincoln County

Parson's Bend, 100 Nelson Rd., Alna, 05001439

Washington County

Charlotte Pound, Charlotte Rd., 0.25 mi E of jct. with ME 214, Charlotte, 05001442

MARYLAND

Anne Arundel County

Avery, Capt. Salem, House, 1418 East West Shady Side Rd., Shady Side, 05001443

Kent County

Thornton, 10618 Perkins Hill Rd., Chestertown, 05001428

Washington County

Booneboro Historic District, Main St., Potomac St., St. Paul St., High St., Lakin Ave., Center St., Park Dr., Park Ln, Park View, Young Ave., Boonesboro, 05001431

MINNESOTA

Brown County

New Ulm Commercial Historic District, Roughly bounded by Minnesota St., bet 1st S and 3rd N Sts., New ulm, 05001438

Murray County

4–H Club Building, Murray County Fairgrounds, off Broadway Ave., Slayton, 05001436

MISSOURI

Buchanan County

McIntyre-Burri House, (St. Joseph MPS) 808 N. 24th St., Saint Joseph, 05001435

Franklin County

Fore Shoe Company Building, 601 E 6th St., Washington, 05001432

Greene County

Campbell Avenue Historic District (Boundary Increase I), (Springfield, Missouri MPS AD) 318 and 322–326 S. Campbell Avenue, Springfield, 05001433

St. Louis County

Hampton Park, 1108–1176 Center Dr., 1012–1259 Hampton Park Dr., 1140–1173 Hillside Dr., 7914–8045 Park Dr., 8000–8062 South Dr., Richmond Heights, 05001437

New Mount Sinai Cemetery, 8430 Gravois Rd., Affton, 05001434

NEW HAMPSHIRE

Cheshire County

Bradley, Stephen Rowe, House, 43 Westminster St., Walpole, 05001445

Merrimack County

Baptist New Meeting House, 461 Main St., New London, 05001446

Bridges, H. Styles, House, 21 Mound Rd., Concord, 05001444

NEW YORK

Lewis County

Osceola Town Hall, N. Ocseola Rd., Osceola, 05001454

Monroe County

Mendon Presbyterian Church, 3886 Rush—Mendon Rd., Mendon, 05001455

St. Lawrence County

Brick Chapel Church and Cemetery, 5501 Cty Rte 27, Canton, 05001461

Tompkins County

Hayt's Chapel and Schoolhouse, (Freedom Trail, Abolitionism, and African American Life in Central New York MPS) 1296–1298 Trumansburg Rd., Ithaca, 05001453

NORTH CAROLINA

Montgomery County

Mount Gilead Downtown Historic District, Main St. from First Ave. to 106 and 117 S. Main St., and the 100 blks of West Allenton St., Mt. Gilead, 05001447

Pitt County

Skinnerville—Greenville Heights Historic District, Roughly bounded by Pitt St., Martin Luther King Jr. Dr., Ward St., White St., Tyson St., Fairfax St., the Tar River, Greenville, 05001452

Rutherford County

East Main Street Historic District, Roughly along parts of Arlington St., Carolina Ave.,

N. Magnolia St., S. Magnolia St., E. Main St., McBrayer Court, Forest City, 05001450

Henrietta—Caroleen High School,

2527 NC 221A, Mooresboro, 05001451

Wake County

Blalock, Dr. Nathan M., House, 6741 Rock Service Station Rd., Raleigh, 05001449

Foquay Springs Teacherage, 602 E Academy St., Fuqay-Varina, 05001448

OREGON

Jackson County

Carpenter, A.S.V., and Helen Bundy House, 1677 Old Stage Rd., Central Point, 05001456

RHODE ISLAND

Newport County

Osborn-Bennett Historic District, 1137, 1148, 1168, 1188 Main Rd., Tiverton, 05001460

Providence County

Oriental Mills, 10 Admiral St., Providence, 05001463

SOUTH DAKOTA

Lawrence County

Mount Theodore Roosevelt Monument, Black Hill's National Forest, Deadwood, 05001457

TEXAS

Concho County

Eola School, 12119 FM 381, Eola, 05001458

Hidalgo County

Oblate Park Historic District, (Mission, Hidalgo County MPS) Roughly bounded by Doherty, Keralum, W. 16th St. and W. 10th St., Mission, 05001459

Starr County

Yzaquirre—Longoria House, (Rio Grande City, Starr County, Texas MPS) 107 W. Water St., Rio Grande, 05001462

A request for a *move* has been made for the following resource:

INDIANA

Allen County

Wabash Railroad Depot, 530 State St., New Haven, 0300146

[FR Doc. E5–6960 Filed 12–6–05; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before November 19, 2005.

Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by December 22, 2005.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

ARIZONA

Pima County

Winterhaven Historic District, Bounded by Prince, Country Club, Ft. Lowell, and Tucson Blvd., Tucson, 05001466

MAINE

Androscoggin County

Chapel Hill Historic District, Roughly bounded by Industrial Blvd., unnamed alley E of South St., and E. Oldtown Rd., Cumberland, 05001477

Hancock County

Haystack Mountain School of Crafts, 89 Haystack School Dr., Deer Isle, 05001469

Kennebec County

Colcord Farmstead, 184 Unity Rd., Benton, 05001468

Underwood, Joseph H., House, 1957 Main St., Fayette, 05001470

Knox County

Gaunt Neck Site Complex, Address Restricted, Cushing, 05001467

MARYLAND

Allegany County

Decatur Heights Historic District, Roughly along Baltimore Ave., Decatur St., Davidson St., Frederick St. and Linden St., Cumberland, 05001478

Greene Street Historic District, Greene St. bet. Spruce Alley and Riverside, Cumberland, 05001482

Frederick County

Kitterman—Buckey Farm, 12529 Molasses Rd., Johnsville, 05001479

Rich Mountain, 6434 S. Clifton Rd., Frederick, 05001480

Talbot County

Oxford Historic District, Roughly bounded by Tred Avon R, Town Creek and Caroline Ave., Oxford, 05001481

MINNESOTA

Morrison County

Our Lady of the Angels Academy, 18801 Riverwood Dr., Little Falls, 05001474

MISSOURI

Cole County

Capitol Avenue Historic District, Roughly Capitol Ave., from Adams to Cherry Sts., Jefferson City, 05001473

Sullivan County

Henry Cemetery, E side of MO Z, approx 1 mi. S of Reger, Reger, 05001472

MONTANA

Lewis and Clark County

Donovan—Mayer House, 46 S. Howie St., Helena, 05001471

NEW JERSEY

Passaic County

Paasaic Elks Club, 29–31 Howe Ave., Passaic, 05001485

Sussex County

Backwards Tunnel, Cork Hill Rd., 310 ft. N of Passaic Ave. intersection, Ogdensburg, 05001483

Warren County

Van Nest—Hoff—Vannatta Farmstead, Cty Rd. 519, Harmony, 05001484

NEW YORK

Niagara County

DAY PECKINPAUGH, (canal motorship), NYS Barge Canal, Lockport, 05001486

NORTH CAROLINA

Durham County

Forest Hills Historic District, (Durham MRA) Roughly bounded by Kent St., Bivins St., Wells St., American Tobacco Trail, Forestwood Dr. and Beverly Dr., Durham, 05001476

NORTH DAKOTA

Grand Forks County

Downtown Grand Forks Historic District, Downtown Grand Forks, at the Red River of the North, Grand Forks, 05001475

PENNSYLVANIA

Lancaster County

Chickies Historic District, Roughly bounded by the Susquehanna R, Chickies Creek, Bank St. and Long Lane., Marietta Borough, 05001488

Lehigh County

Allentown National Bank, 13–17 N. Seventh St., Allentown, 05001490

Montgomery County

Seville Theatre, 822–826 W. Lancaster Ave., Lower Merion Township, 05001491

Northampton County

Arndt, Jacob, House and Barn, 910 Raubsville Rd., Williams Township, 05001489

UTAH

Salt Lake County

ZCMI General Warehouse, (Salt Lake City Business District MRA) 230 South 500 West, Salt Lake City, 05001487

WISCONSIN

Oneida County

Hagge, Hans J., Boathouse, 7220 Newell Rd., Hazelhurst, 05001493
Orth, Phillip, Boathouse, 9204 Country Club Rd., Minocqua, 05001492
Walter, Luther and Anna, Boathouse, 9574 Country Club Rd., Minocqua, 05001494

A request for *removal* has been made for the following resources:

OKLAHOMA

Atoka County

Atoka Community Building (WPA Public Bldgs., Recreational Facilities and Cemetery Improvements in Southeastern Oklahoma, 1935–1943 TR), First and Delaware Sts., Atoka, 88001373
Old Atoka County Courthouse, Pennsylvania and Court Sts., Atoka, 79001985
Standley, Capt. James S., House, 207 N. Ohio Ave., Atoka, 79001986
Zweigel Hardware Store Building, 405 and 407 Court St., Atoka, 80003255

[FR Doc. E5–6961 Filed 12–6–05; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before November 26, 2005. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by December 22, 2005.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

CALIFORNIA

Fresno County

San Joaquin Light & Power Corporation Building, 1401 Fulton St., Fresno, 05001497

Los Angeles County

Hotel Chancellor, 3191 W. Seventh St., Los Angeles, 05001496
Santa Fe Coast Lines Hospital, 610–30 S. Louis St., Los Angeles, 05001499
Santa Fe Freight Depot, 970 E. 3rd St., Los Angeles, 05001498

PENNSYLVANIA

Northampton County

South Bethlehem Downtown Historic District, Roughly bounded by Wyandotte, Columbia, Hayes, and Morton St., Bethlehem, 05001500

WASHINGTON

Pend Oreille County

Phillips, Dr. John and Viola, House and Office, S. 337 Spokane Ave., Newport, 05001501

[FR Doc. E5–6962 Filed 12–6–05; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Application for National Firearms Examiner Academy.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 70, Number 178, page 54571 on September 15, 2005, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 6, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for National Firearms Examiner Academy.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 6330.1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, local, or tribal government. Other: Federal. *Abstract:* The information requested on this form is necessary to process requests from prospective students to attend the ATF National Firearms Examiner Academy, and to acquire firearms and tool mark examiner training. The information collection is used to determine the eligibility of the applicant.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 75 respondents, who will complete the form within approximately 12 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 15 total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry

Building, 601 D Street, NW., Washington, DC 20530.

Dated: November 29, 2005.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 05–23696 Filed 12–6–05; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60–Day notice of information collection under review: Certificate of Compliance with 18 U.S.C. 922(g)(5)(B).

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until February 6, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Derek Ball, Firearms and Explosives Imports Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Certificate of Compliance with 18 U.S.C. 922(g)(5)(B).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5330.20. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* None. The law of 18 U.S.C. 922(g)(5)(B) makes it unlawful for any nonimmigrant alien to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has shipped or transported in interstate or foreign commerce. ATF F 5330.20 is for the purpose of ensuring that nonimmigrant aliens certify their compliance according to the law at 18 U.S.C. 922(g)(5)(B).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 3,000 respondents will complete a 3 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 150 annual total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: November 29, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–23697 Filed 12–6–05; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Report of Theft or Loss of Explosives.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 70, Number 181, page 55166 on September 20, 2005, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 6, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Report of Theft or Loss of Explosives.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5400.5. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* None. *Abstract:* Losses or theft of explosives must be reported within 24 hours of the discovery of the loss or theft. This form contains the minimum information necessary for ATF to initiate criminal investigations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 150 respondents, who will complete the form within approximately 1 hour and 48 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 270 total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: November 29, 2005.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 05–23698 Filed 12–6–05; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Certification of secure gun storage or safety devices.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until February 6, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact David Adinolfi, Federal Firearms Licensing Center, Room, 2600 Century Parkway, West, Atlanta, GA 30044.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Certification of Secure Gun Storage or Safety Devices.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5300.42. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* None. The requested information will be used to ensure that applicants for a Federal firearms license are in compliance with the requirements pertaining to the availability of secure gun storage or safety devices.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 61,641 respondents will complete a 1 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,233 annual total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: November 30, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–23699 Filed 12–6–05; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection, Comments Requested

ACTION: 30-day notice of information collection under review: Number of Full-time Law Enforcement Employees as of October 31.

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 70, Number 187, Page 56737 on September 28, 2005, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 6, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this

notice, especially the estimated public burden and associated response time, should be directed to Gregory E. Scarbro, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS), Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, or facsimile to (304) 625–3566.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Revision of currently approved collection.

(2) *The title of the form/collection:* Number of Full-time Law Enforcement Employees as of October 31.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Forms 1–711, 1–711a, 1–711b Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Local and State Law Enforcement Agencies. This collection is needed to collect information to determine the number of Civilian and sworn full-time law enforcement employees throughout the United States. Data are tabulated and published in the annual publication Crime in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 17,499 law enforcement agency respondents at 8 minutes per report.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 2,333 hours annual burden associated with this information collection.

If additional information is required contact: Ms. Brenda E. Dyer, Department Clearance Officer, Justice Management Division, United States Department of Justice, Patrick Henry Building Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: November 30, 2005.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E5–6964 Filed 12–6–05; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,930]

Cabinet Industries, Inc., Danville, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Cabinet Industries, Inc., Danville, Pennsylvania. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–57,930; Cabinet Industries, Inc. Danville, Pennsylvania (November 17, 2005).

Signed at Washington, DC, this 18th day of November 2005.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E5–6997 Filed 12–6–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,892]

Cardinal Health 200, Incorporated Formerly Known as Allegiance Health Care Medical Products and Services Division Including Leased Production Workers of Select Personnel Services El Paso, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 20, 2005, applicable to workers of Cardinal Health 200, Incorporated, Medical Products and Services Division, including leased production workers of Select Personnel Services, El Paso, Texas. The notice was published in the **Federal Register** on October 31, 2005 (70 FR 62347).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of medical products such as disposable surgical gowns, drapes and packs.

New information shows that the subject firm, originally named Allegiance Health Care, was renamed Cardinal Health 200, Incorporated, due to a change in ownership. Workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Allegiance Health Care.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Cardinal Health 200, Incorporated, Medical Products and Services Division who were adversely affected by a shift in production to Mexico.

The amended notice applicable to TA–W–57,892 is hereby issued as follows:

''All workers of Cardinal Health 200, Incorporated, formerly known as Allegiance Health Care, Medical Products and Services Division, including leased on-site workers of Select Personnel Services, El Paso, Texas, who became totally or partially separated from employment on or after August 23, 2004, through September 20, 2007, are

eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 15th day of November 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6995 Filed 12–6–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,881; TA–W–57,881B]

Champion Laboratories, Inc., Albion, IL; Champion Laboratories, Inc., West Salem, IL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on September 15, 2005, applicable to workers of Champion Laboratories, Inc., Albion, Illinois. The notice was published in the **Federal Register** on October 31, 2005 (70 FR 62347). The certification was amended on November 8, 2005 to include an employee of the Albion, Illinois facility of the subject firm located in Bristol, Connecticut (TA–W–57,881A). The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of filters.

New information shows that the company sends workers back and forth between the Albion, Illinois facilities and the West Salem, Illinois facility; therefore, workers are not separately identifiable by location. Worker separations have occurred at the Albion, Illinois and West Salem, Illinois facilities of Champion Laboratories.

Accordingly, the Department is amending the certification to cover workers of Champion Laboratories, Inc., West Salem, Illinois.

The intent of the Department's certification is to include all workers of Champion Laboratories, Inc. who were adversely affected by increased company imports.

The amended notice applicable to TA–W–57,881 is hereby issued as follows:

''All workers of Champion Laboratories, Inc., Albion, Illinois (TA–W–57,881), including an employee of Champion Laboratories, Albion, Illinois, located in Bristol, Connecticut (TA–W–57,881A), Champion Laboratories, Inc., West Salem, Illinois (TA–W–57,881B), who became totally or partially separated from employment on or after August 27, 2004, through September 15, 2007, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 18th day of November 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6994 Filed 12–6–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–54,329]

Diefendorf Gear, LLC, Syracuse, NY; Certification Regarding Eligibility to Apply for Alternative Trade Adjustment Assistance

The Department adopted a new interpretation regarding the Alternative Trade Adjustment Assistance (ATAA) program in order to provide equitable access to ATAA for worker groups whose petitions were still in process at the time of implementation of the ATAA program on August 6, 2003. Under this new interpretation, worker groups covered by the certification of a petition that was in process on August 6, 2003 may request ATAA consideration for the certified worker group. In addition, certified worker groups who filed petitions after that date may also request ATAA if the petition did not include an option to apply for ATAA. The request must be made to the Department and may be made by anyone who was entitled to file the original petition under section 221(a)(1) of the Act.

By letter dated November 8, 2005, a state agency representative requested ATAA consideration for workers at the subject firm located in Syracuse, New York.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of section 246(a)(3)(A) of the Trade Act must be met. The Department has determined in this case that the requirements have been met.

The investigation revealed that the subject worker group possesses skills that are not easily transferable in the local area, and that at least five percent of the workforce at the subject firm is at least fifty years of age. Industry data show that competitive conditions within the motor vehicle power train components industry are adverse.

Conclusion

After careful review of the facts obtained on investigation, I conclude that the requirements of section 246(a)(3)(A) of the Trade Act of 1974, as amended, have been met for workers at the subject firm.

In accordance with the provisions of the Act, I make the following certification:

''All workers of Diefendorf Gear, LLC, Syracuse, New York, who became totally or partially separated from employment on or after February 11, 2003 through March 2, 2006, are eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974, as amended.''

Signed in Washington, DC, this 23rd day of November 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6992 Filed 12–6–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,728]

J.E. Morgan Knitting Mills (Sara Lee), Tamaqua, PA; Notice of Revised Determination on Reconsideration

By application of September 30, 2005, a company official requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on August 31, 2005, based on the finding that imports of long sleeve mock turtleneck shirts did not contribute importantly to worker separations at the subject plant and that there was no shift to a foreign country. The denial notice was published in the **Federal Register** on October 6, 2005 (70 FR 58477).

The workers at the subject facility were previously certified eligible for trade adjustment assistance (TAA) under TA–W–51,522. That TAA certification expired on May 5, 2005.

To support the request for reconsideration, the company official supplied additional information to supplement that which was gathered

during the initial investigation. Upon further review, it was revealed that workers of the subject firm were also engaged in production of thermal knit underwear, shirts and drawers and knit, bleach and cutting operations. The investigation also revealed that the company shifted production of thermal knit underwear, shirts and drawers to El Salvador and Honduras during the relevant period and that this shift contributed importantly to layoffs at the subject firm.

In accordance with section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts obtained in the investigation, I determine that there was a shift in production from the workers' firm or subdivision to El Salvador and Honduras of articles that are like or directly competitive with those produced by the subject firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

''All workers of J.E. Morgan Knitting Mills (Sara Lee), Tamaqua, Pennsylvania who became totally or partially separated from employment on or after May 6, 2005 through two years from the date of certification are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974'' and

''All workers of J.E. Morgan Knitting Mills (Sara Lee), Tamaqua, Pennsylvania who became totally or partially separated from employment on or after August 12, 2004, through two years from the date of this certification, are eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.''

Signed in Washington, DC this 17th day of November 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6993 Filed 12–6–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 19, 2005.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 19, 2005.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 22nd day of November 2005.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[TAA Petitions Instituted Between 11/7/05 and 11/11/05]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
58282	Kone (IAM)	Moline, IL	11/07/05	11/04/05
58283	Hartz and Company, Inc. (Comp)	Broadway, VA	11/07/05	11/01/05
58284	Volvo Construction Equipment, NA (Wkrs)	Skyland, NC	11/07/05	11/03/05
58285	Sax Hosiery, Inc. ()	Gibsonville, NC	11/07/05	10/31/05
58286	Honeywell, Inc. (State)	Coon Rapids, MN	11/07/05	11/07/05
58287	Agilent Technologies, Inc. (Wkrs)	Loveland, CO	11/08/05	10/26/05
58288	Alcoa (Comp)	Frederick, MD	11/08/05	11/07/05
58289	Eaton (IBEW)	Beaver, PA	11/08/05	11/07/05
58290	Collins and Aikman (Comp)	Lowell, MA	11/08/05	11/07/05
58291	M. Swift and Sons, Inc. (State)	Hartford, CT	11/08/05	11/08/05
58292	Tembec USA, LLC (Comp)	St. Francisville, LA	11/08/05	10/27/05
58293	DeVaughn Woodworks, Inc. (Comp)	Marietta, MS	11/08/05	10/09/05
58294	Celanese Emulsions Corporation (IBB)	Meredosia, IL	11/08/05	10/18/05
58295	Pixelworks, Inc. (Wkrs)	Tualatin, OR	11/09/05	11/04/05
58296	Kimberly-Clarke (Comp)	Pocatello, ID	11/09/05	11/03/05
58297	Revcor Molded Products (Wkrs)	Haltom City, TX	11/09/05	11/03/05
58298	Messier Services, Inc. (Comp)	Sterling, VA	11/09/05	10/31/05
58299	Tecumseh Products Co. (Comp)	Corinth, MS	11/09/05	11/08/05
58300	Kentucky Derby Hosiery Company (Comp)	Wytheville, VA	11/09/05	11/08/05
58301	Xerox (State)	Wilsonville, OR	11/09/05	11/08/05
58302	Lenox China (Wkrs)	Oxford, NC	11/09/05	11/08/05

APPENDIX—Continued

[TAA Petitions Instituted Between 11/7/05 and 11/11/05]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
58303	Ciba Specialty Chemicals (State)	Charlotte, NC	11/09/05	11/08/05
58304	Viking Polymer Solutions, LLC (UAW)	Albion, NY	11/09/05	11/09/05
58305	TRW Automotive (Wkrs)	Fremont, OH	11/10/05	11/09/05
58306	MECO Corporation (Comp)	Greeneville, TN	11/10/05	11/04/05
58307	Agilent Technologies (Comp)	Santa Rosa, CA	11/10/05	11/08/05
58308	Fordyce Picture Frames Co. (State)	Fordyce, AR	11/10/05	11/09/05
58309	OBG Manufacturing Company (UFCW)	Liberty, KY	11/10/05	11/09/05
58310	Resource, Inc. (Comp)	Tallmadge, OH	11/10/05	11/10/05
58311	Abbott Laboratories (Wkrs)	Abbott, IL	11/10/05	11/09/05
58312	Gilbert Hose (Comp)	Hickory, NC	11/10/05	11/09/05
58313	Superior Essex (Comp)	Brownsville, TX	11/10/05	11/09/05
58314	Jessica Trimmings (State)	Hialeah, FL	11/10/05	11/10/05
58315	C and J Jewelry Company (Comp)	Providence, RI	11/10/05	11/09/05

[FR Doc. E5–6990 Filed 12–6–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,053]

La-Z-Boy Greensboro, Inc., Formerly Known as LADD Furniture, Inc., Lea Industries and American Drew Including On-Site Leased Workers of Kelly Temporary Services, North Wilkesboro, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 28, 2005, applicable to workers of La-Z-Boy Greensboro, Inc., Lea Industries and American Drew, including on-site leased workers of Kelly Temporary Services, North Wilkesboro, North Carolina. The notice was published in the **Federal Register** on November 16, 2005 (70 FR 69599).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of bedroom and diningroom furniture.

The company reports that some workers wages at the subject firm are being reported under the Unemployment Insurance (UI) tax account for LADD Furniture, Inc., the previous name of the firm. Accordingly, the Department is amending the certification to include the former employer name.

The intent of the Department's certification is to include all workers of La-Z-Boy Greensboro, Inc., Lea Industries and American Drew who were adversely affected by increased imports.

The amended notice applicable to TA–W–58,053 is hereby issued as follows:

''All workers of La-Z-Boy Greensboro, Inc., formerly known as LADD Furniture, Inc., Lea Industries and American Drew, North Wilkesboro, North Carolina, including on-site leased workers of Kelly Temporary Services, who became totally or partially separated from employment on or after September 22, 2004, through October 28, 2007, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 23rd day of November 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6999 Filed 12–6–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,904]

Luhr Jensen & Sons, Inc., Fishing Tackle Division Jentech Plant and Portway Plant, Hood River, OR; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 27, 2005, applicable to workers of Luhr Jensen & Sons, Inc., Fishing Tackle Division, Jentech Plant, Hood River, Oregon. The notice will soon be published in the **Federal Register**.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers produce fishing tackle.

The review of the investigation shows that the Department inadvertently omitted the Portway Plant in the certification document. Consequently, the certification is amended to include workers of the Portway Plant in Hood River, Oregon.

The amended notice applicable to TA–W–57,904 is hereby issued as follows:

''All workers of Luhr Jensen & Sons, Inc., Fishing Tackle Division, Jentech Plant and Portway Plant, Hood River, Oregon, who became totally or partially separated from employment on or after September 7, 2004 through October 27, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed in Washington, DC, this 14th day of November, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6996 Filed 12–6–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,050]

Merrill Corporation, St. Paul, MN; Notice of Negative Determination on Reconsideration on Remand

The United States Court of International Trade (USCIT) remanded to the Department of Labor for further investigation *Former Employees of Merrill Corporation* v. *Elaine Chao, U.S. Secretary of Labor,* Court No. 03–00662 (issued July 28, 2005).

The Department's initial negative determination for the workers of Merrill Corporation (hereafter ''Merrill'') was issued on July 22, 2003. The Notice was published in the **Federal Register** on July 10, 2003 (68 FR 43373). The determination was based on the finding that workers did not produce an article within the meaning of section 222 of the Trade Act of 1974. The Department determined that the subject worker group was not engaged in the production of an article, but rather engaged in activities related to document management services.

The plaintiffs did not seek administrative reconsideration by the Department but sought judicial review by the USCIT on September 9, 2003, asserting that Merrill produces an article (documents) and that the workers are engaged in this production.

On April 2, 2004, the Department issued a Notice of Negative Determination on Remand for workers of the subject facility. The determination was based on the finding that the subject company does not produce an ''article'' within the meaning of the Trade Act of 1974. The Notice was published in the **Federal Register** on April 16, 2004 (69 FR 20645).

On July 28, 2005, the USCIT remanded the matter to the Department, directing the Department to determine whether

(1) Plaintiffs were engaged in ''production'' of printed matter or other articles; (2) the volume of articles produced by Plaintiffs; (3) Merrill's customers contracted for the production of printed matter; (4) sales or production (or both) have decreased; (5) there has been or is likely to be an increase in imports of articles like or directly competitive with Merrill's articles; (6) any increase in imports contributed importantly to Plaintiffs' separation from Merrill and to its decline in sales or production; and (7) there was a shift in production to a foreign country of articles like or directly competitive with Merrill's articles, and if so, to what country.

For purposes of determining workers' eligibility to apply for Trade Adjustment Assistance (TAA), the relevant period is the complete twelve-month period prior to the petition date. Because the petition date is June 10, 2003, the scope of the investigation is confined to June 2002 through May 2003.

During the second remand investigation, the Department contacted the company to request information about the subject facility and affiliated domestic print facilities and requested information from the plaintiffs. Further, the Department provided the Plaintiff an opportunity to respond to the Department's preliminary findings. Supp. AR at 59–63.

According to Merrill, the company derives revenue from document management services and commercial and business forms printing. A company official also stated that the financial documents are customized and owned by the client, that composed documents are printed pursuant to clients' requests, that the printing is done at an off-site facility, and that print jobs are transmitted electronically from the subject facility to the off-site printing facilities. Supp. AR at 10–11, 36.

In a September 2, 2005 letter, the plaintiffs confirmed the unique and customized nature of the documents but contradicted Merrill's assertion that printing was not done at the subject facility. Supp. AR at 15–17.

The Department sought clarification from the subject company and was informed that the printing facility at Merrill, St. Paul, Minnesota had closed by May 2001 and that Merrill had several domestic printing facilities during the relevant period. Supp AR at 36, 50–51.

Since no production took place at the subject facility during the relevant period, the Department investigated whether the subject workers supported production at an affiliated, domestic production facility during June 2002 through May 2003, whether sales and/or production declined at that production facility, and whether increased imports during the relevant period contributed importantly to those declines.

As previously stated, composed documents were transmitted electronically from the subject facility to off-site printing facilities when customers requested physical copies of their financial documents. Supp AR at 11, 17 The expanded investigation revealed that production at all five printing facilities decreased during June 2002 through May 2003 from June 2001 through May 2002 levels. Supp. AR at 58.

After completing its investigation, the Department concludes that the workers should not be certified for TAA benefits. The plaintiffs claim they are eligible for benefits because Merrill shifted production to India. The Department has determined that the workers created electronic documents for printing and filing with the Securities and Exchange Commission (SEC). It is undisputed that Merrill sent that responsibility to India. The Department has consistently determined, however, that electronic creations are not ''articles'' for the purposes of the Trade Act unless they are embodied in a physical medium. *See, e.g., Former Employees of Dendrite International,* 70 FR 212247–3 (April 25, 2005); *Former Employees of Gale Group, Inc.,* 70 FR 6732–1 (February 8, 2005). Therefore, the workers do not produce an article themselves.

In its letter of November 7, 2005, the plaintiffs argue that the important issue is whether Merrill, not the workers themselves, creates an article. Supp. AR at 61. In order for the Department to certify in a case where the workers allege a shift of production, however, there must be a shift of production *of an article.* In the present case, the only job shifted was the creation of electronic files, which, as discussed above, is not the production of an article.

Because the data entry function formerly done by the workers was the only function transferred to India, and because the financial reports were delivered to the United States via electronic transmission only, then there was no shift of production of an *article,* as required by the Trade Act. *See Former Employees of Murray Engineering* v. *Chao,* 358 F. Supp.2d 1269, 1272 n.7 (''the language of the Act clearly indicates that the HTSUS governs the definition of articles, as it repeatedly refers to ''articles'' as items subject to a duty''); HTS, General Note 3(I) (exempting ''telecommunications transmissions'' from ''goods subject to the provisions of the [HTSUS]'').

Furthermore, under the Department's interpretation of ''like or directly competitive,'' (29 CFR 90.2) ''like'' articles are those articles which are substantially identical in inherent or intrinsic characteristics and ''directly competitive'' articles are those articles which are substantially equivalent for commercial purposes (essentially interchangeable and adapted to the same uses), even though the articles may not be substantially identical in their inherent or intrinsic characteristics.

During the remand investigation, the Department confirmed that the material created by the workers and produced at the Merrill printing facilities is unique to each order. Supp. AR at 10–11, 36. No two orders for one customer are alike because the material captures legal and financial information which is unique unto itself. Similarly, one customer's order cannot be intrinsically similar to another customer's. Accordingly, there are no articles which are ''like'' or ''directly competitive'' to any single ''article'' created by Merrill because each electronic file is a unique document which is created for the sole purpose of satisfying a specific customer's particular need at a particular point in time. Thus, there are no articles which are essentially interchangeable or can be adapted to the same use as a Merrill document, and there are no articles ''like or directly competitive'' with any Merrill ''article.'' *See Former Employees of Murray Engineering, Inc.* v. *Chao,* 2005 WL 1527642 (CIT 2005) (articles that are ''neither interchangeable with nor substitutable'' for the petitioner's designs are not considered directly competitive.) (citing *Machine Printers & Engravers Ass'n* v. *Marshall,* 595 F.2d 860, 862 (DC Cir. 1979)). Since there are no articles which are like or directly competitive with those produced by the subject company, there cannot be any imports, much less increased imports. Therefore, neither section 222(a)(2)(A) nor section 222(a)(2)(B) of the Trade Act, as amended, has been satisfied.

The plaintiffs argue that the Department's interpretation ignores the fact that the workers' jobs were shifted to India. Supp. AR at 62. In fact, the Department recognizes that the workers' jobs were shifted overseas. The Trade Act, however, does not provide benefits to every person whose job was shifted overseas. First, there must be the shift of production of an ''article,'' which did not occur here. Supp. AR at 65 Second, the Trade Act requires, in a case such as this one, that there be an increase of imports of articles ''like or directly competitive'' to the articles whose production was shifted overseas. The plaintiffs argue that the ''process'' shifted overseas was identical to the ''process'' that had been done in the United States. Supp. AR at 62. However, it is not enough for the *process* to be ''like or directly competitive.'' As discussed above, each individual electronic document transmitted to the United States is inherently *unlike* and *not* competitive with any other electronic transmission.

The Department's investigation has demonstrated that some of Merrill's customers ask that the SEC filings be placed on a physical medium. For those customers, Merrill delivered the electronic creations of the plaintiffs to an in-house printer who puts the SEC filing in book form. Therefore, the plaintiffs could be viewed as supporting production of an article. The Department has determined, however, that no printing was transferred to another country. Supp. AR at 65. Therefore, there was no shift of production of an article.

Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Merrill Corporation, St. Paul, Minnesota.

Signed at Washington, DC this 17th day of November 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–6991 Filed 12–6–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–57,960]

Solectron Corporation a Subsidiary of Selectron USA, Inc., Lumberton, NJ; Notice of Termination of Certification

This notice terminates the Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance issued by the Department on October 24, 2005, applicable to all workers of the subject firm. The notice will soon be published in the **Federal Register**.

The Department, at the request of the State agency, reviewed the certification for workers of Solectron Corporation, a Subsidiary of Solectron USA, Inc., Lumberton, New Jersey. The workers produce computer storage equipment.

In response to the petition filed by a company official, the certification was issued based on the investigation finding that there were worker separations and the production of computer storage equipment was shifted from the Lumberton, New Jersey plant to Mexico.

New information provided by an official of Solectron Corporation to the State agency reveals that the subject firm has not shifted production of computer storage equipment to Mexico. The company official confirmed with the Department that the plant is closing and the production is being shifted to another domestic location.

Since the production at the Lumberton, New Jersey location has not been shifted to Mexico, this certification 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. E5–6998 Filed 12–6–05; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[05–160]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to the Desk Officer for NASA, Office of Information and Regulatory Affairs, Room 10236, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mr. Walter Kit, Reports Officer, Office of the Chief Information Officer, NASA Headquarters, 300 E Street SW., Mail Suite JA00, Washington, DC 20546, 202–358–1350, *walter.kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The NASA Contractor Financial Management Reporting System is the basic financial medium for contractor reporting of estimated and incurred costs, providing essential data for projecting costs and hours to ensure that contractor performance is realistically planned and supported by dollar and labor resources. The data provided by

these reports is an integral part of the Agency's accrual accounting and cost-based budgeting systems required under 31 U.S.C. 3512.

II. Method of Collection

NASA collects this information electronically where feasible, but information may also be collected by mail or fax.

III. Data

Title: NASA Contractor Financial Management Reports.

OMB Number: 2700–0003.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 850.

Estimated Time per Response: 9 hrs.

Estimated Total Annual Burden Hours: 91,500.

Estimated Total Annual Cost: $0.

IV. Requests for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Patricia L. Dunnington,

Chief Information Officer.

[FR Doc. E5–7005 Filed 12–6–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[05–159]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(C)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Mr. Walter Kit, Reports Officer, Office of the Chief Information Officer, JA00, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mr. Walter Kit, Reports Officer, Office of the Chief Information Officer, NASA Headquarters, 300 E Street, SW., Mail Code JA00, Washington, DC 20546, (202) 358–1350, *walter.kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Registered educators will use the survey to provide information to the NASA Kid's Science News Network (KSNN), NASA Center for Distance Learning, to improve their products such as videos, Web explanations, and hands-on activities.

II. Method of Collection

The survey will be electronic, attached to an e-mail requesting the educator to complete and return the survey. Tabulation will be electronic, looking for trends and patterns.

III. Data

Title: NASA Kid's Science News Network (KSNN).

OMB Number: 2700–.

Type of Review: New collection.

Affected Public: State and local governments, or tribal governments, and not-for-profit institutions.

Estimated Number of Respondents: 2,100 annually.

Estimated Total Annual Burden Hours: 54.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Patricia L. Dunnington,

Chief Information Officer.

[FR Doc. E5–7006 Filed 12–6–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[05–158]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(C)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to the Desk Officer for NASA, Office of Information and Regulatory Affairs, Room 10236, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mr. Walter Kit, Reports Officer, Office of the Chief Information Officer, NASA Headquarters, 300 E Street, SW., Mail Suite JA00, Washington, DC 20546–0001, 202–358–1350, *walter.kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The information will be used by the Headquarters Office of Security and Program Protection (OSPP) to help fulfill its responsibilities for facilitating business visits and assignments that support U.S. national interests and NASA's international program interests and operational requirements, and by the Office of External Relations for export control oversight. This information is collected and stored in the NASA Foreign National Management System (NFNMS) and will be used by OSPP to determine acceptability for a foreign national, or U.S. citizen representing a foreign entity, to access NASA installations or

facilities for business or high level protocol visit purposes.

II. Method of Collection

Respondents provide unformatted information for specific data fields. Data are provided orally, via a hardy copy, or e-mailed to a NASA representative who transfers the information into a database (attached is a printout of the NASA Foreign Nationals Management System data entry form). To ensure data security, access to the electronic data entry form is limited to approved NASA employees or contractors. Direct data entry by respondents is not permitted.

III. Data

Title: NASA Foreign National Access Information.

OMB Number: 2700–.

Type of Review: New collection.

Affected Public: Foreign nationals and NASA contractors.

Estimated Number of Respondents: 9,900 annually.

Estimated Time per Response: 0.5 hour.

Estimated Total Annual Burden Hours: 4,950.

Estimated Total Annual Cost: $9,715/year.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Patricia L. Dunnington,

Chief Information Officer.

[FR Doc. E5–7007 Filed 12–6–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[05–157]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(C)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Mr. Walter Kit, Reports Officer, Office of the Chief Information Officer, JA00, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mr. Walter Kit, Reports Officer, Office of the Chief Information Officer, NASA Headquarters, 300 E Street, SW., Mail Code JA00, Washington, DC 20546, (202) 358–1350, *walter.kit-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Registered educators will use the survey to provide information to the NASA Noticiencias, NASA Center for Distance Learning, to improve this program for Spanish speaking children.

II. Method of Collection

The survey will be electronic, attached to an email requesting the educator to complete and return the survey. Tabulation will be electronic, looking for trends and patterns.

III. Data

Title: Noticiencias NASA.

OMB Number: 2700–.

Type of Review: New collection.

Affected Public: State and local governments, or tribal governments, and not-for-profit institutions.

Estimated Number of Respondents: 125.

Estimated Total Annual Burden Hours: 4.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Patricia L. Dunnington,

Chief Information Officer.

[FR Doc. E5–7008 Filed 12–6–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request use of quoted reproduction orders for various types of records found in their holdings. These include, but are not limited to, WW1 Draft Registration Cards, Prison Records, and Naturalization Records. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before February 6, 2006 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–837–3213; or electronically mailed to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the

information to be collected; and (d) ways, including the use of information technology, to minimize the burden of the collection of information on respondents; and (e) whether small businesses are affected by this collection. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Online Reproduction Orders for National Archives Records.

OMB number: 3095–NEW.

Agency form number: N/A.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 13,270.

Estimated time per response: 10 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 2,680 hours.

Abstract: In December, 2003, NARA launched Order Online!, its online ordering mechanism. With the availability of an Internet-based ordering system (Order Online!), NARA has made accessible online certain reproduction order forms (replicas of the NATF Series 80 Forms and the NATF 36). In the near future, NARA plans to make available custom orders for the remaining types of reproduction services, to allow researchers to submit reproduction orders and remit payment electronically.

The information that NARA proposes to collect for quoted reproduction orders includes the descriptive information (information necessary to search for the records), payment information (e.g., credit card type, credit card number, and expiration date), customer name, shipping and billing address, and phone number. NARA also proposes to offer customers the option of submitting their e-mail address as a means of facilitating communication such as order confirmation, status updates, and issue handling.

Dated: November 30, 2005.

L. Reynolds Cahoon,

Assistant Archivist for Information Services.

[FR Doc. E5–6978 Filed 12–6–05; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 70 FR 54584, and two comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

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

SUPPLEMENTARY INFORMATION:

Comment: On September 15, 2005, we published in the **Federal Register** (70 FR 54584) a 60-day notice of our intent to request renewal of this information collection authority from OMB. In that notice, we solicited public comments for 60 days ending November 14, 2005. Two comments were received from the same person in response to the public notice (the second in response to NSF's reply). The comments came from B. Sachau of Florham Park, NJ, via e-mail on September 20, 2005 and October 12, 2005. Ms. Sachau objected to the information collection but had no specific suggestions for altering the data collection plans other than suggesting that teachers could pay for their own courses.

Response: We responded to Ms. Sachau on October 12, 2005 describing the program and noting that these experiences are valuable for teachers because they take back to their classrooms knowledge they gained and experiences they as a result of exposure to the research component of technology commercialization. On October 12, 2005 we received a follow-up reply from Ms. Sachau restating that she dislikes the program. NSF believes that because the comment does not pertain to the collection of information on the required forms for which NSF is seeking OMB approval, NSF is preceding with the clearance request.

Title: Evaluation of the Research Experiences for Teachers (RET) Program.

OMB Control Number: 3145–0198.

Abstract: The Directorate for Engineering (ENG) initiated the Research Experiences for Teachers (RET) Supplements activity in FY 2001 to be add-ons to active awards funded by ENG programs. The intent was to build on the popular NSF-wide Research Experiences for Undergraduates (REU) Supplements activity by providing opportunities for K–12 teachers to conduct hands-on experiences in the laboratories/facilities of ENG-funded researchers. The assumption was that, like undergraduates, the teachers could benefit from involvement in research and direct exposure to the scientific method, and they could transfer what they learned into classroom activities. Typically the supplements supported one or two teachers. Beginning in FY 2002, ENG has also funded RET Site awards, which are similar to REU Sites in that NSF awards fund groups of teachers to work with faculty members at the same institution and to engage in group activities related to the research. In 2003, community college faculty became eligible as participants in RET

awards. By design, all RET awards are made to the university in whose research the teachers participate.

The initial study of the program just concluded focused on participants in ENG-funded RET Supplement and Site awards in 2001 through 2003. That study resulted in modifications to the RET program announcement for the FY 2006 competition. The proposed follow-up study will be very similar to the initial study and focus on teachers who participated in RET during 2004 and 2005. The follow-on study will examine how RET experience have affected participating teachers' subsequent teaching techniques, attitudes about teaching, and professional development activities. Outcomes and impacts beyond the teachers' own classrooms, such as knowledge transfer activities, formal partnerships formed between the RET Principal Investigators (PIs)—the awardees—and the teachers' school system/district will also be examined. The first survey found that follow-up interaction between PIs and teachers were strongly related to reported positive effects. Accordingly, the follow-up study will explore this aspect of the experience in somewhat greater detail than was done in the first survey. The survey data collection will be done on the World Wide Web as before.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15–30 minutes per response.

Respondents: Individuals.

Estimated Number of Responses per Form: 456.

Estimated Total Annual Burden on Respondents: 206 hours (456 respondents at 15–30 minutes per response).

Frequency of Response: One time.

Dated: December 2, 2005.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 05–23708 Filed 12–6–05; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Regulatory Guide: Issuance, Availability

The U.S. Nuclear Regulatory Commission (NRC) has issued a new guide in the agency's Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Regulatory Guide 1.204, ''Guidelines for Lightning Protection of Nuclear Power Plants,'' provides guidance for NRC licensees and applicants to use in developing and implementing practices that the staff finds acceptable for complying with the agency's regulatory requirements in Criterion 2, ''Design Bases for Protection Against Natural Phenomena,'' as it appears in Appendix A, ''General Design Criteria for Nuclear Power Plants,'' to Title 10, part 50, of the *Code of Federal Regulations* (10 CFR part 50). Specifically, Criterion 2 requires, in part, that nuclear power plant (NPP) structures, systems, and components (SSCs) that are important to safety must be designed to withstand the effects of natural phenomena without losing their capability to perform their respective safety functions.

While the regulations address lightning protection for safety-related electrical equipment, they do not explicitly provide guidance concerning the design and installation of lightning protection systems (LPSs) to ensure that electrical transients resulting from lightning phenomena do not cause spurious operation safety-related systems or render them inoperable. Toward that end, Regulatory Guide 1.204 augments the regulations by establishing explicit guidance that is consistent with LPS design and installation practices that are currently applied throughout the commercial power industry.

The scope of the guidance includes protection of (1) the power plant and relevant ancillary facilities, with the boundary beginning at the service entrance of buildings; (2) the plant switchyard; (3) the electrical distribution system, safety-related instrumentation and control (I&C) systems, communications, and personnel within the power plant; and (4) other important equipment in remote ancillary facilities that could impact safety. The scope includes signal lines, communication lines, and power lines, as well as testing and maintenance. The scope does not cover testing and design practices that are specifically intended to protect safety-related I&C systems against the secondary effects of lightning discharges [i.e., low-level power surges and electromagnetic and radio-frequency interference (EMI/RFI)]. These practices are covered in Regulatory Guide 1.180, ''Guidelines for Evaluating Electromagnetic and Radio-Frequency Interference in Safety-Related Instrumentation and Control Systems.'' Regulatory Guide 1.180, which the NRC issued in January 2000 and revised in October 2003, addresses design, installation, and testing practices for dealing with the effects of EMI/RFI and power surges on safety-related I&C systems.

In Regulatory Guide 1.204, the NRC staff has selected for endorsement a total of four standards issued by the Institute of Electrical and Electronics Engineers (IEEE), which taken together, provide comprehensive lightning protection guidance for nuclear power plants. Specifically, the four standards are IEEE Std. 665–1995 (reaffirmed 2001), *IEEE Guide for Generating Station Grounding*, IEEE Std. 666–1991 (reaffirmed 1996), *IEEE Design Guide for Electrical Power Service Systems for Generating Stations*, IEEE Std. 1050–1996, *IEEE Guide for Instrumentation and Control Equipment Grounding in Generating Stations*, and IEEE Std. C62.23–1995 (reaffirmed 2001), *IEEE Application Guide for Surge Protection of Electric Generating Plants*.

In February 2005, the NRC staff published a draft of this guide as Draft Regulatory Guide DG–1137. Following the closure of the public comment period on April 20, 2005, the staff resolved all stakeholder comments in the course of preparing the new Regulatory Guide 1.204.

The NRC staff encourages and welcomes comments and suggestions in connection with improvements to published regulatory guides, as well as items for inclusion in regulatory guides that are currently being developed. You may submit comments by any of the following methods.

Mail comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand-deliver comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Fax comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, at (301) 415–5144.

Requests for technical information about Regulatory Guide 1.204 may be directed to Christina E. Antonescu at (301) 415–6792 or via e-mail to *CEA1@nrc.gov*.

Regulatory guides are available for inspection or downloading through the NRC's public Web site in the Regulatory

Guides document collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections*. Electronic copies of Regulatory Guide 1.204 are also available in the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://www.nrc.gov/reading-rm/adams.html*, under Accession No. ML052290422.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland; the PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *PDR@nrc.gov*. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Reproduction and Distribution Services Section; by e-mail to *DISTRIBUTION@nrc.gov*; or by fax to (301) 415–2289. Telephone requests cannot be accommodated.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Rockville, Maryland, this 30th day of November, 2005.

For the Nuclear Regulatory Commission,

Carl J. Paperiello,

Director, Office of Nuclear Regulatory Research.

[FR Doc. E5–6981 Filed 12–6–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Final Regulatory Guide; Issuance, Availability

The U.S. Nuclear Regulatory Commission (NRC) has issued a revision to an existing guide in the agency's Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 2 of Regulatory Guide 8.7, entitled ''Instructions for Recording and Reporting Occupational Radiation Dose Data,'' describes an acceptable program for the preparation, retention, and reporting of records of occupational radiation doses in accordance with Title 10, part 20, of the *Code of Federal Regulations* (10 CFR part 20), ''Standards for Protection Against Radiation.'' Section 20.1502 establishes ''Conditions Requiring Individual Monitoring of External and Internal Occupational Dose.'' Specifically, 10 CFR 20.1502 requires licensees to provide radiation monitoring for all occupationally exposed individuals who might receive a dose in excess of the specified percentage of the limits defined in 10 CFR 20.1201, 1207, or 1208. To augment that provision, 10 CFR 20.2106, ''Records of Individual Monitoring Results,'' requires licensees to maintain records of the radiation exposures of all individuals for whom personnel monitoring is required pursuant to 10 CFR 20.1502. Also, according to 10 CFR 20.2104, ''Determination of Prior Occupational Dose,'' licensees shall determine the dose in the current monitoring year for all persons who must be monitored, and attempt to obtain the records of cumulative occupational radiation dose. In addition, 10 CFR 20.2104(b) requires that, prior to permitting an individual to participate in a planned special exposure, licensees shall determine the internal and external doses from all previous planned special exposures, and record all previous doses in excess of the limits received during the lifetime of the individual. Licensees are required to maintain prior dose records on NRC Form 4 or its equivalent. Further, 10 CFR 20.2206, ''Reports of Individual Monitoring,'' requires certain licensees to submit to the NRC an annual report of the results of individual monitoring. Licensees are required to record these annual reports on NRC Form 5 or its equivalent.

The NRC is issuing this revision to make the guide consistent with a recent change to 10 CFR 20.2206, which allows electronic submittal of licensees' annual occupational radiation dose data via the NRC's Radiation Exposure Information and Reporting System (REIRS) for Radiation Workers (a secure Web site) at *http://www.reirs.com*. Other changes include updating NRC Forms 4 and 5, and clarifying and improving the guide to reflect licensees' input and experience since the NRC issued Revision 1 of Regulatory Guide 8.7 in 1992.

The NRC previously solicited public comment on this revised guide by publishing a **Federal Register** notice (70 FR 25865) concerning Draft Regulatory Guide DG–8029 on May 16, 2005. Following the closure of the public comment period on July 12, 2005, the staff considered all stakeholder comments in the course of preparing Revision 2 of Regulatory Guide 8.7. In particular, the Nuclear Energy Institute (NEI) suggested that the NRC consider deferring this revision until the completion of an anticipated rulemaking related to collection, reporting, and posting of information (as specified in 10 CFR parts 19, 20, and 50). However, since Regulatory Guide 8.7 is already out of date (in relation to 10 CFR 20.2206) and is used by materials licensees as well as reactor licensees, the staff decided to proceed with the current revision. When the agency completes the aforementioned rulemaking, the staff will once again update Regulatory Guide 8.7, as appropriate. The staff's responses to all comments received are available in the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://www.nrc.gov/reading-rm/adams.html*, under Accession #ML053320145.

The NRC staff encourages and welcomes comments and suggestions in connection with improvements to published regulatory guides, as well as items for inclusion in regulatory guides that are currently being developed. You may submit comments by any of the following methods.

Mail comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand-deliver comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Fax comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415–5144.

Requests for technical information about Revision 2 of Regulatory Guide 8.7 may be directed to Sheryl A. Burrows at (301) 415–6086 or by e-mail to *SAB2@nrc.gov*.

Regulatory guides are available for inspection or downloading through the NRC's public Web site in the Regulatory Guides document collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/*. Electronic copies of Revision 2 of Regulatory Guide 8.7 are also available in the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://*

www.nrc.gov/reading-rm/adams.html, under Accession #ML052970092.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland; the PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *PDR@nrc.gov*. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Reproduction and Distribution Services Section; by e-mail to *DISTRIBUTION@nrc.gov*; or by fax to (301) 415–2289. Telephone requests cannot be accommodated.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Rockville, Maryland, this 30th day of November, 2005.

For the U.S. Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Regulatory Research.

[FR Doc. E5–6984 Filed 12–6–05; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Form 12b–25; OMB Control No. 3235–0058; SEC File No. 270–71.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The purpose of Form 12b–25 is to provide notice to the Commission and the marketplace that a public company will be unable to timely file a required periodic report. If all filing conditions are met, the company is granted an automatic filing extension. Form 12b–25 is filed by publicly held companies. Approximately 7,799 issuers file Form 12b–25 and it takes approximately 2.5 hours per response for a total of 19,498 burden hours.

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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 in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

Dated: November 30, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6979 Filed 12–6–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 18f–3; SEC File No. 270–385; OMB Control No. 3235–0441

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 18(f)(1) [1] of the Investment Company Act of 1940 [2] (the ''Investment Company Act'') prohibits registered open-end management investment companies (''funds'') from issuing any senior security. Rule 18f–3 under the Act [3] exempts from section 18(f)(1) a fund that issues multiple classes of shares representing interests in the same portfolio of securities (a ''multiple class fund'') if the fund satisfies the conditions of the rule. In general, each class must differ in its arrangement for shareholder services or distribution or both, and must pay the related expenses of that different arrangement.

The rule includes one requirement for the collection of information. A multiple class fund must prepare, and fund directors must approve, a written plan setting forth the separate arrangement and expense allocation of each class, and any related conversion features or exchange privileges (''rule 18f–3 plan'').[4] Approval of the plan must occur before the fund issues any shares of multiple classes and whenever the fund materially amends the plan. In approving the plan, a majority of the fund board, including a majority of the fund's independent directors, must determine that the plan is in the best interests of each class and the fund as a whole.

The requirement that the fund prepare and directors approve a written rule 18f–3 plan is intended to ensure that the fund compiles information relevant to the fairness of the separate arrangement and expense allocation for each class, and that directors review and approve the information. Without a blueprint that highlights material differences among classes, directors might not perceive potential conflicts of interests when they determine whether the plan is in the best interests of each class and the fund. In addition, the plan may be useful to Commission staff in reviewing the fund's compliance with the rule.

There are approximately 1,142 multiple class funds.[5] Based on a review of typical rule 18f–3 plans, the Commission's staff estimates that the 1,142 funds together make an average of 571 responses each year to prepare and approve a written rule 18f–3 plan, requiring approximately 10 hours per response and a total of 5,710 burden hours per year in the aggregate.[6] The

[1] 15 U.S.C. 80a–18(f)(1).

[2] 15 U.S.C. 80a.

[3] 17 CFR 270.18f–3.

[4] Rule 18f–3(d).

[5] This estimate is based on data from Form N–SAR, the semi-annual report that funds file with the Commission.

[6] The estimate reflects the assumption that each multiple class fund prepares and approves a rule

staff estimates that preparation of the rule 18f–3 plan may require 4 hours of the services of an attorney or accountant employed by the firm, at a cost of approximately $140 per hour for professional time,[7] and approval of the plan may require 1 hour of the attention of each of 6 directors, at a cost of approximately $635 per hour per director.[8] The staff therefore estimates that the aggregate annual cost of complying with the paperwork requirements of the rule is approximately $2,495,270 ((4 hours × 1 professional × 571 responses × $140) + (1 hour × 6 directors × 571 responses × $635)).

The estimated annual burden of 5,710 hours represents an increase of 937 hours over the prior estimate of 4,773 hours. The increase in burden hours is attributable to a change in estimates of the number of multiple class funds that are subject to the rule based on recent Commission filings. For the most part, however, most funds require less time to prepare the rule 18f–3 plans because they only need to amend existing plans.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is mandatory. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections 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 in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

Dated: November 29, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6980 Filed 12–6–05; 8:45 am]

BILLING CODE 8010–01–P

18f–3 plan every two years when issuing a new class or amending a plan (or that 571 of all 1,142 funds prepare and approve a plan each year). The estimate assumes that the time required to prepare a plan is 4 hours per plan (or 2,284 hours for 571 funds annually), and the time required to approve a plan is an additional 1 hour per director per plan (or 3,426 hours for 571 funds annually (assuming 6 directors per fund)).

[7] Hourly rates are derived from salary information compiled by the Securities Industry Association. We used the annual salary listed for the Deputy General Counsel position, adjusted upward by 35% to reflect possible overhead costs and employee benefits, to make our estimate. *See* Securities Industry Association, *Report on Management and Professional Earnings in the Securities Industry* (2004) (available in part at *http://www.careerjournal.com/salaryhiring* (last visited Nov. 17, 2005)).

[8] Hourly rates are based on previous estimates, adjusted to reflect a 27% reported increase in compensation during the 2003–2004 period. *See* Management Practice Inc. Bulletin: More Meetings Means More Pay for Fund Directors (April 2005) (available at *http://www.mfgovern.com*).

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of Applera Corporation To Withdraw Its Applera Corporation-Applied Biosystems Group Common Stock $.01 Par Value, Together With Rights To Purchase Series A Participating Junior Preferred Stock, $.01 Par Value, and Applera Corporation-Celera Genomics Group Common Stock, $.01 Par Value, Together With Rights To Purchase Series B Participating Junior Preferred Stock, $.01 Par Value, From Listing and Registration on the Pacific Exchange, Inc. File No. 1–04389

December 1, 2005.

On November 14, 2005, Applera Corporation, a Delaware corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Applera Corporation-Applied Biosystems Group common stock $.01 par value, together with rights to purchase series A participating junior preferred stock, $.01 par value, and Applera Corporation-Celera Genomics Group common stock, $.01 par value, together with rights to purchase series B participating junior preferred stock, $.01 par value (collectively ''Securities''), from listing and registration on the Pacific Exchange, Inc. (''PCX'').

The Board of Directors (''Board'') of the Issuer approved a resolution on June 16, 2005 to withdraw the Securities from PCX. The Issuer stated that the Board determined that it is in the best interest of the Issuer and its stockholders to withdraw the Securities from PCX to avoid the direct and indirect costs associated with the listing of the Securities on PCX since the Securities are listed and traded on the New York Stock Exchange, Inc. (''NYSE'').

The Issuer stated in its application that it has complied with applicable rules of PCX by providing PCX with the required documents governing the withdrawal of securities from listing and registration on PCX. The Issuer's application relates solely to the withdrawal of the Securities from listing on PCX and shall not affect its continued listing on NYSE or its obligation to be registered under section 12(b) of the Act.[3]

Any interested person may, on or before December 23, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of PCX, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Send an e-mail to *rule-comments@sec.gov.* Please include the File Number 1–04389 or;

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE.,Washington, DC 20549–9303.

All submissions should refer to File Number 1–04389. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 781(b).

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6982 Filed 12–6–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of SJW Corp. To Withdraw Its Common Stock, $1.042 Par Value, From Listing and Registration on the American Stock Exchange LLC File No. 1–08966

December 1, 2005.

On November 10, 2005, SJW Corp., a California corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $1.042 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

On October 27, 2005, the Board of Directors (''Board'') of the Issuer approved a resolution to withdraw the Security from listing on Amex. The Board decided that it is in the best interest of the Issuer to list the Security on the New York Stock Exchange (''NYSE''). In order to avoid the direct and indirect costs and the division of the market resulting from dual listing on Amex and NYSE, the Board decided to withdraw the Security from listing on Amex.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of California, in which it is incorporated, and provided written notice of withdrawal to Amex.

The Issuer's application relates solely to the withdrawal of the Security from listing on the Amex, and shall not affect its continued listing on the NYSE or its obligation to be registered under section 12(b) of the Act.[3]

Any interested person may, on or before December 23, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include the File Number 1–08966 or;

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number 1–08966. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6983 Filed 12–6–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of December 12, 2005:

An Open Meeting will be held on Wednesday, December 14, 2005 at 10 a.m. in Room L–002, the Auditorium.

The subject matter of the Open Meeting scheduled for Wednesday, December 14, 2005 will be:

1. The Commission will consider whether to propose a new rule that would enable a foreign private issuer meeting specified conditions to terminate its Exchange Act registration and reporting obligations under section 12(g) regarding a class of equity securities as well as terminate permanently its section 15(d) reporting obligations regarding a class of equity or debt securities. The Commission will also consider whether to propose a rule amendment that would apply the exemption from Exchange Act registration under Rule 12g3–2(b) to a class of equity securities immediately upon the effective date of the issuer's termination of effectiveness regarding that class of securities.

For further information, please contact Elliot Staffin, Special Counsel, Office of International Corporate Finance, Division of Corporation Finance at (202) 551–3450.

2. The Commission will consider whether to adopt amendments to the ''accelerated filer'' definition in Rule 12b–2 of the Securities Exchange Act of 1934 to ease some of the current restrictions on the exit of companies from accelerated filer status. The Commission will also consider adopting amendments that would amend the final phase-in of the Form 10–K and Form 10–Q accelerated filing deadlines that is scheduled to take effect next year. Accelerated filers currently are scheduled to become subject to a 60-day filing deadline for their Form 10–K annual reports filed for fiscal years ending on or after December 15, 2005, and a 35-day deadline for the three subsequently filed quarterly reports on Form 10–Q.

For further information, please contact Katherine Hsu, Special Counsel, Office of Rulemaking, Division of Corporation Finance, at (202) 551–3430.

3. The Commission will consider whether to propose amendments to the best-price rule for issuer and third-party tender offers under the Securities Exchange Act of 1934. The proposed amendments would clarify that the best-price rule applies only with respect to the consideration offered and paid for securities tendered in a tender offer and should not apply to consideration offered and paid according to employment compensation, severance or other employee benefit arrangements entered into with employees or directors of the company that is the target of a third-party tender offer.

For further information, please contact Mara L. Ransom, Special Counsel, Office of Mergers & Acquisitions, Division of Corporation Finance at (202) 551–3440.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

[4] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

Dated: December 2, 2005

Jonathan G. Katz,

Secretary.

[FR Doc. 05–23783 Filed 12–5–05; 10:51 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52860; File No. SR–CBOE–2005–100]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Obligations of Designated Primary Market Makers During the Implementation of the PAR Official Program

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 November 22, 2005, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. CBOE has designated this proposal as non-controversial under section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to issue a regulatory circular that will subject certain Designated Primary Market Makers (''DPMs'') to obligations that were removed upon the approval of the Exchange's PAR Official proposal.[5] The text of the proposed regulatory circular is attached hereto as Exhibit A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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

On November 18, 2005, the Commission approved CBOE's proposal to remove a DPM's obligation to execute orders as an agent, including as a floor broker, in its allocated securities on the Exchange in any trading station and to allow the Exchange to appoint an Exchange employee or independent contractor (''PAR Official'') to assume many of the functions and obligations that DPMs previously held (''PAR Official proposal'').[6] A specific provision of rules approved in connection with the PAR Official proposal gives the Exchange up to ninety days to implement the PAR Official proposal.[7] Because this ninety-day implementation provision could mean that some DPMs will continue to be required to represent orders as agents in their allocated securities, those DPMs must still be subject to the same obligations that governed DPM operations prior to the approval of the PAR Official proposal. As such, the Exchange has incorporated those obligations into a regulatory circular that will govern the operations of those DPMs that were not immediately included in the PAR Official conversion as of November 18, 2005. These rules and obligations, as provided in the regulatory circular attached hereto as Exhibit A, were adopted directly from the now-former DPM rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)[8] of the Act in general, and furthers the objectives of section 6(b)(5)[9] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder[11] because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change as required by Rule 19b–4(f)(6).[12]

Pursuant to Rule 19b–4(f)(6)(iii) under the Act,[13] the proposal does not become operative until 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change becomes effective immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that granting this waiver will ensure that DPMs not immediately subject to the new rules approved recently in connection with the PAR Official proposal will continue to be subject to appropriate regulation. Therefore, the Commission has determined to waive the 30-day delay

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See infra* note 6 and accompanying text.

[6] *See* Securities Exchange Act Release No. 52798 (November 18, 2005), 70 FR 71344 (November 28, 2005).

[7] *See* Interpretation and Policy .01 to CBOE Rule 7.12.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] *Id.*

[13] 17 CFR 240.19b–4(f)(6)(iii).

and to allow the proposed rule change to become operative immediately.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[15]

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 No. SR–CBOE–2005–100 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–CBOE–2005–100. 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 Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2005–100 and should be submitted on or before December 28, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Jonathan G. Katz,

Secretary.

Exhibit A—Chicago Board Options Exchange, Incorporated Regulatory Circular RG05–xx

Date: November 18, 2005.

To: Members and Member Firms.

From: Legal Division; Regulatory Division; Trading Operations Division

Re: DPM Obligations Until the Implementation of the PAR Official Program

On November 18, 2005, the Securities and Exchange Commission (''SEC'') approved a CBOE rule change, SR–CBOE–2005–46 (''rule change'' or ''PAR Official rule change''), that, among other things, (1) prohibits a DPM from executing orders as an agent or Floor Broker in its allocated option classes and (2) eliminates the authority of a DPM to act in any other way as a Floor Broker in those classes.[17] Rule 8.8 and Rule 8.85(b) now prevent a DPM from representing or executing orders for other persons in the DPM's assigned option classes. Once the rule change goes into effect in a particular options class, the DPM assigned to that option class will lose the ability to take custody of or handle orders for other persons in that option class, including through operation of the PAR terminal. The rule change authorizes the Exchange to assign to an Exchange employee or subcontractor known as a PAR Official, the responsibility, among other things, to operate the PAR workstation for designated option classes, to maintain the book in those classes, to represent orders to be sent via Intermarket Option Linkage in those classes, and to effect executions of agency orders placed with the PAR Official in those classes.

The rule change allows the Exchange to put PAR Officials in place in DPM trading crowds during a 90-day period after the SEC approves the rule change. This provision is intended to insure a smooth roll-out of the PAR Official program. Therefore, until a PAR Official is put in place in a particular DPM trading crowd during this 90-day transition period, the DPM in that trading crowd will continue to be responsible to operate the PAR workstation and will continue to be subject to the same agency obligations as set forth under former Rule 8.85(b) and to other obligations applicable to DPMs under current and former Exchange rules. These rules and regulations are provided below:

* * * * *

DPM Obligations

(a) *General Obligations.* Each DPM shall fulfill all of the obligations of a Floor Broker or Order Book Official (to the extent that the DPM acts as a Floor Broker) under the Rules, and shall satisfy each of the requirements contained in this paragraph, in respect of each of the securities allocated to the DPM. To the extent that there is any inconsistency between the specific obligations of a DPM set forth in subparagraphs (b) through (i) of this Rule and the general obligations of a Floor Broker or of an Order Book Official under the Rules, subparagraphs (b) through (i) of this Rule shall govern.

(b) *Display Obligation.* Each DPM shall display immediately the full price and size of any customer limit order that improves the price or increases the size of the best disseminated CBOE quote. ''Immediately'' means, under normal market conditions, as soon as practicable but no later than 30-seconds after receipt (''30-second standard'') by the DPM. The term ''customer limit order'' means an order to buy or sell a listed option at a specified price that is not for the account of either a broker or dealer; provided, however, that the term customer limit order shall include an order transmitted by a broker or dealer on behalf of a customer. The following are exempt from the Display Obligation as set forth under this provision:

(A) An order executed upon receipt;

(B) An order where the customer who placed it requests that it not be displayed, and upon receipt of the order, the DPM announces in public outcry the information concerning the order that would be displayed if the order were subject to being displayed;

(C) An order for which immediately upon receipt a related order for the principal account of a DPM reflecting the terms of the customer order is routed to another options exchange that is a participant in the Intermarket Options Linkage Plan;

(D) The following orders as defined in Rule 6.53: contingency orders; One-cancels-the-other orders; all or none

[14] For purposes only of waiving the operative delay of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(3)(C).

[16] 17 CFR 200.30–3(a)(12).

[17] Please refer to the rule change and the SEC order approving the rule change, which both can be found on the Exchange's Web site at *http://www.cboe.org/Legal/filings.aspx.*

orders; fill or kill orders; immediate or cancel orders; complex orders (e.g., spreads, straddles, combinations); and stock-option orders;

(E) Orders received before or during a trading rotation (as defined in Rule 6.2, 6.2A, and 6.2B), including Opening Rotation Orders as defined in Rule 6.53(l), are exempt from the 30-second standard, however, they must be displayed immediately upon conclusion of the applicable rotation; and

(F) Large Sized Orders: Orders for more than 100 contracts, unless the customer placing such order requests that the order be displayed.

(c) A DPM shall not remove from the public order book any order placed in the book unless (A) the order is canceled, expires, or is executed or (B) the DPM returns the order to the member that placed the order with the DPM in response to a request from that member to return the order;

(d) A DPM shall accord priority to any customer order which the DPM represents as agent over the DPM's principal transactions, unless the customer who placed the order has consented to not being accorded such priority;

(e) A DPM shall not charge any brokerage commission with respect to:

(1) The execution of any portion of an order for which the DPM has acted as both agent and principal, unless the customer who placed the order has consented to paying a brokerage commission to the DPM with respect to the DPM's execution of the order while acting as both agent and principal; or

(2) Any portion of an order for which the DPM was not the executing floor broker, including any portion of the order that is automatically executed through an Exchange system; or

(3) Any portion of an order that is automatically cancelled, or;

(4) Any portion of an order that is not executed and not cancelled.

(f) A DPM shall act as a Floor Broker to the extent required by the MTS Committee.

(g) A DPM shall not represent discretionary orders as a Floor Broker or otherwise.

(h) Autobook Pilot. A DPM shall maintain and keep active on the DPM's PAR workstation at all times the automated limit order display facility (''Autobook'') provided by the Exchange. The appropriate Exchange Floor Procedure Committee will determine the Autobook timer in all classes under that Committee's jurisdiction. A DPM may deactivate Autobook as to a class or classes provided that Floor Official approval is obtained. The DPM must obtain such approval no later than three minutes after deactivation.

(i) The Exchange may make personnel available to assist a DPM in the DPM's performance of the obligations of an Order Book Official, for which the Exchange may charge the DPM a reasonable fee.

* * * * *

RAES Operations

DPMs will still be responsible for non-automated handling of orders routed to the PAR workstation pursuant to Rule 6.8(d)(vi) and Interpretation and Policy .02(b) of Rule 6.8.

* * * * *

Priority of Bids and Offers and Priority of Allocation of Trades

DPMs shall be required to comply with those provisions of Rule 6.45, 6.45A, and 6.45B, that are now assigned to PAR Officials.

* * * * *

Timing of Firm Quote Obligations in a DPM Trading Crowd With Respect to Firm Disseminated Market Quotes

In Non-Hybrid classes, for purposes of determining when the firm quote obligations under Rule 8.51 attach in respect of orders received at a PAR workstation in a DPM trading crowd and how the exemptions to that obligation provided in paragraph (e) of that Rule apply, the responsible broker or dealer shall be deemed to receive an order, and an order shall be deemed to be presented to the responsible broker or dealer, at the time the order is received on the DPM's PAR workstation.

In Hybrid classes, for purposes of determining when the firm quote obligations under Rule 8.51 attach with respect to orders received at a PAR workstation in a DPM trading crowd and how the exemptions to that obligation provided in paragraph (e) of that rule apply, the responsible broker or dealer shall be deemed to receive an order, and an order shall be deemed presented to the responsible broker or dealer:

(i) At the time the order is announced to the trading crowd with respect to each responsible broker or dealer that is not the DPM for the class; and

(ii) At the time the order is received on PAR with respect to the DPM as the responsible broker or dealer.

As such, firm quote obligations for an order received on a PAR workstation may attach at two separate times for different responsible broker or dealers: at the time of receipt with respect to the DPM as a responsible broker or dealer and at the time of announcement with respect to non-DPM members of the trading crowd as responsible brokers or dealers.

* * * * *

Linkage Rules

Only with respect to any DPM continuing to represent and execute orders as agent pursuant to this Regulatory Circular, Rule 6.80 (''Definitions'') paragraph (12)(i) shall read as follows:

''Principal Acting as Agent ('P/A') Order,'' which is an order for the principal account of a Market-Maker (or equivalent entity on another Participant Exchange that is authorized to represent Customer orders) reflecting the terms of a related unexecuted Customer order for which the Market-Maker is acting as agent.

* * * * *

DPM Designees

The DPM must continue to maintain the requisite number of approved DPM Designees, as defined under Rule 8.81. Additionally, these DPM Designees must continue to be registered as a Floor Broker pursuant to Rule 6.71. A DPM Designee also shall continue to be restricted from trading as a Floor Broker in securities allocated to the DPM unless acting on behalf of the DPM in its capacity as a DPM.

Finally, when acting on behalf of a DPM in its capacity as a DPM, the DPM Designee is exempt from the provisions of Rule 8.8 (''Restriction on Acting as Market-Maker and Floor Broker''). (See former Rule 8.81(e)).

* * * * *

Rule 17.50. Imposition of Fines for Minor Rule Violations

DPMs shall be subject to a fine for failure to promptly book and display limit orders that would improve the disseminated quote or for failure to use due diligence in the execution of orders for which the DPM maintains an agency obligation.

* * * * *

Summary

After the rule change has been approved and until the end of the 90-day trading period, neither a DPM assigned to a trading crowd nor the Exchange shall be subject to the provisions of the rule change with respect to the operation of that trading crowd until a PAR Official has been assigned to that trading crowd.

Questions pertaining to this Regulatory Circular should be directed to Jim Flynn at (312) 786–7070; Doug

Beck at (312) 786–7959; or John Johnston at (312) 786–7303.

[FR Doc. E5–6986 Filed 12–6–05; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending November 18, 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–2005–23066.
Date Filed: November 15, 2005.
Parties: Members of the International Air Transport Association.
Subject: TC31 North and Central Pacific, Bangkok, 24 October–1 November 2005, TC3-Central, South America Resolution 002bq, Intended effective date: 15 December 2005.

Docket Number: OST–2005–23067.
Date Filed: November 15, 2005.
Parties: Members of the International Air Transport Association.
Subject: TC31 North and Central Pacific, Bangkok, 24 October–1 November 2005, Korea (Rep. Of), Malaysia—USA, Expedited Resolution 002na, Intended effective date: 15 December 2005.

Docket Number: OST–2005–23068.
Date Filed: November 15, 2005.
Parties: Members of the International Air Transport Association.
Subject: TC3 (except Japan)-North America, Caribbean), (except between Korea (Rep. of), Malaysia-USA), Expedited Resolution 002bi, Intended effective date: 15 December 2005.

Docket Number: OST–2005–23069.
Date Filed: November 15, 2005.
Parties: Members of the International Air Transport Association.
Subject: TC31 North and Central Pacific, Bangkok, 21 September–1 November 2005, TC3-Central, South America Expedited Resolution, Intended effective date: 1 January 2006.

Docket Number: OST–2005–23070.
Date Filed: November 15, 2005.
Parties: Members of the International Air Transport Association.
Subject: TC3 (except Japan)-North America, Caribbean), (except between Korea (Rep. of), Malaysia-USA), Expedited Resolution 002bn, Intended effective date: 1 January 2006.

Renee V. Wright,
Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E5–6988 Filed 12–6–05; 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 18, 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–2005–22882.
Date Filed: November 14, 2005.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 5, 2005.
Description: Amendment No. 1 of Gazpromavia Aviation Company Ltd. amending its application for a foreign air carrier permit to extend its requested authority to permit it to engage in passenger, combination and all-cargo charter service between the Russian Federation and the United States.

Docket Number: OST–2005–23086.
Date Filed: November 17, 2005.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 8, 2005.
Description: Application of Aguadilla Airline Services, Inc. requesting authority to conduct scheduled passenger operations as a commuter air carrier.

Docket Number: OST–2001–8910.
Date Filed: November 17, 2005.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 8, 2005.
Description: Application of Continental Airlines, Inc. requesting renewal of its Route 805 certificate authorizing Continental to provide scheduled foreign air transportation of persons, property and mail between New York/Newark, NJ, and Cali and Medellin, Colombia and to integrate this authority with other authority held by Continental.

Renee V. Wright,
Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E5–6989 Filed 12–6–05; 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 discuss 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: December 1, 2005.

Walter Boyd,

Field Operations Team Leader, Nashville, Tennessee.

FR Doc. 05–23703 Filed 12–6–05; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of an Environmental Impact Statement for High-Capacity Transit Improvements in the Southern Corridor of Honolulu, HI

AGENCY: Federal Transit Administration, DOT.

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

SUMMARY: The Federal Transit Administration (FTA) and the City and County of Honolulu, Department of Transportation Services (DTS) intend to prepare an EIS (and Alternative Analysis (AA)) on a proposal by the City and County of Honolulu to implement transit improvements that potentially include high-capacity transit service in a 25-mile travel corridor between Kapolei and the University of Hawaii at Manoa and Waikiki. Alternatives proposed to be considered in the AA and draft EIS include No Build, Transportation System Management, Managed Lanes, and Fixed Guideway Transit. Other transit alternatives may be identified during the scoping process.

The EIS will be prepared to satisfy the requirements of the National Environmental Policy of 1969 (NEPA) and its implementing regulations. The FTA and DTS request public and interagency input on the purpose and needs to be addressed by the project, the alternatives to be considered, and the scope of the EIS for the corridor, including the alternatives and the environmental and community impacts to be evaluated.

DATES: *Scoping Comments Due Date:* Written comments on the scope of the NEPA review, including the alternatives to be considered and the related impacts to be assessed, should be sent to DTS by January 9, 2006. See **ADDRESSES** below.

Scoping Meetings: Meetings to accept comments on the proposed alternatives, scope of the EIS, and purpose of and needs to be addressed by the alternatives will be held on December 13 and 14, 2005 at the locations given in **ADDRESSES** below. On December 13, 2005, the public scoping meeting will begin at 5 p.m. and continue until 8 p.m. or until all who wish to provide oral comments have been given the opportunity. The meeting on December 14, 2005 will begin at 7 p.m. and continue until 9 p.m. or until all who wish to provide oral comments have been given the opportunity. The locations are accessible to people with disabilities. A court reporter will record oral comments. Forms will be provided on which to provide written comments. Project staff will be available at the meeting to informally discuss the EIS scope and the proposed project. Governmental agencies are also invited to a separate scoping meeting to be held on December 13 from 2 p.m. until 4 p.m. Further information will be available at the scoping meeting and may also be obtained by calling (808) 566–2299, by downloading from *http://www.honolulutransit.org,* or by e-mailing *info@honolulutransit.org.*

ADDRESSES: Written comments on the scope of the EIS, including the alternatives to be considered and the related impacts to be assessed, should be sent to both the Department of Transportation Services, City and County of Honolulu, 650 South King Street, 3rd Floor, Honolulu, HI, 96813, Attention: Honolulu High-Capacity Transit Corridor Project, or by the Internet at *http://www.honolulutransit.org* and Ms. Donna Turchie, Federal Transit Administration, Region IX, 201 Mission Street, Suite 2210, San Francisco, CA 94105 or by e-mail: *Donna.Turchie@fta.dot.gov.*

The scoping meetings will be held at the Neal S. Blaisdell Center, Pikake Room, at 77 Ward Avenue on December 13, 2005 from 5 p.m. to 8 p.m. and at Kapolei Middle School Cafeteria, at 91–5335 Kapolei Parkway on December 14, 2005 from 7 p.m. to 9 p.m.

FOR FURTHER INFORMATION CONTACT: The FTA contact is Ms. Donna Turchie, Federal Transit Administration, Region IX, 201 Mission Street, Room 2210, San Francisco, CA 94105. Phone: (415) 744–2737. Fax: (415) 744–2726.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and DTS invite all interested individuals and organizations, and Federal, State, and local agencies, to comment on the purpose and need, project alternatives, and scope of the EIS. During the scoping process, comments should focus on the purpose and need for a project, identifying specific transportation problems to be evaluated, or on proposing transportation alternatives that may be less costly, more effective, or have fewer environmental impacts while improving mobility in the corridor. At this time, comments should not focus on a preference for a particular alternative. The opportunity for that type of input will be after the release of the AA final report, which will compare various alternatives.

Following the public scoping process, public outreach activities with interested parties or groups throughout the duration of work on the EIS will occur. The project Web site, *http://www.honolulutransit.org,* will be updated periodically to reflect the status of the project. Additional opportunities for public participation will be announced through mailings, notices, advertisements, and press releases. Those wishing to be placed on the project mailing list may do so by registering on the Web site at *http://www.honolulutransit.org,* or by calling (808) 566–2299.

II. Description of Study Area

The proposed project study area is the travel corridor between Kapolei and the University of Hawaii at Manoa (UH Manoa) and Waikiki. This narrow, linear corridor is confined by the Waianae and Koolau mountain ranges to the north (mauka direction) and the ocean to the south (makai direction). The corridor includes the majority of housing and employment on Oahu. The 2000 census indicates that 876,200 people live on Oahu. Of this number, over 552,000 people, or 63 percent, live within the corridor between Kapolei and Manoa/Waikiki. This area is projected to absorb 69 percent of the population growth projected to occur on Oahu between 2000 and 2030, resulting in an expected corridor population of

776,000 by 2030.Over the next twenty-five years, the Ewa/Kapolei area is projected to have the highest rate of housing and employment growth on Oahu. The Ewa/Kapolei area is developing as a ''second city'' to complement downtown Honolulu. The housing and employment growth in Ewa is identified in the General Plan for the City and County of Honolulu.

III. Purpose and Need

Existing transportation infrastructure in this corridor is overburdened handling current levels of travel demand. Travelers experience substantial traffic congestion and delay at most times of the day, both on weekdays and on weekends. Automobile and transit users on Oahu currently experience 42,000 daily vehicle-hours of delay. By 2030, this is projected to increase nearly seven-fold to 326,000 daily vehicle-hours of delay. Because the bus system primarily operates in mixed traffic, transit users experience the same level of delay as automobile drivers. Current morning peak-period travel times for motorists from Kapolei to downtown average between 40 and 60 minutes. By 2030 the travel times are projected to more than double. Within the urban core most major arterial streets will experience increasing peak congestion, including Ala Moana Boulevard, Dillingham Boulevard, Kalakaua Avenue, Kapiolani Boulevard, King Street and Nimitz Highway. Expansion of the roadway system between Kapolei and UH Manoa study corridor is constrained by physical barriers and by dense urban neighborhoods that abut many existing roadways.

Numerous lower-income and minority workers live in the corridor outside of the urban core and commute to work in the primary urban center. Many of these workers rely on public transit because they are not able to afford the cost of vehicle ownership, operation, and parking.

The intent of the proposed alternatives is to provide improved person-mobility in this highly congested east-west corridor. A high-capacity improvement project would support the goals of the regional transportation plan by serving areas designated for urban growth, provide an alternative to private automobile travel and improve linkages between Kapolei, Honolulu's Urban Center, UH Manoa, Waikiki, and urban areas between these points.

IV. Alternatives

The alternatives proposed for evaluation in the AA and draft EIS were developed through a screening process that identified the best reasonable alternatives from the range of possible alternatives. At a minimum, FTA and DTS propose to consider the following alternatives:

1. No Build Alternative, which would include existing transit and highway facilities and planned transportation projects to the year 2030.

2. Transportation System Management (TSM) Alternative, which would provide an enhanced bus system based on a hub-and-spoke route network, community bus circulators, conversion of the present morning peak hour only zipper lane to both a morning and afternoon peak hour zipper lane configuration, and relatively low-cost capital improvements on selected roadway facilities to give priority to buses. These capital improvements may include: Transportation system upgrades such as intersection improvements, minor road widening, traffic engineering actions, bus route restructuring, shortened bus headways, expanded use of articulated buses, express and limited-stop service, signalization improvements, and timed-transfer operations.

3. Managed Lanes Alternatives, which would include construction of a two-lane grade-separated guideway between Waipahu and Downtown Honolulu for use by buses high-occupancy vehicles (HOVs), and toll-paying single-occupant vehicles. The lanes would be managed by setting the minimum occupancy for HOVs and the tolls for single-occupant vehicles at levels that would preserve free-flow speeds on the facility.

4. Fixed-Guideway Alternatives, which would include the construction and operation of a fixed transit guideway between Kapolei and UH Manoa and Waikiki on one of several possible alignments. Alignment alternatives to be considered include, but are not limited to:

- Kamokila Boulevard/Salt Lake Boulevard/King Street/Hotel Street/Alakea Street/Kapiolani Boulevard Alignment, which would serve various communities and activity centers between Kapolei and UH Manoa, including UH West Oahu, Waipahu, Pearlridge, Aloha Stadium, Salt Lake, Kalihi, Downtown Honolulu, Kakaako, Ala Moana Center, and Moiliili.
- North-South Road/Camp Catlin Road/King Street/Queen Street/Kapiolani Boulevard Alignment, which would serve various communities and activity centers between Kapolei and UH Manoa, including UH West Oahu, Waipahu, Pearlridge, Aloha Stadium, Pearl Harbor, Honolulu International Airport, Salt Lake, Kalihi, Downtown Honolulu, Kakaako, Ala Moana Center, and Moiliili.
- Ft. Weaver Road/Farrington Highway/Kamehameha Highway/Dillingham Boulevard/Kaaahi Street/Beretania Street/King Street/Kaialiu Street Alignment, which would serve various communities and activity centers between Kapolei and UH Manoa, including Kalaeloa, Ewa Villages, Waipahu, Pearlridge, Aloha Stadium, Pearl Harbor, Honolulu International Airport, Kalihi Kai, Downtown Honolulu, Thomas Square, and Moiliili.
- North-South Road/Farrington Highway/Kamehameha Highway/Airport/Dillingham Boulevard/Hotel Street/Kapiolani Boulevard with a Waikiki Spur Alignment, which would serve various communities and activity centers between Kapolei and UH Manoa, including Kalaeloa, UH West Oahu, Waipahu, Pearlridge, Aloha Stadium, Pearl Harbor, Honolulu International Airport, Kalihi Kai, Downtown Honolulu, Kakaako, Ala Moana Center, Moiliili, and Waikiki.

After appropriate public involvement and interagency coordination, other alternatives suggested during scoping may be added if they are found to be environmentally acceptable, financially feasible, and consistent with the purpose of and need for major transportation improvements in the corridor.

V. Probable Effects

The EIS will evaluate and fully disclose the environmental consequences of the construction and operation of an expanded transit system on Oahu. The EIS will evaluate the impacts of all reasonable alternatives on land use, zoning, displacements, parklands, economic development, community disruptions, environmental justice, aesthetics, air quality, noise and vibration, wildlife, vegetation, threatened and endangered species, farmland, water quality, wetlands, waterways, floodplains, enemy, hazardous materials, and cultural, historic, and archaeological resources. Impacts to parklands and historic resources covered by Section 4(f) of the 1966 U.S. Department of Transportation Act also will be addressed.

To ensure that all significant issues related to this proposed action are identified and addressed, scoping comments and suggestions are invited from all interested parties. Comments and questions should be directed to the DTS as noted in the **ADDRESSES** section above.

VI. FTA Procedures

The EIS is being prepared in accordance with: the National Environmental Policy Act of 1969 (NEPA), as amended, and its implementing regulations by the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508); the FTA/Federal Highway Administration's ''Environmental Impact and Related Procedures'' regulations (23 CFR part 771); and Federal transit law (49 U.S.C. 5300) and its implementing regulations for major capital improvements (49 CFR 611). In accordance with FTA policy, the NEPA process will also address the requirements of other applicable environmental laws, regulations, and executive orders, such as the National Historic Preservation Act of 1966, as amended, Section 4(f) of the 1966 U.S. Department of Transportation Act, the Executive Orders on Environmental Stewardship and Transportation Infrastructure Project Reviews, Environmental Justice, Floodplain Management, and Protection of Wetlands.

The first step in preparation of the EIS will be an AA that will be consistent with both the requirements of NEPA for evaluation of a range of reasonable alternatives and the requirements of Federal transit law for consideration of alternatives during the development of major capital investment projects proposed for Federal funding. Upon completion, the AA final report will be available to the public and agencies for review and comment, and public hearings on the AA will be held at advertised locations within the study area. Based on the AA and public and agency comments received, the City and County of Honolulu will identify, a locally preferred alternative (LPA). The second step in preparation of the EIS will be the development of a Draft EIS to add further detail about the LPA and its impacts. Based on the findings in the Draft EIS and comments from the public and agencies, the City and County of Honolulu may decide to request that the LPA enter preliminary engineering (PE) of the LPA. FTA requires that the LPA be adopted and/or confirmed in the conforming Regional Transportation Plan (RTP) for Oahu as a condition for initiation of PE. With adoption into the RTP, and if the LPA meets the evaluation criteria identified in Federal law, FTA will approved the project into PE, which will include the simultaneous preparation of the Final EIS.

Issued on: November 29, 2005.

Leslie T. Rogers,

Regional Administrator.

[FR Doc. 05–23678 Filed 12–6–05; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2005, and comments were due by November 8, 2005. No comments were received.

DATES: Comments must be submitted on or before January 6, 2006.

FOR FURTHER INFORMATION CONTACT: Thomas Olsen, Maritime Administration, 400 Seventh Street, Southwest, Washington, DC 20590. Telephone: 202–366–2313; FAX: 202–366–9580; or E-mail: *Thomas.olsen@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Determination of Fair and Reasonable Rates for Carriage of Agriculture Cargoes on U.S.-flag Commercial Vessels.

Omb Control Number: 2133–0514.

Type Of Request: Extension of currently approved collection.

Affected Public: U.S. citizens who own and operate U.S.-flag vessels.

Forms: MA–1025, MA–1026 and MA–172.

Abstract: This collection of information requires U.S.-flag operators to submit annual vessel operating costs and capital costs data to MARAD officials. The information is used by MARAD in determining fair and reasonable guideline rates for the carriage of preference cargoes on U.S.-flag vessels. In addition, U.S.-flag vessel operators are required to submit Post Voyage Reports to MARAD after completion of a cargo preference voyage.

Annual Estimated Burden Hours: 740 hours.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, Northwest, Washington, DC 20503, Attention MARAD Desk Officer.

Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Authority: 49 CFR 1.66.

Issued in Washington, DC on November 30, 2005.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E5–6918 Filed 12–6–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 29, 2005, and comments were due by October 28, 2005. No comments were received.

DATES: Comments must be submitted on or before January 6, 2006.

FOR FURTHER INFORMATION CONTACT: Otto Strassburg, Maritime Administration, 400 Seventh Street Southwest, Washington, DC 20590. Telephone: 202–366–4161; FAX: 202–366–7901; or E-mail: *Joe.strassburg@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Approval of Underwriters for Marine Hull Insurance.

OMB Control Number: 2133–0517.

Type of Request: Extension of currently approved collection.

Affected Public: Marine insurance brokers and underwriters of marine insurance.

Forms: None.

Abstract: This collection of information involves the approval of marine hull underwriters to insure MARAD program vessels. Applicants will be required to submit financial data upon which MARAD approval would be based. This information is needed in order that MARAD officials can evaluate the underwriters and determine their suitability for providing marine hull insurance on MARAD vessels.

Annual Estimated Burden Hours: 46 hours.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street Northwest, Washington, DC 20503, Attention MARAD Desk Officer.

Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Authority: 49 CFR 1.66.

Issued in Washington, DC on November 29, 2005.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E5–6919 Filed 12–6–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 9, 2005, and comments were due by November 8, 2005. No comments were received.

DATES: Comments must be submitted on or before January 6, 2006.

FOR FURTHER INFORMATION CONTACT: Ruth DeVelbis, Maritime Administration, 400 Seventh Street, Southwest, Washington, DC 20590. Telephone: 202–366–2314; FAX: 202–366–9580; or E-mail: *ruth.develbis@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Records Retention Schedule.

OMB Control Number: 2133–0501.

Type of Request: Extension of currently approved collection.

Affected Public: U.S. Shipping Companies.

Forms: None.

Abstract: Section 801, Merchant Marine Act, 1936, as amended, requires retention of financial records pertaining to financial assistance programs for ship construction and ship operations. These records are required to permit proper audit of pertinent records at the conclusion of a contract. The information will be used to audit pertinent records at the conclusion of a contract when the contractor was receiving financial assistance from the government.

Annual Estimated Burden Hours: 50 hours.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, Northwest, Washington, DC 20503, Attention MARAD Desk Officer.

Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Authority: 49 CFR 1.66.

Issued in Washington, DC on November 30, 2005.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E5–6920 Filed 12–6–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Correction notice.

SUMMARY: This document corrects the estimated total burden hours published on October 19, 2005 (70 FR 60878) for the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq., OMB Control Number 2127–0503.

DATES: Comments must be submitted on or before January 6, 2006.

FOR FURTHER INFORMATION CONTACT: Donovan Green, NHTSA 400 Seventh Street, SW., Room 5307—NVS–122, Washington, DC 20590. Mr. Green's telephone number is (202) 493–0248.

SUPPLEMENTARY INFORMATION: NHTSA is correcting an error in the Information Collection published in the **Federal Register** on October 19, 2005 (70 FR 60878). Specifically, NHTSA is correcting the estimated total annual burden from $3,611,460.00 to the estimated total annual burden hours of 265,702.

Since the correction made by this document is only to inform the public of previous agency actions, and do not impose any additional obligations on any party, NHTSA finds for good cause that the revisions made by this notice

should be effective as soon as this notice is published in the **Federal Register**.

Issued in Washington, DC, on December 1, 2005.

H. Keith Brewer,

Director, Office of Crash Avoidance Standards.

[FR Doc. E5–6917 Filed 12–6–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted by Ms. Miriam Schneider to NHTSA's Office of Defects Investigation (ODI), received on August 2, 2005, under 49 U.S.C. 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety with respect to the performance of the tie rod ends on certain model year (MY) 1999 Volkswagen Passat vehicles not included in two previous safety recall campaigns. After a review of the petition and other information, NHTSA has concluded that further expenditure of the agency's investigative resources on the issues raised by the petition does not appear to be warranted. The agency accordingly has denied the petition. The petition is herein after identified as DP05–003.

FOR FURTHER INFORMATION CONTACT: Mr. Kyle Bowker, Vehicle Control Division, Office of Defects Investigation, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–9597.

SUPPLEMENTARY INFORMATION: On August 2, 2005, ODI received a petition submitted by Ms. Miriam Schneider of Olney, MD requesting an investigation of allegedly defective tie rods in certain MY 1999 Volkswagen Passat vehicles not included in two previous safety recall campaigns (identified henceforth as the subject vehicles). In a September 1999 letter, Volkswagen of America, Inc. (VW) notified the agency that an undetermined percentage of MY 1998–1999 Volkswagen Passat and Audi A4, A6, and A8 vehicles contained a safety-related defect affecting the tie rods in the steering system. VW indicated that it was possible that some tie rods would not seal properly which could allow moisture and dust particles to enter the swivel bearing mechanism, resulting in premature wear. The approximately 22,200 Volkswagen and 29,700 Audi vehicles affected by this recall (identified by NHTSA Recall No. 99V–248) were built from January 1998 through July 1998 and fell within a specific Vehicle Identification Number (VIN) range.

In November 2000, VW chose to expand the scope of the recall (identified by NHTSA Recall No. 00V–414) after it determined that some potentially defective tie rods may have been installed in an additional 44,000 Volkswagen and 39,000 Audi vehicles built from August 1998 through April 1999. These subject recall actions were not influenced by ODI. Instead, VW made an independent determination to conduct a recall after German vehicle inspection authorities notified it of ''worn'' tie rods and factory inspection of some ''worn'' tie rods revealed improper sealing.

According to a December 2004 report, the petitioner brought her MY 1999 Passat to an authorized Volkswagen dealer for an unrelated recall repair where she was notified by service personnel that, after 59,000 miles traveled, the tie rods ''have too much play,'' and the recommended repairs would not be covered free of charge because her VIN (WVWNA63B1XE499116) was outside the recall range. In June 2005, after 65,400 miles traveled, the petitioner paid $588.59 to replace worn inner and outer tie rod ends on both sides of the vehicle. The petition letter specifically requests that the scope of VW's recall be expanded to include the petitioner's vehicle and that she be reimbursed for the cost of the repairs.

There are a total of 191 non-duplicative complaints to ODI and VW that allege premature wear of either one or both outer tie rod ends in the subject vehicles. As of November 18, 2005, ODI is not aware of any allegations of tie rod separations resulting in a loss of vehicle control, crash or injury in the subject vehicles.

The steering system converts rotary motion of the steering wheel (input) into a turning motion of the vehicle's steered wheels to effect directional control (output). In the subject vehicles tie rods are used to transmit force from both ends of the rack and pinion gearbox to the steering arm at each front wheel. Each tie rod is affixed to the steering arm via a spherical bearing enclosed in a steel body (known as the outer tie rod end) and a bolt. The bearing is protected by a rubber boot that is intended to prevent the intrusion of dirt, dust, water, and other environmental particles that could contaminate the bearing and cause corrosion and accelerated wear of the ball and socket joint.

In February 1998, VW began using aluminum tie rod ends for both vehicle production and service replacement parts in an effort to reduce weight. VW initiated recall 99V–248 after it determined that the aluminum tie rod ends used in certain MY 1998–99 vehicles were defective. The manufacturer identified a specific production range of vehicles built using aluminum tie rod ends and later expanded the scope (00V–414) to include vehicles built two months before and after this range to ensure that any vehicle that may have been built using defective aluminum tie rod ends was included in the recall action.

Due to aluminum's low inherent material hardness, rapid and excessive wear of the bearing could result if the integrity of the seal is compromised and the bearing is left exposed to the elements. VW reports that damage to the protective rubber boot may be caused by external forces such as impact or in-use damage, or by improper assembly. Design changes intended to improve sealing (revised boot material) and ease of assembly (introduction of stop ring) were implemented. Additionally, the tie rod end was changed from aluminum to a steel body to improve bearing wear characteristics in the event of boot damage. This revised steel tie rod end entered vehicle production in March 1999 and was the replacement part used in the recall remedy.

According to VW, aluminum tie rod ends show a very different pattern for replacement than the steel parts, as evidenced by analysis of consumer complaints and warranty claims. The defective aluminum tie rod ends were replaced at a much lower mileage range, whereas the steel parts are being replaced at a significantly higher mileage after years of service. Steel tie rod ends show a progression of failure symptoms which is clearly demonstrated and confirmed by the complaint reports identified in response to this petition, the vast majority of which include allegations limited to noise and/or excessive wear necessitating replacement during the course of routine maintenance. The manufacturer recommends periodic inspection of the steering system on the subject vehicles, including the tie rods, every 12 months. Furthermore, VW recommends a more detailed inspection of the tie rod ends (and replacement, if necessary) every 4 years or 40,000 miles traveled.

The petitioner's vehicle was manufactured on June 8, 1999 using the revised steel tie rod ends and therefore was already equipped with the tie rod ends used to remedy defective vehicles in the subject recalls. Analysis indicates that there does not appear to be a safety-related defect trend with respect to the steel tie rod ends used in the subject vehicles.

In view of the foregoing, it is unlikely that NHTSA would issue an order for the notification and remedy of the alleged defect as defined by the petitioner at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: December 1, 2005.

Daniel Smith,

Associate Administrator for Enforcement.

[FR Doc. E5–6916 Filed 12–6–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 229X)]

Union Pacific Railroad Company—Abandonment Exemption—in Ellis County, TX

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 4.57-mile line of railroad known as the Waxahachie Industrial Lead extending from milepost 798.03, near Waxahachie, to milepost 802.60, near Nena, in Ellis County, TX. The line traverses United States Postal Service Zip Code 75165.[1]

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 6, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 16, 2005. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 27, 2005, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP has filed environmental and historic reports which address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 12, 2005. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by December 7, 2006, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: November 30, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E5–6896 Filed 12–6–05; 8:45 am]

BILLING CODE 4915–01–P

[1] Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. The applicant initially indicated a proposed consummation date of January 5, 2006, but because the verified notice was filed on November 17, 2005, consummation may not take place prior to January 6, 2006. By facsimile received on November 28, 2005, applicant's representative confirmed that the proposed consummation date will be on or after January 6, 2006.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,200. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974, as Amended

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Proposed New Privacy Act System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury, Internal Revenue Service, gives notice of a proposed new system of records entitled ''Treasury/IRS 50.222—Tax Exempt/Government Entities (TE/GE) Case Management Records.''

DATES: Comments must be received no later than January 6, 2006. This new system of records will be effective January 17, 2006 unless the IRS receives comments which would result in a contrary determination.

ADDRESSES: Comments should be sent to the Office of Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. Comments will be available for inspection and copying

in the Freedom of Information Reading Room (1621), at the above address. The telephone number for the Reading Room is (202) 622–5164.

FOR FURTHER INFORMATION CONTACT: Telephonic inquiries should be directed to Marianne Davis, Program Analyst, Internal Revenue Service, TE/GE Division, at telephone number (949) 389–4304. Written inquiries should be directed to Robert Brenneman, TE/GE Reporting and Electronic Examination System (TREES) Project Manager, at Internal Revenue Service, TE/GE Business Systems Planning (SE:T:BSP), 1111 Constitution Avenue NW., Attn: PE–6M4, Washington, DC 20224.

SUPPLEMENTARY INFORMATION: The proposed system will allow the IRS to better serve the public by enhancing the ability of the Tax Exempt/Government Entities Division (TE/GE) to better manage its program responsibilities, including the allocation of resources and the assignment and review of workload. It will contain data relating to the compliance activities within the TE/GE Business Operating Division. Records covered under this system emanate from investigatory actions relating to individuals and other taxpayers involving money laundering, statutory compliance violations, and other areas of non-compliance.

This system of records will maintain information about individuals that reflect TE/GE's methods of investigating exempt organizations, retirement plans, and government entities with regard to their compliance with statutory Federal requirements and/or their tax exempt status. In addition, this system contains identifying information regarding informants who have provided information that is significant and relevant to TE/GE investigations of taxpayers.

A proposed rule to exempt this system of records from provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2) will be published separately in the **Federal Register**.

The new system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated November 30, 2000.

The proposed Treasury/IRS 50.222—Tax Exempt/Government Entities (TE/GE) Case Management Records, is published in its entirety below.

Dated: November 18, 2005.

Sandra L. Pack,

Assistant Secretary for Management and Chief Financial Officer.

Treasury/IRS 50.222

SYSTEM NAME:

Tax Exempt/Government Entities (TE/GE) Case Management Records.

SYSTEM LOCATION:

Office of the Commissioner, Tax Exempt/Government Entities Division (TE/GE), National Office, Area Offices, Local Offices, Service Campuses, and Computing Centers. (See IRS Appendix A for addresses of IRS offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subject of or are connected to TE/GE examinations and tax determinations, including compliance projects, regarding Federal tax exemption requirements, employee plan requirements, and employment tax requirements.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include case identification, assignment, and status information from TE/GE examination and tax determination files, information about individuals pertaining to TE/GE's methods of investigating exempt organizations, retirement plans, and government entities with regard to their compliance with statutory Federal requirements and/or their tax exempt status. In addition, this system contains identifying information regarding informants who have provided information that is significant and relevant to TE/GE investigations of taxpayers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7801.

PURPOSE(S):

This system will provide TE/GE records for case management, including employee assignments and file tracking. TE/GE maintains records on businesses, organizations, employee plans, government entities, and Indian Tribal Government entities and individuals, such as principals and officers, connected with these entities. Records in this system are used for law enforcement investigations and may contain identifying information about informants who have provided significant information relevant to investigations of taxpayers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosure of return and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic.

RETRIEVABILITY:

Data is retrieved by taxpayer name, Taxpayer Identification Number (either Social Security Number or Employer Identification Number), or by IRS employee name or identification number for the employee who is assigned the case, project, or determination.

SAFEGUARDS:

Only persons authorized by law will have access to these records. Security standards will not be less than those published in IRM 2.1.10, Automated Information Systems Security Handbook, and IRM 1.16.2, Manager's Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained in accordance with Records Management and Disposition policy, IRM 1.15. The Records Control Schedule for TE/GE is published in IRM 1.15.24, and the disposition guidance is located in 1.15.3.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner, TE/GE, 1111 Constitution Avenue NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining whether the system contains a record pertaining to a particular individual. The records are exempt under 5 USC 552a(k)(2) from the notification provisions of the Privacy Act.

RECORDS ACCESS PROCEDURES:

This system may not be accessed to inspect or contest the content of records. The records are exempt under 5 U.S.C. 552a(k)(2) from the access provisions of the Privacy Act.

CONTESTING RECORDS PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORDS SOURCE CATEGORIES:

Information is obtained from tax returns, application returns and supporting material, determination files,

examination files, compliance review files, compliance programs and projects, and IRS personnel records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from sections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

[FR Doc. E5–7000 Filed 12–6–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application for Relief on Account of Loss, Theft, or Destruction of United States Savings and Retirement Securities and Supplemental Statement Concerning United States Securities.

DATES: Written comments should be received on or before February 6, 2006, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Titles: Application For Relief on Account of Loss, Theft or Destruction of United States Savings and Retirement Securities and Supplemental Statement Concerning United States Securities.

OMB Number: 1535–0013.

Form Numbers: PD F 1048 and PD F 2243.

Abstract: The information is requested to issue owners substitute securities or payment in lieu of lost, stolen or destroyed securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 80,000.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 26,400.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 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, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 1, 2005.

Vicki S. Thorpe,

Manager, Graphics, Printing, and Records Branch.

[FR Doc. E5–6967 Filed 12–6–05; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Description of United States Savings Bonds/Notes and Description of United States Savings Bonds Series HH/H.

DATES: Written comments should be received on or before February 6, 2006, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Titles: Description of United States Savings Bonds/Notes and Description of United States Savings Bonds Series HH/H.

OMB Number: 1535–0064.

Form Numbers: PD F 1980 and PD F 2490.

Abstract: The information is requested to establish the owner of savings bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 24,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 2,400.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 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, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 1, 2005.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. E5–6968 Filed 12–6–05; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application By Voluntary Guardian of Incapacitated Owner of United States Savings Bonds/ Notes.

DATES: Written comments should be received on or before February 6, 2006, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Title: Application By Voluntary Guardian Of Incapacitated Owner of United States Savings Bonds/Notes.

OMB Number: 1535–0036.

Form Number: PD F 2513.

Abstract: The information is requested to establish the right of a voluntary guardian to act on behalf of an incompetent bond owner.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 333.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 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, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 1, 2005.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. E5–6969 Filed 12–6–05; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application For Refund Of Purchase Price Of United States Savings Bonds For Organizations.

DATES: Written comments should be received on or before February 6, 2006, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Title: Application For Refund Of Purchase Price Of United States Savings Bonds For Organizations.

Form Number: PD F 5410.

Abstract: The information is requested to support refund of purchase price of savings bonds to and organization.

Current Actions: None.

Type of Review: Extension.

Affected Public: Business or other for-profit/not-for-profit institutions.

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 300.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 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, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 1, 2005.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. E5–6970 Filed 12–6–05; 8:45 am]

BILLING CODE 4810–39–P

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Federal Register

Vol. 70, No. 234

Wednesday, December 7, 2005

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FEDERAL REGISTER PAGES AND DATE, DECEMBER

72065–72194 1
72195–72348 2
72349–72576 5
72577–72698 6
72699–72880 7

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7967 72575

5 CFR

300 72065
307 72065
315 72065
316 72065
330 72065
335 72065
550 72065
551 72065
720 72065

7 CFR

210 72349
220 72349
226 72349
272 72350
274 72350
276 72350
278 72350
279 72350
280 72350
319 72068
979 72699
984 72195
985 72355

Proposed Rules:
1220 72257

12 CFR

796 72702

13 CFR

121 72577
123 72577

14 CFR

23 ..... 72068, 72070
39 ..... 72358, 72361, 72363, 72366, 72368, 72595
71 72371
97 ..... 72703, 72705

Proposed Rules:
13 72403
39 ..... 72083, 72085, 72088, 72327, 72406, 72409, 72599, 72601, 72726
47 72403
61 72403
91 72403
183 72403

15 CFR

748 72073

17 CFR

200 72566
201 72566
229 72372
239 72372

18 CFR

Proposed Rules:
41 72730
158 72730
284 72090
286 72730
349 72730

19 CFR

360 72373

20 CFR

655 72556

Proposed Rules:
404 ..... 72411, 72416
416 ..... 72411, 72416

21 CFR

Ch. I 72074
610 72197

Proposed Rules:
610 72257

24 CFR

203 72696

26 CFR

1 72376

Proposed Rules:
1 72260

27 CFR

9 ..... 72707, 72710, 72713, 72717

Proposed Rules:
4 72731
5 72731
7 72731
9 72733

28 CFR

16 72199

29 CFR

4011 72074
4022 72074
4044 ..... 72076, 72205

30 CFR

204 72381

31 CFR

Proposed Rules:
1 72739

33 CFR

Proposed Rules:
117 72419

37 CFR

253 72077

38 CFR

3 72211
20 72211

39 CFR

111 72221
232 72078

40 CFR

52 ..... 72597, 72720

Proposed Rules:

51 72268
52 ..... 72740, 72741, 72744
55 72094
63 72330
96 72268
180 72757

41 CFR

60-250 72148

44 CFR

64 72078

47 CFR

73 72723

Proposed Rules:

73 72763

49 CFR

234 72382
236 72382

50 CFR

635 ..... 72080, 72724
648 72082
660 72385

Proposed Rules:

17 72776
223 72099
648 72100
660 72777

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 7, 2005

DEFENSE DEPARTMENT

Army Department

Personnel:

Army Board for Correction of Military Records; policies, procedures, and administrative instructions; published 11-7-05

DEFENSE DEPARTMENT

Engineers Corps

Danger zones and restricted areas:

Florida; various military sites; published 11-7-05

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

General and plastic surgery devices—

Low energy ultrasound wound cleaner; classification; published 11-7-05

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Standard instrument approach procedures; published 12-7-05

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, foreign:

Fruits and vegetables importation; conditions governing entry; comments due by 12-12-05; published 10-12-05 [FR 05-20388]

Plant protection and quarantine:

Black stem rust; comments due by 12-12-05; published 10-12-05 [FR 05-20387]

COMMERCE DEPARTMENT

Industry and Security Bureau

Export administration regulations:

Commerce Control List—

Libya; license exception authorizing export or reexport to U.S. persons; comments due by 12-16-05; published 11-16-05 [FR 05-22674]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Magnuson-Stevens Act provisions—

Pacific Coast groundfish; fishing capacity reduction program; comments due by 12-14-05; published 11-29-05 [FR 05-23464]

Northeastern United States fisheries—

Spiny dogfish; comments due by 12-16-05; published 12-1-05 [FR 05-23536]

West Coast States and Western Pacific fisheries—

Coastal pelagic species; comments due by 12-16-05; published 11-16-05 [FR 05-22729]

Pacific Coast groundfish; comments due by 12-12-05; published 10-12-05 [FR 05-20344]

Salmon; comments due by 12-13-05; published 11-28-05 [FR 05-23284]

CONSUMER PRODUCT SAFETY COMMISSION

All terrain vehicles; injuries and deaths reduction; regulatory and non-regulatory actions; comments due by 12-13-05; published 10-14-05 [FR 05-20557]

ENERGY DEPARTMENT

Assistance regulations:

Financial rules and technology investment agreements; implementation; comments due by 12-15-05; published 11-15-05 [FR 05-22475]

Energy conservation:

Consumer products and commercial and industrial equipment; meeting; comments due by 12-15-05; published 10-24-05 [FR 05-21248]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Industrial, commercial, and industrial boilers and process heaters; reconsideration; comments due by 12-15-05; published 10-31-05 [FR 05-21531]

Air quality implementation plans:

Preparation, adoption and submittal—

Volatile organic compounds; emissions reductions in ozone nonattainment and maintenance areas; comments, data, and information request; comments due by 12-16-05; published 10-13-05 [FR 05-20520]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Indiana; comments due by 12-14-05; published 11-14-05 [FR 05-22466]

Air quality implementation plans; approval and promulgation; various States:

Arizona; comments due by 12-12-05; published 11-10-05 [FR 05-22378]

Indiana; comments due by 12-16-05; published 11-16-05 [FR 05-22695]

Air quality planning purposes; designation of areas:

Arizona; comments due by 12-12-05; published 11-10-05 [FR 05-22372]

Pesticides; emergency exemptions, etc.:

Imidacloprid; comments due by 12-12-05; published 10-12-05 [FR 05-20209]

Protection of human subjects:

Intentional dosing human studies—

Pregnant women, fetuses, and newborns; additional protections; comments due by 12-12-05; published 9-12-05 [FR 05-18010]

Water pollution; effluent guidelines for point source categories:

Meat and poultry products processing facilities; Open for comments until further notice; published 9-8-04 [FR 04-12017]

Pretreatment regulations; removal credits; availability and procedures; comments due by 12-13-05; published 10-14-05 [FR 05-20000]

FEDERAL COMMUNICATIONS COMMISSION

Television broadcasting:

Closed captioning of video programming; comments due by 12-16-05; published 11-25-05 [FR E5-06585]

FEDERAL DEPOSIT INSURANCE CORPORATION

Federal interest rate authority; interstate banking; comments due by 12-13-05; published 10-14-05 [FR 05-20582]

Practice and procedure:

Insured status; notification of changes; comments due by 12-13-05; published 10-14-05 [FR 05-20590]

FEDERAL RESERVE SYSTEM

Truth in lending (Regulation Z):

Open-end credit rules; comment extension; comments due by 12-16-05; published 10-17-05 [FR 05-20664]

GOVERNMENT ETHICS OFFICE

Government ethics:

Mutual funds and unit investment trusts; additional exemption; comments due by 12-14-05; published 11-14-05 [FR 05-22476]

HEALTH AND HUMAN SERVICES DEPARTMENT

Children and Families Administration

State Parent Locator Service; safeguarding child support information; comments due by 12-13-05; published 10-14-05 [FR 05-20508]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:

Physicians' referrals to health care entities with which they have financial relationships; electronic prescribing and health records arrangements; comments due by 12-12-05; published 10-11-05 [FR 05-20322]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Minor uses or minor species; new drugs

designation; comments due by 12-12-05; published 9-27-05 [FR 05-19196]

Food additives:

Vitamin D use as nutrient supplement in cheese and cheese products; comments due by 12-16-05; published 11-16-05 [FR 05-22670]

HEALTH AND HUMAN SERVICES DEPARTMENT

Inspector General Office, Health and Human Services Department

Medicare and State health care programs; fraud and abuse:

Electronic prescribing arrangements; safe harbor under Federal anti-kickback statute; comments due by 12-12-05; published 10-11-05 [FR 05-20315]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:

Chicago Sanitary and Ship Canal, IL; comments due by 12-14-05; published 11-14-05 [FR 05-22497]

Port Valdes and Valdez Narrows, AK; comments due by 12-13-05; published 10-14-05 [FR 05-20636]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Importation, exportation, and transportation of wildlife:

Humane and healthful transportation of wild mammals and birds in the U.S.; comments due by 12-15-05; published 9-16-05 [FR 05-18416]

Injurious wildlife—

Black carp; comments due by 12-16-05; published 10-27-05 [FR 05-21440]

Migratory bird permits:

Educational use; permit regulations governing possession of live birds and eagles; comments due by 12-12-05; published 10-13-05 [FR 05-20593]

NATIONAL CREDIT UNION ADMINISTRATION

NCUA examiners; post-employment restrictions; comments due by 12-17-05; published 12-7-05 [FR 05-23710]

PERSONNEL MANAGEMENT OFFICE

Prevailing rate systems; comments due by 12-16-05; published 11-16-05 [FR 05-22742]

SMALL BUSINESS ADMINISTRATION

Small business size standards:

Gulf Opportunity Pilot Loan Program; comments due by 12-14-05; published 11-14-05 [FR 05-22569]

Security guards and patrol services; comments due by 12-12-05; published 11-10-05 [FR 05-22430]

Surety Bond Guarantee Program; comments due by 12-14-05; published 11-14-05 [FR 05-22570]

SOCIAL SECURITY ADMINISTRATION

Administrative regulations:

Penalty imposition for false or misleading statements or witholding information; representative payment policies and procedures; comments due by 12-16-05; published 10-17-05 [FR 05-20697]

Social security benefits and supplemental security income:

Federal old age, survivors, and disability insurance and aged, blind, and disabled—

Work activity exemption; basis for continuing disability review; comments due by 12-12-05; published 10-11-05 [FR 05-20266]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Aircraft:

New aircraft; standard airworthiness certification; comments due by 12-12-05; published 11-10-05 [FR 05-22457]

Airworthiness directives:

Airbus; comments due by 12-12-05; published 10-12-05 [FR 05-20069]

BAE Systems (Operations) Ltd.; comments due by 12-15-05; published 11-15-05 [FR 05-22587]

Bell Helicopter; comments due by 12-16-05; published 10-17-05 [FR 05-20681]

Bell Helicopter Textron; comments due by 12-12-05; published 10-13-05 [FR 05-20324]

Boeing; Open for comments until further notice; published 8-16-04 [FR 04-18641]

Bombardier; comments due by 12-12-05; published 11-10-05 [FR 05-22445]

British Aerospace; comments due by 12-12-05; published 10-12-05 [FR 05-20068]

Dowty Aerospace Propellers; comments due by 12-12-05; published 10-13-05 [FR 05-20170]

Eurocopter France; comments due by 12-16-05; published 10-17-05 [FR 05-20679]

MD Helicopters, Inc.; comments due by 12-16-05; published 10-17-05 [FR 05-20678]

Raytheon; comments due by 12-12-05; published 10-27-05 [FR 05-21438]

Airworthiness standards:

Special conditions—

Cessna Model 650 airplanes; comments due by 12-14-05; published 11-14-05 [FR 05-22521]

Class E airspace; comments due by 12-14-05; published 11-14-05 [FR 05-22523]

TRANSPORTATION DEPARTMENT

Maritime Administration

Coastwise-qualified launch barges; availability determination; comments due by 12-13-05; published 10-19-05 [FR 05-20700]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Occupant crash protection—

Occupant Protection Incentive Grant Program criteria; technical amendments; comments due by 12-14-05; published 11-14-05 [FR 05-22496]

TREASURY DEPARTMENT

Internal Revenue Service

Procedure and administration:

Collection due process procedures relating to notice upon filing notice of tax lien; comments due by 12-15-05; published 9-16-05 [FR 05-18469]

Levy; notice and opportunity for hearing; comments due by 12-15-05; published 9-16-05 [FR 05-18470]

Organizational and employee performance; balanced measurement system; comments due by 12-16-05; published 10-17-05 [FR 05-20438]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

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H.R. 4145/P.L. 109–116

To direct the Joint Committee on the Library to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall, and for other purposes. (Dec. 1, 2005; 119 Stat. 2524)

H.R. 126/P.L. 109–117

To amend Public Law 89-366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore. (Dec. 1, 2005; 119 Stat. 2526)

H.R. 539/P.L. 109–118

Caribbean National Forest Act of 2005 (Dec. 1, 2005; 119 Stat. 2527)

H.R. 606/P.L. 109–119

Angel Island Immigration Station Restoration and Preservation Act (Dec. 1, 2005; 119 Stat. 2529)

H.R. 1972/P.L. 109–120

Franklin National Battlefield Study Act (Dec. 1, 2005; 119 Stat. 2531)

H.R. 1973/P.L. 109–121

Senator Paul Simon Water for the Poor Act of 2005 (Dec. 1, 2005; 119 Stat. 2533)

H.R. 2062/P.L. 109–122

To designate the facility of the United States Postal Service

located at 57 West Street in Newville, Pennsylvania, as the "Randall D. Shughart Post Office Building". (Dec. 1, 2005; 119 Stat. 2541)

H.R. 2183/P.L. 109–123

To designate the facility of the United States Postal Service located at 567 Tompkins Avenue in Staten Island, New York, as the "Vincent Palladino Post Office". (Dec. 1, 2005; 119 Stat. 2542)

H.R. 3853/P.L. 109–124

To designate the facility of the United States Postal Service located at 208 South Main Street in Parkdale, Arkansas, as the Willie Vaughn Post Office. (Dec. 1, 2005; 119 Stat. 2543)

Last List December 2, 2005

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